THE

POLITICAL TEXT-BOOK,

OR

ENCYCLOPEDIA.

CONTAINING EVERYTHING NECESSARY FOR THE REFERENCE OF THE POLITICIANS AND STATESMEN OF THE UNITED STATES.

EDITED BY

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OF WASHINGTON, D. C.

"Let the editor or speaker who discusses politics for the information of the people, know what he is writing or speaking about, that he may write and speak knowingly."

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EDITOR'S PREFACE.

THE Editor of this work deems an extended preface to it unnecessary. The motive which induced its preparation was the necessity which he himself has often felt for a book containing, in a condensed form, a history of the public measures and other matters of political importance which are the subject of discussion at the present time, and are likely to continue to be. This necessity is apparent to every politician in the country. The vast aggregate of political history in the shape of Congressional Debates, &c., through which the seeker for information has to look to reach the gist of a public question, endorses at once the merit of a compilation like this.

It is not for the politician alone that this work is prepared. It will enable every citizen to acquaint himself readily with the true bearing of each political issue which is presented to him for his decision, and will relieve him from too great a dependence upon the partial statements of great political questions, which generally characterize the speeches and essays of the politicians of the present day.

It would be claiming for the work too much to say that it is perfect. No task is so onerous as that involved in condensing the profuse history of politics in this country into a concise and accessible form. The reader will not find in it some things which he may think the book should contain. In many cases he may justly think so. The Editor, however, has embraced in it everything which he deemed absolutely necessary for the discussion of any political question which may arise with reference to our system of government. He is free to admit that, in order to bring the book into a convenient shape, he has left out many things which seemed to him would find an appropriate

place in it; though he is not aware that he has sacrificed to the demands of a limited space, anything, the omission of which would materially depreciate the character of the work.

He begs his readers to excuse the imperfection of his first edition. His future editions will be the result of contemplated improvement, which cannot well be made at this time.

He makes no especial dedication of his production; but resigns it to his fellow citizens, who take an interest in such matters, for their use and convenience.

THE

POLITICAL TEXT-BOOK.

Abolition Party.

Rise and Progress of.

The extraordinary increase numerically of the Abolition or Anti-Slavery party of this country cannot be better illustrated than by an exhibit of the increase of its vote, each succeeding election from its initiation as a national organization to the present day.

It first made its appearance in national politics in the Presidential contest of 1840, when its ticket, with James G. Birney of Michigan as its candidate for the Presidency, and Francis J. Lemoyne of Pennsylvania, as its Vice-Presidential candidate, polled 7000 votes. In 1844, with Mr. Birney again as its candidate, it polled 62,140 votes. In 1848, with Martin Van Buren as the Presidential candidate of the Buffalo Convention, and Gerrit Smith as that of the more ultra anti-slavery men, it polled 296,232 votes. In 1852, with John P. Hale as its nominee for the Presidency, it polled 157,296 votes. In 1856, with John C. Fremont as its Presidential candidate, it polled 1,341,812 votes.

Abolition Petitions.

On the 11th of February, 1790, Mr. Fitzsimmons of Pennsylvania presented a memorial of Quakers, praying the abolition of the slave-trade.

Mr. Lawrence of New York presented the memorial of the "Friends" of New York City to the same effect.

Mr. Hartley of Pennsylvania moved that the first named petition be referred, which was seconded by Mr. White of Virginia.

Mr. Stone of Maryland feared that action indicating an interference with this kind of property would sink it in value, and be injurious to a great number of the citizens, particularly of the Southern States. He deprecated the disposition of religious sects to imagine they understood the rights of human nature better than all the world besides, and that in consequence they were found meddling with concerns with which they had nothing to do. He was in favor of laying the petition on the table. He would never consent to refer petitions, unless the petitioners were exclusively interested.

Messrs. Fitzsimmons and Hartley of Pennsylvania, Parker, Madison and Page of Virginia, Lawrence of New York, Sedgewick of Massachusetts, Boudinot of New Jersey, Sherman and Huntington of Connecticut, favored a reference. Messrs. Smith, Tucker, and Burke of South Carolina, Baldwin and Jackson of Georgia opposed a reference, for very much the same reasons advanced by Mr. Stone, and in favor of its going to the table.

On the next day the following memorial was presented and read:

"A memorial of the Pennsylvania Society for promoting the abolition of slavery, the relief of free negroes unlawfully held in bondage, and the improvement of the African race.

"The memorial respectfully showeth:

"That, from a regard for the happiness of mankind, an association was formed, several years since, in this state, by a number of her citizens, of various religious denominations, for promoting the abolition of slavery, and for the relief of those unlawfully held in bondage. A just and acute conception of the true principles of liberty, as it spread through the land, produced accessions to their numbers, many friends to their cause, and a legislative co-operation with their views, which, by the blessing of Divine Providence, have been successfully directed to the relieving from bondage a large number of their fellow-creatures, of the African race. They have also the satisfaction to observe, that, in consequence of that spirit of philanthropy and genuine liberty which is generally diffusing its beneficial influence, similar institutions are forming at home and abroad.

"That mankind are all formed by the same Almighty Being, alike objects of his care, and equally designed for the enjoyment of happi-

ness, the Christian religion teaches us to believe, and the political creed of America fully coincides with the position.

"Your memorialists, particularly engaged in attending to the distresses arising from slavery, believe it to be their indispensable duty to present this subject to your notice. They have observed, with real satisfaction, that many important and salutary powers are vested in you, for 'promoting the welfare and securing the blessings of liberty to the people of the United States;' and, as they conceive that these blessings ought rightfully to be administered without distinction of color to all descriptions of people, so they indulge themselves in the pleasing expectation that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed.

"From a persuasion that equal liberty was originally the portion and is still the birthright of all men, and influenced by the strong ties of humanity, and the principles of their institutions, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery, and promote a general enjoyment of the blessings of freedom.

"Under these impressions, they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men, who alone in this land of freedom are degraded into perpetual bondage, and who, amidst the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice towards this distressed race; and that you will step to the very verge of the power vested in you, for discouraging every species of traffic in the persons of our fellow-men.

BENJ. FRANKLIN, President.

"Philadelphia, February 3, 1790."

The debate was resumed on the memorial of the Friends presented the day before.

Mr. Tucker of S. C., was sorry it had had a second reading, as it contained an unconstitutional request, for which he wished it thrown aside. He feared the commitment of it would be a very alarming circumstance to the Southern States, for if it was to engage Congress in an unconstitutional measure, it would be considered an interference with their rights, making them uneasy under the government, and causing them to lament that they had ever put additional power into their hands. He was surprised to see another memorial on the same subject, signed by a man* who ought to have known the constitution better. He thought it a mischievous attempt as it respected the persons in whose favor it was intended. It would buoy them up with hopes without a foundation, and as they could not reason on the subject, as more enlightened men would, they would do things which would incur punishment, and cause their owners to use a severity with them they were not accustomed to.

Mr. Smith of S. C., amongst other things said, that the states would have never entered into the confederacy unless their property had been guaranticd to them, for such is the state of agriculture in that country, that without slaves it must be abandoned. Why will these people then make use of arguments to induce the slave to turn his hand against his master? A gentleman can hardly come from that country with a servant or two, either to this place or Philadelphia, but there are persons trying to seduce his servants to leave him, and when they have done this, the poor wretches are obliged to rob their master, in order to obtain their subsistence; all, therefore, who are concerned in this seduction are accessories to the robbery. * * We look upon this measure as an attack upon the palladium of the property of our country; it is, therefore, our duty to oppose it by every means in our power.

Mr. Page of Va., said he lived in a state which had the misfortune of having in her bosom a great number of slaves; he held many of them himself, and was as much interested in the business as any gentleman. If he was to hold them in eternal bondage, he would feel no uneasiness on account of the present menace, because he would rely upon the virtue of Congress that they would not exercise any unconstitutional authority.

After a long debate, the memorial was committed, by a vote of yeas 43, nays 11.

The nays were, Messrs. Baldwin, Jackson, and Matthews of Ga.; Bland and Coles of Va.; Burke, Hager, Smith, and Tucker of S. C.; Stone of Md.; and Sylvester of N. Y.

The other memorials were in like manner referred.

The committee to whom the memorials were referred, made a report, which was referred to the committee of the whole House, which amended the report of the select committee, and resolved, amongst other things:—

"That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the states; it remaining with the several states alone to provide any regulations therein which humanity and true policy may require."

On the 26th of Nov., 1792, a memorial of Warner Mifflin, one of the people called Quakers, was presented and read to the House, stating certain reflections for the consideration of Congress, and in relation to the African slave-trade, and to the humane treatment of slaves in the United Sates.

It was ordered that the said memorial and representation do lie on the table.

* Benjamin Franklin.

On the 28th of Nov., Mr. Steele of N. C., called the attention of the House to the above memorial of Warner Mifflin. He was surprised to find this subject started anew by a fanatic, who, not content with keeping his own conscience, undertook to become the keeper of the consciences of other men; and, in a manner which he deemed not very decent, had intruded his opinions upon this House. Had an application been made to him to present such a petition, he would have avoided a compliance with it. Gentlemen of the North do not realize the mischievous consequences which have already resulted from measures of this kind; and, if a stop were not put to it, the Southern States would be compelled to apply to the General Government for their interference.

He concluded by moving, "that the paper purporting to be a petition from Warner Mifflin, be returned to him by the Clerk of the House; and that the entry of said petition be expunged from the Journal."

Mr. Ames of Mass., who had presented the petition, defended his presentation of it on the ground of the general right of every citizen to petition Congress. The petitioner's representative being absent, he had not, on that account, felt at liberty to decline presenting it. He had no idea of supporting the prayer of the petition; but had made up his mind long since that it was inexpedient to interfere with the subject.

That part of the motion directing the petition to be returned, was agreed to. The remainder was withdrawn by Mr. Steele, the mover.

On the 30th of Jan., 1797, Mr. Swanwick of Pa., presented the petition of four slaves, who had been emancipated as they allege, representing that, under some law enacted by North Carolina, they could again be reduced to slavery; that they had escaped to Pennsylvania to avoid its effects; and petitioned Congress to look into the matter, as also to the case of a fellow black, who was once manumitted, and, under the same law of North Carolina, was again reduced to slavery; and who, escaping therefrom, was lying in the jail of Philadelphia, under the sanction of the act of the General Government called the Fugitive Slave Law, &c., &c., &c.

Mr. Swanwick hoped the petition would be referred to a select committee.

Mr. Blount from N. C., hoped it would not even be received. He said, under the law of North Carolina they were slaves, and could be seized as such.

Mr. Thatcher of Mass., thought the petition ought to be referred to the Committee on the Fugitive Slave Law. He believed them to be free people, and contended that they had an undoubted right to petition the House and to be heard.

Mr. Swanwick defended their right to petition.

Mr. Blount said the laws of North Carolina did not permit a man to manumit his slaves.

Mr. Sitgreaves of Pa., defended the petition.

Mr. Heath was clearly convinced that these people were slaves, and that the object of their petition was within the jurisdiction of the legislature of the state, and not the United States.

Mr. Madison of Va., thought it a judicial case. If they are free by the laws of North Carolina, they ought to apply to those laws and have their privileges established. He thought they could obtain their due in a court of appeals in that state.

Messrs. Rutherford and Gilbert defended a reference.

Mr. W. Smith thought that the petition ought to be sealed up and sent back to the petitioners.

Mr. Christie was much surprised that any gentleman would present such a petition, and hoped the gentleman from Pennsylvania would never hand in such a one again.

Mr. Holland contended that it was a judicial question, and that the House ought not to pretend to determine the point.

Mr. Macon of N. C., contended that justice would be done them in his state. He conceived it a delicate matter for the general government to act on, and hoped the petition would not be committed.

Mr. W. Smith, alluding to a remark of Mr. Thatcher, that he wished to draw these people from a state of slavery into liberty, did not think that they were sent there to take up the subject of emancipation.

Mr. Varnum of Mass., and Mr. Kitchell, defended the right of the memorialists to petition, and hoped their petition would be received and be committed.

The motion to receive the petition was negatived. Yeas 33; Noes 50.

On the 30th of Nov., 1797, Mr. Gallatin of Pa., presented a memorial of the annual meeting of Quakers, relative to the oppressed state of their African brethren, particularly those in North Carolina, who had been manumitted and again reduced to slavery. It also was directed against every species of extravagance and dissipation, such as gaming, horse-racing, cock fighting, shows, plays, and other expensive diversions and entertainments.

The reception of the petition was debated at great length. Finally it was referred to a select committee, consisting of Messrs. Sitgreaves of Pa., Nicholas of Va., Dana of Conn., Scharman of N. J., and Smith of Md.

On the 29th of Jan., 1798, Mr. Sitgreaves,

from the select committee, reported that the facts referred to in the petition were exclusively of judicial cognisance; that therefore it is not competent for the Legislature to do anything in the business, and recommend that the memorialists have leave to withdraw their memorial.

On the 14th of Feb., 1798, the House concurred in the report of the committee.

The same petition was presented in the Senate, but withdrawn.

In the Senate, on the 21st of Jan., 1805, Mr. Logan of Pa., presented the memorial of the representatives of the Quakers, pleading the cause of their oppressed and degraded fellow men of the African race, and praying that Congress may adopt effectual measures to prevent the introduction of slavery into the territories of the United States.

On the question shall the petition be received, it was decided in the affirmative.

YEAS.—Messrs. Adams of Mass., Bayard of Del., Brown of Ky., Condit of N. J., Franklin of N. C., Hillhouse of Conn., Howland of R. I., Logan of Pa., Maclay of Pa., Mitchill of N. Y., Olcott of N. H., Pickering of Mass., Plumer of N. H., Smith of O., Smith of Vt., Stone of N. C., Sumter of S. C., White of Del., and Worthington of O.—19.

NAYS.—Messrs. Anderson of Tenn., Baldwin of Geo., Bradley of Vt., Cocke of Tenn., Jackson of Geo., Moore of Va., Smith of Md., Smith of N. Y., and Wright of Md.—9.

A like memorial was presented in the House on the same day, and referred.

During the month of January, 1817, several petitions were presented against the slave-trade between the middle and southern states, which were read and referred.

During the first session of the 16th Congress, sundry petitions were presented against the introduction of slavery into any state thereafter to be admitted, some of which were referred and others merely read.

On the 12th of February, 1827, Mr. Barney of Md., presented to the House a memorial of certain citizens of Baltimore, Md., praying that a law may be passed providing that all children hereafter born of parents held to slavery, within the District of Columbia, shall be free at a certain age, and moved that it be printed.

Mr. McDuffie of S. C., opposed the printing of the memorial.

Mr. Cook of Ill., moved to lay it on the table; which motion the chair pronounced to be out of order.

Mr. Powell of Va., opposed the printing.

Mr. Barney had made the motion to print, because the memorialists had requested him to do so. He was perfectly content to acquiesce in the decision of the House.

Mr. Dorsey of Md., conceived the memorial breathed the general spirit of emancipation, and though its request began with the District, its ulterior purpose went much further. He opposed the printing.

The motion to print was negatived by a large majority.

On the 12th of December, 1831, Mr. John Quincy Adams presented fifteen petitions from numerous inhabitants of Pennsylvania, praying the abolition of slavery in the District of Columbia, and the abolition of the slave-trade therein. So far as the latter desire was concerned, he thought it a proper subject of legislation by Congress, and that the petitions on that account should be referred to the committee on the District of Columbia. As to the other prayer of the petition, the abolition of slavery in the District of Columbia, he deemed it his duty to say that he would not support it. Whatever his opinion of slavery in the abstract, or of slavery in the District of Columbia might be, he hoped the subject would not be discussed in the House. He would say that the most salutary medicine unduly administered, was the most deadly poison.

The petition was referred to the committee on the District of Columbia.

Mr. Doddridge, of Va., from the said committee, on the 19th of Dec. made a report, asking to be discharged from the further consideration of so much of said petitions, as asked the abolition of slavery in the District of Columbia.

In the Senate, January 7, 1836, Mr. Morris of Ohio, presented several petitions from citizens of Ohio, one of which was signed by ladies, praying the abolition of slavery in the District of Columbia, and moved to refer them to the committee on the District of Columbia.

Mr. Calhoun asked that the question should first be taken on receiving the petition. He demanded it on the part of the state he represented, because one-half the Union was deeply slandered in these petitions. The Senate had refused to receive petitions, because they implicated members of that body. Were they to put more reprobation on the slander of an individual member, than on the slander of sovereign states?

He demanded the question, because these memorials aimed at a violation of the constitution, and because he was averse to an agitation which would sunder the Union. It was agitation here that they feared, because it would compel the southern press to discuss the question in the very presence of the slaves, who were induced to believe that there was a powerful party at the north, ready to assist them. As a lover of the Union he objected to receiving them, nay, they must cease or the southern people never can be satisfied. And

how will you put a stop to them? By receiving these petitions and laying them on the table? No, no! The Abolitionists understood this too well? Nothing would stop them but a stern refusal, by closing the doors to them, and refusing to receive them.

Mr. Morris of Ohio, contended, that the petitions contemplated no legislation by Congress, not within its constitutional power, exclusive legislation being, in his opinion, vested in Congress, both as to persons and things within the District of Columbia. In this view of the case he contended for the reception of the petition, and warned the Senate to be careful how it tread on this ground, lest, in its attempts to make petitions palatable, it does not abridge the sacred right of petition.

Mr. Porter of La., opposed the reception of the petition.

Mr. Buchanan had had in his possession several weeks a memorial from a meeting of Quakers, making the same prayer, which he had deferred presenting, because he believed that, by private consultations, some resolution might be devised upon this exciting subject, which would obtain the unanimous sanction of the Senate. He felt it, however, to be due to the memorialists, himself, and the Senate, respectfully but firmly to state the reasons why he could not advocate their views, or acquiesce in their conclusions.

If any one principle of constitutional law can at this day be considered as settled, it is that Congress had no right, no power, over the question of slavery in those states where it exists. The property of the master in his slave existed in full force before the federal constitution was adopted. It was a subject that then belonged, as it still belongs, to the exclusive jurisdiction of the Southern States. These states, by the adoption of the constitution, never yielded to the general government any right to interfere with the question. It remains where it was previous to the establishment of our confederacy.

The constitution has in the clearest terms recognised the right of property in slaves. It prohibits any state into which a slave may have fled, from passing any law to discharge him from slavery, and declares that he shall be delivered up by the authorities of such state to his master; nay, more, it makes the existence of slavery the foundation of political power, by giving to those states within which it exists representatives in Congress, not only in proportion to the whole number of free persons, but also in proportion to three-fifths of the number of slaves.

After showing that Congress, on the 23d day of March, 1790, had so determined, and that the Union would be dissolved at the moment an effort would be seriously made by the free states in Congress to pass such laws, he continued:

"What, then, are the circumstances under which these memorials are now presented? A number of fanatics, led on by foreign incendiaries, have been scattering 'arrows, firebrands, and death' throughout the southern states; the natural tendency of their publications is to produce dissatisfaction and revolt among the slaves, and to incite their wild passions to vengeance. All history, as well as the present condition of the slaves, proves that there can be no danger of a servile war, but in the mean time what dreadful scenes may be enacted before such an insurrection, which would spare neither age nor sex, could be suppressed; what agony of mind must be suffered, especially by the gentler sex, in consequence of these publications? Many a mother clasps her infant to her bosom when she retires to rest, under dreadful apprehensions that she may be aroused from her slumbers by the savage yells of the slaves by whom she is surrounded. These are the works of the abolitionists. That their motives may be honest I do not doubt, but their zeal is without knowledge. The history of the human race presents numerous examples of ignorant enthusiasts, the purity of whose intentions cannot be doubted, who have spread devastation and bloodshed over the face of the earth." * * * * * "This being a true statement of the case as applied to the states where slavery exists, what is now asked by these memorialists? That in this district of ten miles square, a district carved out of two slaveholding states, and surrounded by them on all sides, slavery should be abolished. What would be the effects of granting their request? You would thus erect a citadel in the very heart of these states, upon a territory which they have ceded to you for a far different purpose, from which abolitionists and incendiaries could securely attack the peace and safety of their citizens; you establish a spot within the slaveholding states which would be a city of refuge for runaway slaves; you create, by law, a central point from which trains of gunpowder may be securely laid, extending into the surrounding states, which may at any moment produce a destructive and fearful explosion. By passing such a law you introduce the enemy into the very bosom of these two states, and afford them every opportunity of producing a servile insurrection. Is there any reasonable man who can for one moment suppose that Virginia and Maryland would have ceded the District of Columbia to the United States, if they had entertained the slightest idea that Congress would have used it for any such purpose? They ceded it for your use, for your convenience, and not for their own destruction. When slavery ceases to exist under the laws of Virginia and Maryland, then, and not till then, ought it to be abolished in the District of Columbia."

Mr. Buchanan continuing said, notwithstanding these were his views, he could not vote against receiving these memorials, but moved that the whole subject be postponed until Monday next.

Mr. Benton concurred in the views of Mr. Buchanan.

Mr. Tyler of Va., advocated their reference to the committee on the District of Columbia, in order that a report from that committee might be made which would dispose of the subject.

Mr. Brown of N. C., advocated laying them on the table without printing.

Mr. Leigh of Va., advocated a distinct expression of opinion by Congress as to its constitutional power over the question.

Mr. Preston of S. C., thanked the Senator from Pennsylvania (Mr. Buchanan) for the reprobation he had given the petition here presented.

Messrs. Calhoun and Brown continued the discussion, and the subject was postponed.

On the 11th of January, Mr. Buchanan presented the petition from the Quakers, which he had alluded to in his speech as having been in his possession for some time. He moved that it be read and its prayer rejected.

Mr. Calhoun demanded a vote on the reception of the petition.

During the pendency of the long debate on these petitions, Mr. Swift of Vt., on the 28th of January, 1836, presented another petition to the same effect from citizens of Vermont, which he requested might be read.

The petition was read, when Mr. Calhoun demanded the preliminary question upon its reception.

The question was laid on the table on motion of Mr. Buchanan, to be called up again when the Senate was prepared to make a final disposition of it.

On the 9th of March, 1836, the question again came up on the motion to receive the petition presented by Mr. Buchanan.

Mr. Calhoun spoke at length against receiving the memorial.

Mr. Clay of Ky., did not agree with Mr. Calhoun as to the right of Congress to refuse the reception of a petition. The right of petition carried with it the right of being heard on any subject that the body addressed had the power to act on. As to the right of Congress to abolish slavery in the District of Columbia, he was inclined to think, and candor required the avowal, that the right did exist, though he was opposed to the expediency of exercising that power. He was opposed to the motion of Mr. Buchanan to receive and immediately reject the petition. He did not think it a safe, substantial, and efficient enjoyment of the right of petition, to reject it without its passing through the usual forms. That right he thought required of them to examine, deliberate, and decide, either to grant or refuse the prayer of a petitioner, giving the reasons for such decision, &c., &c.

The question was then taken, Shall the petition be received, and it was decided in the affirmative by yeas and nays as follows:—

YEAS.—Messrs. Benton of Mo., Brown of N. C., Buchanan of Pa., Clay of Ky., Clayton of Del., Crittenden of Ky., Davis of Mass., Ewing of O., Ewing of Ill., Goldsborough of Md., Grundy of Tenn. Hendricks of Ind., Hill of N. H., Hubbard of N. H., Kent of Md., King of Ala., King of Geo., Knight of R. I., Linn of Mo., McKean of Pa., Morris of Ohio, Naudain of Del., Niles of Conn., Prentiss of Vt., Robbins of R. I., Robinson of Ill., Ruggles of Me., Shepley of Me., Southard of N. J., Swift of Vt., Talmadge of N. Y., Tipton of Ind., Tomlinson of Conn., Wall of N. J., Webster of Mass., and Wright of N. Y.—36.

NAYS.—Messrs. Black of Miss., Calhoun of S. C., Cuthbert of Geo., Leigh of Va., Moore of Ala., Nicholas of La., Porter of La., Preston of S. C., Walker of Miss., and White of Tenn.—10.

On the 11th of March, 1836, the question was taken on the motion of Mr. Buchanan, that the prayer of the memorial be rejected, and it was decided in the affirmative, yeas 34, nays 6. Every Senator who voted on the above vote was present, except Messrs. Calhoun, Clayton, Kent, Moore, Naudain, and Southard. Every Senator present voted aye on Mr. Buchanan's motion, except Messrs. Davis, Hendricks, Knight, Prentiss, Swift, and Webster.

The large number of petitions, &c., praying the abolition of slavery in the district, which were presented to the House during the first session of 24th Congress, gave rise to a variety of resolutions, motions, &c., with reference to the power of Congress over the subject, and the proper disposition which should be made of these petitions. Finally, on the 8th February, 1836, Mr. H. L. Pinckney, of S. C., obtained a suspension of the rules to enable him to introduce the following resolution:

"Resolved, That all the memorials which have been offered or may hereafter be presented to this House, praying for the abolition of slavery in the District of Columbia, and also the resolutions offered by an honorable member from Maine (Mr. Jarvis) with the amendment thereto proposed by an honorable member from Virginia, (Mr. Wise,) and every other paper or proposition that may be submitted in relation to that subject, be referred to a select committee with instructions to report, that Congress possesses no constitutional authority to interfere in any way with the institutions of slavery in any of the states of this confederacy; and that, in the opinion of this House, Congress ought not to interfere in any way with slavery in the District of Columbia, because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union, assigning such reasons for these conclusions, as in the judgment of the committee, may be best calculated to enlighten the public mind, to repress agitation, to allay excitement, to sustain and preserve the just rights of the slaveholding states, and of the people of this district, and to re-establish harmony and tranquillity among the various sections of the Union."

The resolution having been adopted, the following gentlemen were appointed the committee:—Messrs. Pinckney, of S. C., Hamer, of Ohio, Pierce, of N. H., Hardin, of Ky., Jarvis, of Me., Owens, of Ga., Dromgoole, of Va., and Turrill, of N. Y.

On the 18th of May, 1836, Mr. Pinckney presented a unanimous report from the said committee, concluding with the following resolutions:—

"Resolved, That Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the states of this confederacy.

"Resolved, That Congress ought not to interfere in any way with slavery in the District of Columbia.

"And whereas it is extremely important and desirable that the agitation of this subject should be finally arrested for the purpose of restoring tranquillity to the public mind, your committee respectfully recommend the adoption of the following resolution:

"Resolved, That all petitions, memorials, resolutions, propositions, or papers relating in any way or to any extent whatever, to the subject of slavery or the abolition of slavery, shall, without being either printed or referred, be laid upon the table, and that no further action whatever shall be had thereon."

Mr. Hardin, of Ky., a member of the committee, deemed it necessary to say, as the report had been called a unanimous one, that he had attended none of the meetings of the committee, and there was a part of the report from which he entirely dissented; to wit, that the abolitionists were few. He believed there were a great many, and that the report had been got up to suppress that fact.

Messrs. Wise and Bouldin, of Va., Thompson, of S. C., and others, assailed the report. Messrs. Pinckney, of S. C., Howard, of Md., and others, defended it.

On the 25th of May, 1836, the first resolution was adopted by a vote of yeas 182, nays 9. The negative vote being Messrs. J. Quincy Adams, Clark, of Pa., Denny, of Pa., Everett, of Vt., Jackson, of Mass., Janes, of Vt., Phillips, of Mass., Potts, of Pa., and Slade, of Vt. Messrs. Glascock, of Ga., Pickens, of S. C., and Robertson, of Va., asked to be excused from voting and did not vote. Mr. Wise, of Va., and Thompson, of S. C., refused to vote on the question.

The second resolution was then adopted, yeas 132, nays 45.

The negative vote was as follows:

Messrs. Allen, of Vt.; Bailey, of Me.; Bond, of O.; Bordon, of Mass.; Briggs, of Mass.; Calhoun, of Mass.; Carr, of Ind.; Chambers, of Pa.; Childs, of N. Y.; Clark, of Pa.; Cushing, of Mass.; Denny, of Pa.; Everett, of Vt.; Fuller, of N. Y.; Grennell, of Mass.; Hall, of Vt.; Hard, of N. Y.; Harrison, of Pa.; Hazeltine, of N. Y.; Henderson, of Pa.; Heister, of Pa.; Hoar, of Mass.; Hunt, of N. Y.; J. R. Ingersoll, of Pa.; W. Jackson, of Mass.; Janes, of Vt.; Jones, of O.; Kilgore, of O.; Lane, of Ind.; Lawrence, of Mass.; Josh. Lee, of N. Y.; Lincoln, of Mass.; Mason, of O.; McCarty, of Ind.; McKennan, of Pa.; Morris, of Pa.; Parker, of N. J.; Phillips, of Mass.; Potts, of Pa.; Reed, of Mass.; Russell, of N. Y.; Slade, of Vt.; Sprague, of R. I.; Vinton, of O.; and Whittlesey, of O.

The third resolution was carried by a vote of 117 yeas to 68 nays.

Every member who voted No on the last vote did so on this, with the exception of Messrs. Harrison, Kilgore, Lee and Parker. Messrs. Harrison and Parker did not vote at all on this vote. Messrs. Kilgore and Lee voted Aye. In addition to the negative vote as above stated, Messrs. Beaumont and A. Buchanan, of Pa., Corwin and Crane, of Ohio, Garland, of Va., Glascock, of Ga., Granger, of N. Y., Haley, of Conn., Harper, of Pa., Holsey, of Ga., Howell, of Ohio, Judson, of Conn., Jones, of Va., Laporte, of Pa., Love, of N. Y., Patton, of Va., Pearce, of R. I., Pickens, of S. C., Schenck, of N. J., Shinn, of N. J., Steele, of Md., Storer, of Ohio, Thompson, of Ohio, Wardwell, of N. Y., and Webster, of Ohio, voted No on the third resolution.

In the Senate during the second session of the Twenty-Fifth Congress, the plan was invariably pursued of laying the question of reception upon the table.

At this session Mr. Calhoun introduced his celebrated resolutions, induced by the abolition petitions which were being flocked in upon Congress. These resolutions will be found at their appropriate place in this book, under the caption of Mr. Calhoun's name.

In the House, at this session, the excitement produced by abolition petitions, &c., was intense. A better description of that excitement, and the action to which it brought the House, cannot be better written than that from the pen of Col. Benton in his valuable historical narrative of his time in the Senate. I give a synopsis of Col. Benton's description of the scene in the House, on the 20th of December, 1837, during the proceedings on the motion of Mr. Slade, of Vermont, to refer two memorials, praying the abolition of slavery in the District of Columbia, to a select committee.

"The immediate occasion of this contest," says Col. Benton, "was the pertinacious effort of Mr. Slade, of Vermont, to make the presentation of abolition petitions the ground of agitation and action against the institution of slavery in the Southern States. Mr. Slade had moved to refer the resolutions presented by him to a select committee, with instructions to report upon them. Upon making this motion, he commenced a violent assault upon the institution of slavery. Mr. Rhett, of South Carolina, interposed to warn him of the consequences of such an inflammatory harangue. Mr. Slade refused to desist, and was interrupted by a motion, made by Mr. Dawson, of Georgia, for an adjournment. The Speaker

[an upright and impartial southern man] ruled this motion out of order.

"Mr. Slade was proceeding to discuss the question, 'What was slavery?' Mr. Dawson again asked him to give way for an adjournment, which was refused. A visible commotion began to pervade the house—members rising, clustering together, and talking with animation. Mr. Slade continued, and was about reading a judicial opinion of one of the southern States, defining a slave to be a chattel, when Mr. Wise called him to order for irrelevancy. 'The question being upon the abolition of slavery in the District, and the argument upon the legality of slave title in a State.' The Speaker decided that it was not in order to discuss the subject of slavery in the States. Mr. Slade contended that he read the decision as he might have done that of an English court. Mr. Robinson, of Virginia, moved an adjournment. The Speaker decided the motion out of order, and Mr. Slade refused to yield the floor, and continued his speech. Mr. Slade proceeded at great length, when Mr. Petrikin, of Pennsylvania, called him to order. The chair did not sustain the call. Mr. Slade went on quoting from the Declaration of Independence and the constitutions of the several States, and had got to that of Virginia, when Mr. Wise called him to order for reading papers without the leave of the house. The speaker then said that no paper objected to could be read without leave of the house.

"'Mr. Wise then said that the gentleman had wantonly discussed the abstract question of slavery, going back to the very first day of its creation, instead of slavery as it now existed in the District, and the powers and duties of Congress in relation to it. He was now reading the State constitutions to show that as it existed in the States it was against them, and against the laws of God and man. This was out of order.'

"Mr. Slade explained, and argued in vindication of his course; he was about to read a memorial of Dr. Franklin* and an opinion of Mr. Madison upon the question of slavery, when Mr. Griffin, of South Carolina, objected to the reading. Mr. Slade, without asking the permission of the House, which he knew would not be granted, proposed that the clerk should read the document. To this the Speaker objected, that it was equally out of order for the clerk to read. Mr. Griffin withdrew the objection, and Mr. Slade proceeded to read the papers and comment upon them. He was about to return to the state of opinion in Virginia upon the subject of slavery before Dr. Franklin's memorial. Mr. Rhett inquired, 'What the opinions of Virginia fifty years since had to do with the case?' The Speaker was about to reply when Mr. Wise rose, and, with much warmth, said: 'He has discussed the whole abstract subject of slavery—of slavery in Virginia—of slavery in my own district, and I now ask all of my colleagues to retire with me from this hall.' Mr. Slade reminded the Speaker that he had not yielded the floor, but his progress was interrupted by the condition of the House, and the exclamations of members. Amongst them Mr. Holsey, of Georgia, was heard calling on the delegates from that State to withdraw with him; whilst Mr. Rhett was heard proclaiming that the members from South Carolina had already consulted together and appointed a meeting at three o'clock, in the committee-room of the District of Columbia. Here the Speaker succeeded in getting the floor, and stating the question to be on granting leave to the member from Vermont to read certain papers, the reading of which had been objected to. Many members rose, all addressing the chair at the same time, and the general scene of noise and confusion continued.

"'Mr. Rhett succeeded in raising his voice above the roar of the tempest which raged in the House, and invited the entire delegation from all the slave States to retire from the hall forthwith, and meet in the committee-room of the District of Columbia.'

"The Speaker rose to a personal explanation, and succeeded in recapitulating his decisions and vindicated their correctness. 'Had it been in his power,' he said, 'to restrain the discussion, he should have done so. But it was not.'

"Mr. Slade continuing, said the paper he was about to read was one of the Continental Congress of 1774. The Speaker was about to put the question of leave, when Mr. Cost Johnson inquired if it 'would be in order to force the member from Vermont to stop?' The impartial chair said, in despair, that it could not be done. The indomitable Slade proceeded in triumph. 'Then Mr. McKay, of North Carolina, a clear, cool-headed, sagacious man, interposed the objection that headed Mr. Slade.' The rule of the House required that when a member was called to order, he should take his seat; and, if decided to be out of order, he should not be allowed to speak again without the leave of the House. Mr. McKay stated the point of order, and said that he now objected to Mr. Slade's proceeding. 'Redoubled noise and confusion ensued—a crowd of members rising and speaking at once, they at last yielded to the noise of the Speaker's hammer, and his apparent desire to read something from a book—recognised to be the Manual—which he held in his hand, he at last succeeded in reporting the rule referred to by Mr. McKay, and sustaining his motion. Mr. Slade endeavored to proceed. The Speaker directed him to take his seat until the question of leave should be put. Then Mr. Slade—still keeping on his feet—asked leave to proceed in order. On that question Mr. Allen, of Vermont, asked the ayes and nays. Mr. Rencher, of North Carolina, moved an adjournment. Mr. Adams and others demanded the ayes and noes upon this motion. They were called, and resulted 106 ayes, 63 noes—some fifty or sixty members having withdrawn."

The vote against adjournment follows:—

* See page 5–6.

Messrs. John Quincy Adams; Alexander of O.; Allen, of Vt.; Allen, of O.; Aycrigg, of N. J.; Bell, of Tenn.; Biddle, of Pa.; Bond, of O.; Borden, of Mass.; Briggs, of Mass.; Calhoun, of Mass.; Coffin, of O.; Cranston, of R. I.; Curtis, of N. Y.; Cushing, of Mass.; Darlington, of Pa.; Davies, of Pa.; Dunn, of Ind.; Evans, of Me.; Everett, of Vt.; Ewing, of Ind.; Fletcher, of Vt.; Fillmore, of N. Y.; Goode, of O.; Grennell, of Mass.; Haley, of Conn.; Hall, of Vt.; Hastings, of Mass.; Henry, of Pa.; Herod, of Ind.; Hoffman, of N. Y.; Lincoln, of Mass.; Marvin, of N. Y.; Mason, of O.; Maxwell, of N. J.; McKennan, of Pa.; Milligan, of Del.; M. Morris, of Pa.; C. Morris, of O.; Naylor, of Pa.; Noyes, of Me.; Ogle, of Pa.; Parmenter, of Mass.; Patterson, of N. Y.; Peck, of N. Y.; Phillips, of Mass.; Potts, of Pa.; Potter, of Pa.; Rariden, of Ind.; Randolph, of N. J., Reed, of Mass.; Ridgway, of O.; Russell, of N. Y.; Sheffer, of Pa.; Sibley, of N. Y.; Slade, of Vt.; Stratton, of N. J.; Tillinghast, of R. I.; Toland, of Pa.; White, of Ind.; White, of Ky.; Whittlesey, of O.—63.

"This opposition to adjournment," says the historian, "was one of the worst features in this unhappy day's work—the only effect of keeping the house together being to increase irritation, and multiply the chances of an outbreak. From the beginning Southern members had voted to adjourn, but were prevented from succeeding by the tenacity with which Mr. Slade kept possession of the floor; and now, at last, when it was time to adjourn any way—when the House was in a condition in which no good could be expected, and great harm might be apprehended—there were sixty-three members willing to continue it in session. When the adjournment passed, Mr. Campbell stood up in a chair, and calling for the attention of members, invited all of the southern delegations to attend the meeting then being held in the committee-room of the District of Columbia.

"Members from the slaveholding States had repaired to the appointment, agitated by various passions. We give a report of the propositions, presented from a letter written by Mr. Rhett:

"'In a private and friendly letter to the editor of the Charleston Mercury, amongst other events accompanying the memorable secession of the southern members from the hall of the House of Representatives, I stated to him that I had prepared two resolutions, drawn as amendments to the motion of the member from Vermont, whilst he was discussing the institution of slavery in the South, 'declaring, that the constitution having failed to protect the South in the peaceable possession and enjoyment of their rights and peculiar institutions, it was expedient that the Union should be dissolved; and the other, appointing a committee of two members from each State, to report upon the best means of peaceably dissolving it.' They were intended as amendments to a motion to refer with instructions to report a bill, abolishing slavery in the District of Columbia. I expected them to share the fate which inevitably awaited the original motion so soon as the floor could have been obtained, viz.: to be laid upon the table. My design in presenting them was, to place before Congress and the people what, in my opinion, was the true issue upon this great and vital question; and to point out the course of policy by which it should be met by the southern States.'

"'But extreme counsels did not prevail. There were members present who well considered that although the provocation was great and the number voting for such a firebrand motion was deplorably large, yet it was but little more than the one-fourth of the House, and decidedly less than one-half of the members from the free States: so that, even if left to the free State vote alone, the motion would have been rejected. But the motion itself, and the manner in which it was supported, was most reprehensible—necessarily leading to disorder in the House, the destruction of its harmony and capacity for useful legislation, tending to a sectional segregation of the members, the alienation of feeling between the North and the South, and alarm to all the slaveholding States. The evil required a remedy, but not the remedy of breaking up the Union; but one which might prevent the like in future, while administering a rebuke upon the past. That remedy was found in adopting a proposition to be offered to the House, which, if agreed to, would close the door against any discussion upon abolition petitions in future, and assimilate the proceedings of the House, in that particular, to those of the Senate. This proposition was put into the hands of Mr. Patton, of Virginia, to be offered as an amendment to the rules at the opening of the House the next morning. It was in these words:—

"'Resolved, That all petitions, memorials, and papers touching the abolition of slavery, or the buying, selling, or transferring of slaves, in any State, District, or Territory of the United States, be laid on the table without being debated, printed, read, or referred, and that no further action whatever shall be had thereon.'

"Accordingly, at the opening of the House Mr. Patton asked leave to submit the resolution—which was read for information. Mr. Adams objected to the grant of leave. Mr. Patton then moved a suspension of the rules, which motion required two-thirds to sustain it; and, unless obtained, this salutary remedy for an alarming evil (which was already in force in the Senate) could not be offered. It was a test motion, and on which the opponents of abolition agitation in the House required all their strength; for, unless two to one, they were defeated. Happily the two to one were ready, and on taking the yeas and nays, demanded by an abolition member (to keep his friends to the track, and to hold the free-State anti-abolitionists to their responsibility at home), the result stood 135 yeas to 60 nays—the full two-thirds, and fifteen over.

"This was one of the most important votes ever delivered in the House. Upon its issue depended the quiet of the House on one hand, or on the other the renewal and perpetuation of the scenes of the day before—ending in breaking up all deliberation and all national legislation. It was successful, and that critical step being safely over, the passage of the resolution was secured—the free-State

friendly vote being itself sufficient to carry it; but, although the passage of the resolution was secured, yet resistance to it continued. Mr. Patton rose to recommend his resolution as a peace offering, and to prevent further agitation by demanding the previous question.

"Then followed a scene of disorder, which thus appears in the Register of Debates:

"'Mr. Adams rose and said: Mr. Speaker, the gentleman precedes his resolution—[Loud cries of 'Order! order!' from all parts of the hall.] Mr. A. He preceded it with remarks—['Order! order!']

"'The Chair reminded the gentleman that it was out of order to address the House after the demand for the previous question.

"Mr. Adams. I ask the House—[Continued cries of 'Order!' which completely drowned the honorable member's voice.']

"Order having been restored, the next question was, 'Is the demand for the previous question seconded?' which seconding would consist of a majority of the whole House; which, on a division, quickly showed itself. Then came the further question, 'Shall the main question be now put?' on which the yeas and nays were demanded and taken; and ended in a repetition of the vote of the same 63 against it. The main question was then put and carried; but again, on yeas and nays, to hold free-state members to their responsibility; showing the same 63 in the negative.

"Thus were stifled, and in future prevented in the House, the inflammatory debates on these disturbing petitions. It was the great session of their presentation, being offered by hundreds, and signed by hundreds of thousands of persons—many of them women, who forgot their sex and their duties to mingle in such inflammatory work; some of them clergymen, who forget their mission of peace to stir up strife among those who should be brethren. It was a portentous contest. The motion of Mr. Slade was, not for an inquiry into the expediency of abolishing slavery in the District of Columbia, (a motion in itself sufficiently inflammatory), but to get the command of the House to bring in a bill for that purpose—which would be a decision of the question. His motion failed."

The resolution of Mr. Patton was adopted by a vote of yeas 122, nays 74. The negative vote on this resolution was the same as on the adjournment previously recorded, with the exception that Messrs. Adams, Aycrigg, Bell, and White, who voted against adjourning, did not vote against the resolution. Mr. White voted for the resolution. The others named did not vote at all. Messrs. Bronson, of N. Y., Chaney of Ohio, Duncan of Ohio, Fletcher of Mass., Foster of N. Y., Graham of Ind., Hamer of Ohio, Ingham of Conn., Kilgore of Ohio, Leadbetter of Ohio, Shepler of Ohio, Smith of Me., Toucy of Conn., Webster of Ohio, and Yorke of N. J., also voted against the resolution of Mr. Patton.

During the second session of the 24th Congress, the Senate pursued the course of laying on the table the motion to receive all abolition petitions.

The House adopted, on motion of Mr. Hawes of Ky., a resolution laying all abolition petitions upon the table, without being either printed or referred.

During the 25th Congress, both Houses continued to pursue a like respective course upon the subject of abolition petitions.

The Senate has to this day continued to lay the question of the reception of abolition petitions upon the table.

On the 28th of January, 1840, the question was taken in the House on an amendment offered by Mr. W. Cost Johnson, to an amendment offered by Mr. J. Q. Adams to the rules. The amendment of Mr. Johnson was carried, and was called the 21st Rule. It is as follows:

"That no petition, memorial or resolution, or other paper, praying the abolition of slavery in the District of Columbia, or any state or territory, or the slave-trade between the states or territories of the United States, in which it now exists, shall be received by this House, or entertained in any way whatever."

It was adopted by the following vote:—

YEAS.—Messrs. Alford, of Ga.; Andrews, of Ky.; Atherton, of N. H.; Banks, of Va.; Beirne, of Va.; Blackwell, of Tenn.; Botts, of Va.; Boyd, of Ky.; A. V. Brown, of Tenn.; Brown, of Miss., Burke of N. H., Butler of Ky., Butler of S. C., Bynum of N. C., Campbell of S. C., Campbell of Tenn., Carroll of Md., Chapman, of Ala.; Coles, of Va.; Colquitt, of Ga.; Conner, of N. C., Cooper of Ga., Crabb of Ala., Craig of Va., Crockett, of Tenn.; Cross, of Ark.; Davis and Fornance, of Pa.; Garland, of Va.; Garland, of La.; Gerry, of Pa.; Goggin, of Va.; Graham, of N. C.; Graves and Green, of Ky.; Griffin, of S. C.; Habersham, of Ga.; Hawkins, of N. C.; Hill, of Va.; Hill, of N. C.; Holleman, of Va.; Holmes, of S. C.; Hopkin of Va.; Hubbard, of Ala.; Jameson, of Mo.; Jenifer, of Md.; Johnson, of Va.; Johnson, of Md.; Jones, of N. Y.; Jones, of Va.; Kemble, of N. Y.; Leadbetter, of O.; Lewis, of Ala.; Lucas, of Va.; McCarty; McClellan, of Tenn.; McCulloch of Pa.; McKay, of N. C.; Medill, of O.; Miller, of Mo.; Montanya, of N. Y.; Montgomery, of N. C.; Nisbet of Ga.; Parrish, of O.; Parris, of Me.; Petriken, of Pa.; Pickens, of S. C.; Pope, of Ky.; Prentiss, of N. Y.; Proffit, of Ind.; Ramsey, of Pa.; Rayner, of N. C.; Reynolds, of Ill.; Rhett, of S. C.; Rives, of Va.; Rogers, of S. C.; Samuels, of Va.; Shaw, of N. H.; Smith, of Me.; Stanley, of N. C.; Steenrod, of Va.; Strong, of Pa.; Sumter, of S. C.; Sweeney, of O.; Taliafero, of Va.; Taylor, of O.; F. Thomas, of Md.; P. F. Thomas, of Md.; Thompson, of S. C.; Thompson, of Miss.; Triplett, of Ky.; Turney, of Tenn.; Warren, of Ga.; Watterson, of Tenn.; Weller, of O.; White, of Ky.; Williams, of N. C.; J. L. Williams, of Tenn.; C. H. Williams, of Tenn.; Williams of Ky., Wise of Va., and Worthington of Md.—114.

NAYS.—Messrs. Adams of Mass., Allen of N. Y., Allen, of O., Anderson of Me., Anderson of Ky., Baker; Barnard of N. Y., Beatty of Pa., Bell of Tenn., Biddle of Pa., Bond of O., Brewster of N. Y., Briggs of Mass., Brockaway of Conn., Brown, of N. Y.; Calhoun, of Ky.; Carr, of Ia.; Casey, of Ill., Chittenden, Clark of N. H., Clifford of Me., Cooper, of Pa.; Cranston, of R. I.; Crary, of Mich.; Curtis, of N. Y.; Cushing, of Mass.; Dana, of N. Y.; Davee, of Maine; Davies, of Pa.; Doane, of O.; Davis, of N. Y.; Duncan, of O.; Edwards, of Pa.; Ely of N. Y.; Evans, of Me.; Everett, of Vt.; Fillmore, of N. Y.; Fletcher, of Vt.; Floyd, of N. Y.; Gates, of N. Y.; Gentry, of Tenn.; Giddings and Goode, of O.; Granger, of N. Y.; Grinnell, of N. Y.; Hall, of Vt.; Hand, of N. Y.; Hastings, of Mass.; Hastings, of O.; Henry, of Pa.; Hoffman, of N. Y.; Hook, of Pa.; Howard, of Ia.;

Hunt, of N. Y.; Jackson, of N. Y.; James C. Johnston; Keim, of Pa.; Kempshall; Lawrence, of Mass.; Leet, of Pa.; Leonard, of N. Y.; Lincoln, of Mass.; Lowell, of Me.; Mallory, of N. Y.; Marchand of Pa.; Marvin, of N. Y.; Mason, of O.; Mitchell, of N. Y.; Monroe, of N. Y.; Morgan, of N. Y.; Morris, of Pa.; Morris, of O.; Naylor, of Pa.; Newhard, of Pa.; Ogle, of Pa.; Osborne, of Conn.; Palen, of N. Y.; Parmenter, of Mass.; Paynter, of Pa.; Peck, of N. Y.; Randall, of Me.; Randolph, of N. J.; Rariden, of Ia.; Reed, of Mass.; Ridgway, of O.; Rogers, of N. Y.; Russell, of N. Y.; Saltonstall, of Mass.; Sergeant, of Pa.; Simonton, of Pa.; Slade, of Vt.; Smith of Vt., Smith of Conn., Starkweather of O., Storrs of Conn., Stuart of Ill., Tillinghast of R. I., Toland of Pa., Trumbull of Conn., Underwood of Ky., Vanderpoel of N. Y., Wagener of Pa., Wagoner of N. Y., Wick, of Ia., Williams of N. H., Williams of Conn., and Williams of Mass.—108.

The 21st rule, as it was called, which read as follows: "No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any state or territory, or the slave-trade between the states and the territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever," was rescinded on the 3d of Dec. 1844, on motion of Mr. J. Quincy Adams, by yeas and nays as follows:

YEAS.—Messrs. Abbot, of Mass.; Adams, of Mass.; Anderson, of N. Y.; Baker, of Mass.; Barnard, of N. Y.; Benton, of N. Y.; Black, of Pa.; Brinkerhoff, of O.; Brodhead, of Pa.; T. Brown, of Pa.; Buffington of Pa.; Carpenter, of N. Y.; Cary, of N. Y.; Catlin, of Conn.; Clingman, of N. C., Clinton of N. Y., Collamer of Vt., Cranston of R. I., Dana, of N. Y.; Darragh, of Pa.; Dean, of O.; Dickey, of Pa.; Dillingham, of Vt.; Duncan, of O.; Dunlap, of Me.; Ellis, of N. Y.; Elmer, of N. J.; Farlee, of N. J.; Fish, of N. Y.; Florence, of O.; Foot, of Vt.; Fuller, of Pa.; Giddings, of O.; Green, of N. Y.; Grinnell, of Mass.; Hale, of N. H.; Hamlin, of Me.; Hamlin, of S. C.; Hardin, of Ill., Harper, of O.; Henley, of Ia.; Herrick, of Me.; Hubbell, of N. Y., Hudson, of Mass.; Hungerford, of N. Y.; Hunt, of Mich.; J. R. Ingersoll, of Pa.; Irvin, of Pa.; Jencks, of Pa.; P. B. Johnson, of O.; Kennedy, of Ia.; Kennedy, of Md.; King, of Mass.; Kirkpatrick, of N. J.; Leonard, of N. Y.; Lyon, of Mich.; McCausleu, of O.; McClelland, of Mich.; McDowell, of O.; McIlvaine, of Pa.; Marsh, of Vt.; Morris, of Pa.; Morris, of O.; Morse, of Me.; Moxly, of N. Y.; Nes, of Pa.; Owen, of Ia.; Parmenter, of Mass.; Patterson, of N. Y.; Pettit, of Ia.; Phœnix, of N. Y.; Pollock, of Pa.; Potter, of R. I.; Pratt, of N. Y.; Preston, of Md.; Purdy, of N. Y.; Ramsey, of Pa.; Rathbun, of N. Y.; Ritter, of Pa.; Robinson, of N. Y.; Rockwell, of Mass.; Rogers, of N. Y.; St. John, of O.; Sample, of Ia.; Schenck, of O.; Severance, of Me.; Thomas H. Seymour, of Conn.; David L. Seymour, of N. Y.; Albert Smith, of N. Y.; John T. Smith, of Pa.; Thomas Smith, Ia.; Caleb B. Smith, of Ia.; Stetson, of N. Y.; Andrew Stewart, of Pa.; John Stewart, of Conn.; Tyler, of N. Y.; Vance, of O.; Vinton, of O.; Wentworth, of Ill.; Wethered, of Md.; Wheaton, of Mass.; John White, of Ky.; Benjamin White, of Me.; Williams, of Mass.; Winthrop of Mass., William Wright of N. Y., Joseph A. Wright of Ia.; and Yost, of Pa.—108.

NAYS.—Messrs. Arrington, of N. C.; Ashe, of Tenn.; Atkinson, of Va.; Baily, of Va.; Barringer, of N. C.; Bidlack, of Pa.; Edward J. Black, of Ga.; James A. Black, of S. C.; Blackwell, of Tenn.; Bowlin, of Mo.; Boyd, of Ky.; Milton Brown, of Tenn.; William J. Brown, of Ia.; Burke, of N. H.; Burt, of S. C.; Caldwell, of Ky.; Causiu, of Md.; Reuben Chapman, of Ala.; Augustus A. Chapman, of Va.; Chilton, of Va., Cobb of Ga., Daniel of N. C., Garrett Davis of Ky., John W. Davis, of Ia.; Dawson, of La.; Deberry, of N. C.; Dellett, of Ala.; Dromgoole, of Va.; Ficklin, of Ill.; French, of Tenn.; Goggin, of Va.; Grider, of Ky.; Haralson, of Ga.; Holmes, of S. C.; Hoge, of Ill.; Hopkins, of Va.; Houston, of Ala.; Hubard, of Va.; Hughes, of Mo.; Charles J. Ingersoll, of Pa.; Jameson, of Mo.; Cave Johnson, of Tenn.; Andrew Johnson, of Tenn.; George W. Jones, of Tenn.; Preston King, of N. Y.; Labranche, of La.; Lucas, of Va.; Lumpkin, of Ga.; McClernand, of Ill.; McConnell, of Ala.; McKay, of N. C.; Mathews, of O.; Isaac E. Morse, of La.; Murphy, of N. Y.; Newton, of Va.; Norris, of N. H.; Payne, of Ala.; Peyton, of Tenn.; David S. Reid, of N. C.; Reding, of N. H.; Relfe, of Mo.; Rhett, of S. C.; Rodney, of Del.; Saunders, of N. Y.; Senter, of Tenn.; Simpson, of S. C.; Slidell, of La.; Robert Smith, of Illinois; Steenrod, of Va.; Stephens, of Ga.; Stiles, of Ga.; James W. Stone, of Ky.; Alfred P. Stone, of O.; Taylor, of Va.; Thomasson, of Ky.; Thompson, of Miss; Tibbatts, of Tenn.; Weller, of O.; Woodward, of S. C.; and Yancey, of Ala.—80.

On the 1st of Dec. 1845, Mr. Chapman of Ala. made a motion in effect to revive the 21st rule, but it was rejected by a vote of yeas 84, nays 121. The following is the affirmative vote.

YEAS.—Messrs. Stephen Adams, of Miss.; Atkinson, of Va.; Barringer, of N. C.; Bayley, of Va.; Bedinger, of Va.; Bell of Ky., James A. Black of S. C., Bowlin of Mo., Boyd of Ky., Milton Brown of Tenn., William G. Brown of Va.; Burt, of S. C.; Cabell, of Fla.; John G. Chapman, of Md.; Augustus A. Chapman, of Va.; Reuben Chapman, of Ala.; Chase, of Tenn.; Chipman, of Mich.; Clarke, of N. C.; Cobb, of Ga.; Cocke, of Tenn.; Constable, of Md.; Cullom, of Tenn.; Daniel, of N. C.; Garrett Davis, of Ky.; Dobbin, of N. C.; Dockery, of N. C.; Douglass, of Ill.; Dromgoole, of Va., Faran, of O.; Ficklin, of Ill.; Giles, of Md.; Graham, of N. C.; Haralson, of Ga.; Harmanson, of La.; Hilliard, of Ala.; Hoge, of Ill.; Isaac E. Holmes, of S. C.; Hopkins, of Va.; George S. Houston, of Ala.; E. W. Hubard, of Va.; Hunter, of Va.; Charles J. Ingersoll, of Pa.; Joseph Johnson, of Va.; Andrew Johnson, of Tenn.; George W. Jones, of Tenn.; Seaborn Jones, of Ga.; Thomas B. King, of Ga.; Leake, of Va.; Ligon, of Md.; Long, of Md.; Lumpkin, of Ga.; McClean, of Pa.; McClernand, of Ill.; McConnell, of Ala.; McHenry, of Ky.; McKay, of N. C.; John P. Martin, of Ky.; Barclay Martin, of Tenn.; Norris, of N. H.; Payne, of Ala.; Pendleton, of Va.; Perry, of Md.; Price, of Mo.; Reid, of N. C.; Relfe, of Mo.; Rhett, of S. C.; Seddon, of Va.; A. D. Sims, of S. C.; L. H. Simms, of Mo.; Simpson, of S. C.; Robert Smith, of Ill.; Stanton, of Tenn.; Stephens, of Ga. Taylor of Va., Jacob Thompson of Miss., Toombs, of Ga., Tibbatts of Ky., Treadway of Va., Trumbo of Ky., Wilmot of Pa., Woodward of S. C., Yancey of Ala., Yell of Ark.—84.

The following Southern Representatives voted in the negative,

Messrs. Crozier and Gentry of Tenn., Grider, Young, and Thomasson of Ky., Houston of Del., Thibodeaux of La.

The following is the affirmative vote in the House on the 11th of Dec. 1845, in laying on the table an abolition petition, presented by Mr. Culver of N. Y., praying the abolition of slavery, and the slave-trade in the District of Columbia.

YEAS.—Messrs. S. Adams, of Miss.; Atkinson, of Va.; Barringer, of N. C.; Bayley, of Va.; Bedinger, of Va.; Biggs, of N. C.; James Black, of Pa.; James A. Black, of S. C.; Boyd, of Ky.; Brodhead, of Pa.; William G. Brown, of Va.; Burt, of S. C.; John H. Campbell, of Pa.; Augustus A. Chapman, of Va.; R. Chapman, of Ala.; Chipman, of Mich.; Clarke, of N. C.; Cocke, of Tenn.; Crozier, of Tenn.; Cullom, of Tenn.; Cunningham, of O.; Daniel, of N. C.; G. Davis, of Ky.; Dockery, of N. C.; Douglass, of Ill.; Edsall of N. J.; Erdman, of Pa.; Faran, of O.; Foster, of Pa.; Gentry, of Tenn.; Giles, of Md.; Goodyear, of N. Y.; Graham, of N. C.; Grider, of Ky.; Haralson, of Ga.; Harmanson, of La.; Henley, of Ind.; Hilliard, of Ala.; Hoge, of Ill.; Hopkins, of Va.; John W. Houston, of Del.; G. S. Houston, of Ala.; Hungerford, of N. Y.; Hunter, of Va.; Charles J. Ingersoll, of Pa.; J. H. Johnson, of N. H.; J. Johnson, of Va.; Andrew Johnson of Tenn., George W. Jones of Tenn., Seaborn Jones of Ga., Kennedy of Ind., T. B. King of Ga., Lawrence of N. Y., Leake of Va., Levin of Penn., Ligon of Md., Lumpkin of Ga., Maclay of N. Y., McClean of Pa., McCrate of Me., McHenry of Ky., John P. Martin of Ky., Barclay Martin of Tenn., Miller of N. Y., Morse of Louisiana, Moulton of N. H., Norris of N. H., Owen of Ind, Parish of O., Payne of Ala., Pendleton of Va., Perrill of O., Perry of Md., Petit of Ind., Price of Mo., Rathbun of N. Y., Reid of N. C., Relfe of Mo., Ritter of Pa., Roberts of Miss., Sawyer of O., Scammon of Me., Seddon of Va., A. D. Sims of S. C., L. H. Simms of Mo., Simpson of S. C., Robert Smith of Ill., Stanton of Tenn., Stephens of Ga., Thibodeaux of La., James Thompson of Pa., Jacob Thompson of Miss., Thurman of O., Tibbats of Ky., Toombs of Ga., Treadway of Va., Trumbo of Ky., Wentworth of Ill., Wick of Ind., Wilmot of Pa., Woodruff of N. Y., Woodward of S. C., Woodworth of N. J., Yancey of Ala., Yell of Ark., Young of Ky., and Yost of Pa.—108.

On the 25th of February, 1850, Mr. Giddings of Ohio, in the House of Representatives, presented two petitions, one from Isaac Jeffries and other citizens of Penna., and the other from John T. Woodward and other citizens of Del. and Pa. They were as follows:

"We, the undersigned inhabitants of Pennsylvania and Delaware, believing that the Federal Constitution, in pledging the strength of the whole nation to support slavery, violates the Divine law, makes war upon human rights, and is grossly inconsistent with republican principles: that its attempt to unite slavery in one body politic has brought upon the country great and manifold evils, and has fully proved that no such union can exist, but by the sacrifice of freedom to the supremacy of slavery, respectfully ask you to devise and propose without delay, some plan for the immediate, peaceful dissolution of the American Union."

Mr. Giddings moved to refer the petitions to a select committee with instructions to inquire—

First. Whether disaffection with our Federal Union exists among the people of these states?

Secondly. If so, to what extent does such discontent exist?

Thirdly. From what has such disaffection arisen?

Fourthly. The proper means of restoring confidence among the people?

Mr. McClernand of Ill. objected to the reception of the petitions, and it was decided by a vote of yeas 8, nays 162, not to receive them.

The affirmative vote consisted of Messrs. Allen of Mass., Durkee of Wisconsin, Giddings of Ohio, Goodenow of Me., Howe of Pa., Julian of Ind., Preston King of N. Y., and Root of Ohio.

Upon the 1st of February, 1850, the same petitions praying a dissolution of the Union were presented in the Senate by Mr. Hale of N. H.

Mr. Webster of Mass. suggested that there should have been a preamble to the petition in these words—

"Gentlemen, members of Congress, whereas at the commencement of the session, you and each of you took your solemn oaths in the presence of God and on the Holy Evangelists, that you would support the Constitution of the U. S., now therefore we pray you to take immediate steps to break up the Union and overthrow the Constitution of the United States as soon as you can. And as in duty bound we will ever pray."

But three Senators voted for the reception of the petition, viz.:

Messrs. Chase, Hale, and Seward.

These petitions have since then excited but little attention.

Abolition Platforms.

The first national platform of the Abolition party upon which it went into the contest in 1840, favored the abolition of slavery in the District of Columbia and Territories; the inter-state slave-trade, and a general opposition to slavery to the full extent of constitutional power.

In 1848, that portion of the party which did not support the Buffalo nominees took the ground of affirming the constitutional authority and duty of the General Government to abolish slavery in the States.

Under the head of "Buffalo," the platform of the Free Soil party, which nominated Mr. Van Buren, will be found.

In 1852, the Independent Democrats as they were called, who supported John P. Hale for President, adopted the following platform:

Having assembled in National Convention, as the Delegates of the Free Democracy of the United States, united by a common resolve to maintain right against wrongs, and freedom against slavery; confiding in the intelligence, patriotism, and the discriminating justice of the American people, putting our trust in God for the triumph of our cause, and invoking His guidance in our endeavors to advance it, we now submit to the candid judgment of all men the following declaration of principles and measures:

I. That governments, deriving their just powers from the consent of the governed, are instituted among men to secure to all, those inalienable rights of life, liberty, and the pursuit of happiness, with which they are endowed by their Creator, and of which none can be deprived by valid legislation, except for crime.

II. That the true mission of American Democracy is to maintain the liberties of the people, the sovereignty of the states, and the perpetuity of the Union, by the impartial application to public affairs, without sectional discriminations, of the fundamental principles of equal rights, strict justice, and economical administration.

III. That the Federal Government is one of limited powers, derived solely from the Constitution, and the grants of power therein ought to be strictly construed by all the departments and agents of the government, and it is inexpedient and dangerous to exercise doubtful constitutional powers.

IV. That the Constitution of the United States, ordained to form a more perfect union, to establish justice, and secure the blessings of liberty, expressly denies to the general government all power to deprive any person of life, liberty, or property, without due process of law; and therefore the government, having no more power to make a slave than to make a king, and no more power to establish slavery than to establish monarchy, should at once proceed to relieve itself from all responsibility for the existence of slavery, wherever it possesses constitutional power to legislate for its extinction.

V. That, to the persevering and importunate demands of the slave power for more slave states, new slave territories, and the nationalization of slavery, our distinct and final answer is—no more slave states, no slave territory, no nationalized slavery, and no national legislation for the extradition of slaves.

VI. That slavery is a sin against God, and a crime against man, which no human enactment nor usage can make right; and that Christianity, humanity, and patriotism alike demand its abolition.

VII. That the Fugitive Slave Act of 1850 is repugnant to the Constitution, to the principles of the common law, to the spirit of Christianity, and to the sentiments of the civilized world. We therefore deny its binding force upon the American people, and demand its immediate and total repeal.

VIII. That the doctrine that any human law is a finality, and not subject to modification or repeal, is not in accordance with the creed of the founders of our government, and is dangerous to the liberties of the people.

IX. That the acts of Congress, known as the Compromise Measures of 1850, by making the admission of a sovereign state contingent upon the adoption of other measures demanded by the special interest of slavery; by their omission to guaranty freedom in free territories; by their attempt to impose unconstitutional limitations on the power of Congress and the people to admit new states; by their provisions for the assumption of five millions of the state debt of Texas, and for the payment of five millions more, and the cession of a large territory to the same state under menace, as an inducement to the relinquishment of a groundless claim, and by their invasion of the sovereignty of the states and the liberties of the people through the enactment of an unjust, oppressive and unconstitutional Fugitive Slave Law, are proved to be inconsistent with all the principles and maxims of Democracy, and wholly inadequate to the settlement of the questions of which they are claimed to be an adjustment.

X. That no permanent settlement of the slavery question can be looked for, except in the practical recognition of the truth, that slavery is sectional, and freedom national; by the total separation of the general government from slavery, and the exercise of its legitimate and constitutional influence on the side of freedom; and by leaving to the states the whole subject of slavery and the extradition of fugitives from service.

XI. That all men have a natural right to a portion of the soil; and that, as the use of the soil is indispensable to life, the right of all men to the soil is as sacred as their right to life itself.

XII. That the public lands of the United States belong to the people, and should not be sold to individuals nor granted to corporations, but should be held as a sacred trust for the benefit of the people, and should be granted in limited quantities, free of cost, to landless settlers.

XIII. That a due regard for the Federal Constitution, and sound administrative policy, demand that the funds of the general government be kept separate from banking institutions; that inland and ocean postage should be reduced to the lowest possible point; that no more revenue should be raised than is required to defray the strictly necessary expenses of the public service, and to pay off the public debt; and that the power and patronage of the government should be diminished by the abolition of all unnecessary offices, salaries, and privileges, and by the election, by the people, of all civil officers in the service of the United States, so far as may be consistent with the prompt and efficient transaction of the public business.

XIV. That river and harbor improvements, when necessary to the safety and convenience of commerce with foreign nations, or among the several states, are objects of national concern; and it is the duty of Congress, in the exercise of its constitutional powers, to provide for the same.

XV. That emigrants and exiles from the Old World should find a cordial welcome to homes of comfort and fields of enterprise in the New; and every attempt to abridge their privilege of becoming citizens and owners of the soil among us, ought to be resisted with inflexible determination.

XVI. That every nation has a clear right to alter or change its own government, and to administer its own concerns in such manner as may best secure the rights and promote the happiness of the people; and foreign interference with that right is a dangerous violation of the law of nations, against which all independent governments should protest, and endeavor by all proper means to prevent; and especially is it the duty of the American government, representing the chief republic of the world, to protest against, and by all proper means to prevent the intervention of kings and emperors against nations seeking to establish for themselves republican or constitutional governments.

XVII. That the independence of Hayti ought to be recognised by our government, and our commercial relations with it placed on the footing of the most favored nations.

XVIII. That as, by the Constitution, "the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states," the practice of imprisoning colored seamen of other states, while the vessels to which they belong lie in port, and refusing to exercise the right to bring such cases before the Supreme Court of the United States, to test the legality of such proceedings, is a flagrant violation of the Constitution, and an invasion of the rights of the citizens of other states, utterly inconsistent with the professions made by the slaveholders, that they wish the provisions of the Constitution faithfully observed by every state in the Union.

XIX. That we recommend the introduction into all treaties hereafter to be negotiated between the United States and foreign nations, of some provision for the amicable settlement of difficulties by a resort to decisive arbitration.

XX. That the Free Democratic party is not organized to aid either the Whig or Democratic wing of the great Slave Compromise party of the nation, but to defeat them both; and that repudiating and renouncing both, as hopelessly corrupt, and utterly unworthy of confidence, the purpose of the Free Democracy is to take possession of the Federal Government, and administer it for the better protection of the rights and interests of the whole people.

XXI. That we inscribe on our banner, Free Soil, Free Speech, Free Labor, and Free Men, and under it will fight on and fight ever, until a triumphant victory shall reward our exertions.

XXII. That upon this platform the Convention presents to the American people, as a candidate for the office of President of the United States, John P. Hale, of New Hampshire, and as a candidate for the office of Vice President of the United States, George W. Julian, of Indiana, and earnestly commends them to the support of all freemen and parties.

For the Anti-Slavery Platform of 1852, see "Republican Platform."

Abolitionists and Republicans.

EXTRACTS FROM LETTERS, SPEECHES, AND RESOLVES OF.

"THE ABOLITIONISTS AS PROPHETS.—Whoever has been an attentive reader of anti-slavery literature and journalism for the last fifteen or twenty years, cannot but have been struck with the spirit of prophecy that runs through it all. To be sure, the Abolitionists may be said to belong to that large class of prophets who help to bring about the accomplishment of their own predictions. But it is a proof that they have known what they wanted, and also how best to bring it about. They have had a clear vision from the beginning of the way in which they were to walk, and of the work which they had to do. They acted on certain fixed principles, basing their measures on the nature of things and the nature of man; and, as their principles were eternally right, and their views of man and his ways founded on reason and experience, and as their speculations and their practice had no taint of selfishness in them, it was almost inevitable that they should see clearly and act sagaciously. Only, they have not seen half that was to come to pass, and the times were hidden from them, so that they are astonished at the haste with which the procession of events hurries past, in spite of the second-sight which discerned their coming shadows in the distant future.

"Among the many predictions which they have uttered, or rather the many statements they have made, as to what must come to pass, the one which, five or six years ago, seemed the wildest, was the necessary division of the nation into two parts—the Northern and the Southern—of which the principles should be Slavery and Anti-Slavery. Five years ago, what seemed more unlikely than that the nation should be divided into strictly sectional parties as it is now? The Whigs were running up their bids for slaveholding support with a desperation which showed that they had abandoned any other hope of success. Daniel Webster had abandoned all hope of a North, and had flung himself and all he had at the feet of the slave-masters, as his last and only chance for the eminence he sighed for. They spurned him away, to be sure, and sent him broken-hearted into his grave; but they appointed both the candidates and elected the one they loved the best.

"The idea of a Northern party, of a party which should not extend its ramifications into the Southern States, was regarded as something worse than a chimera, as a positive imagining of the death of the republic, as a positive misprision of treason. What a change has come over the dreams of the people since then! The Whig party, five years ago in power, and with a reasonable prospect of maintaining it, now dispersed, is demolished and ground to powder. Their very name has vanished from the face of the earth—or exists only as a mockery and a laughing-stock. The Abolitionists foresaw that this must come to pass; but they did not dream of its accomplishing itself so soon." "That the national parties should sooner or later divide on the only real matter of dispute existing in the country, was inevitable."

"But the lines are now drawn, and the hosts are encamped over against each other. The attempt to keep up a delusive alliance with natural enemies has been abandoned.

"The Abolitionists have been telling these things in the ears of the people for a quarter of a century. They have had a double part in what has come to pass, both by preparing the minds of the people of the North, and by compelling the people of the South to the very atrocities which have startled the North into attention. Nothing but the madness which ushers in destruction and the pride which goeth before a fall, on the part of the slaveholders, could have roused the sluggish North from its comfortable dreams of wealth, and made it put itself even into a posture of resistance."

"The North is in a state of excitement, temporary perhaps, but real for the time, and the widening lines of division between the North and South are growing deep and distinct.

"It is long since this paper took the ground that the first thing, though by no means the only thing, needful was the formation of sectional parties—of parties distinctly Northern and Southern, and of necessity, slavery and anti-slavery. We rejoice that our eyes behold the day of that beginning of the end. Not that we have any very exalted hopes from the success of the Republican party, even if we considered its success a very likely thing. All

that it purposes to itself is to keep slavery out of Kansas, provided the actual settlers there do not want to have it in. This is a very small platform for a great party to stand upon, it must be owned; and in rejoicing to see it, we certainly are grateful for very moderate mercies. But it is not the platform that is significant—it is not the point nominally at issue that is the material thing. The position is everything. It is the attitude that is expressive and encouraging. It is the entire separation of the party from all southern alliance, and from all possibility of slaveholding help, that gives it its encouraging aspect, and makes it, with all its shortenings, a thing to thank God for.

"We need hardly say that we do not look upon this new party as one that should supersede the anti-slavery movement. It has sprung from that movement, and whatever of strength and hope it has lies in the anti-slavery feeling of the Northern mind. It is vain that servile men-pleasers seek to separate this effect from its anti-slavery origin. The slaveholders stamp it with its real character, and describe it better than it likes to do itself. It is true that the differing sagacities of the Slaveholders and the Abolitionists both discern that this must be the ultimate result."—*From the New York National Anti-Slavery Standard, June* 21, 1856.

Debate in the New England Anti-Slavery Convention, on the 29th of May, 1856.

Mr. William Lloyd Garrison said:—

"I come now to the Republican party; and while I do not forget its actual position under the Constitution and within the Union, I am constrained to differ in judgment from some of my respected friends here about the comparative merits of that party. I think that they do not always accord to it all that justice demands; that they overlook the necessary formation of such a party as the result of our moral agitation; and I marvel that they do not see that to quarrel with it, to the extent they are doing, is to quarrel with cause and effect—with the work of our own hands.

"Mrs. Foster.—I admit that the party is our own progeny; but, as every child needs a great deal of reproof and constant effort to bring it up in the way it should go, this party, which is the necessary offspring of our efforts, needs constant admonition and rebuke; and, God giving me strength, I will not spare it an hour until it is fully educated, reformed, and brought up to the high position of truth and duty. [Applause.]

"Mr. Foster.—Do you believe they can succeed?

"Mr. Garrison.—Certainly not! But that is not the question. They believe that they can. They laugh at my incredulity because I do not believe it. I think that, ere long, they will be satisfied that I am right, and that they have been deluded; in which case, I expect then to hear them cry, 'Excelsior—come up higher!' and to see many of them take their position under the banner of disunion.

"I cannot, therefore, agree with such of our friends here as regard it as the worst or most dangerous party with which our movement has to contend. In its attitude toward the slave power, in the amount of conscience and humanity to be found in it, in its direct effort to baffle the designs of the slave oligarchy respecting the territories of the country, it is a far better party than either of the others, and to that extent it is a sign of progress which we have no cause to lament. I have said again and again, that in proportion to the growth of disunionism will be the growth of Republicanism or Free-Soilism. I think if you will examine the map of Massachusetts, for example, you will find this to hold true, with singular uniformity; that in those places where there are the most Abolitionists who have disfranchised themselves for conscience and the slave's sake, the heaviest vote is thrown for the Free-Soil ticket. This is as inevitable as the law of gravitation. The greater includes the less. If we should begin our work over again, and try the same experiment ten thousand times over, we should have the same result in the formation of the same party. Why, then, should any one speak in a tone of despondency, or feel that our cause is in imminent danger of being wrecked? Is this to take a philosophical view of the subject? Such then, is my judgment of the Republican party."

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"Although I am not one of that class of men who cry for the perpetuation of the Union, though I am willing in a certain state of circumstances to let it 'slide,' I have no fear for its perpetuation. But let me say, if the chief object of the people of this country be to maintain and propagate chattel property in man, in other words, human slavery, this Union cannot and ought not to stand."—*Speech of Mr. Speaker Banks.**

On the 16th of January, 1855, the Rev. Mr. Beecher said, in a lecture in New York, on the subject of cutting the North from the South:

"All attempts at evasion, at adjourning, at concealing and compromising, are in vain. The reason of our long agitation is, not that restless Abolitionists are abroad, that ministers will meddle with improper themes, that parties are disregardful of their country's interest. These are symptoms only, not the disease; the effects, not the causes.

"Two great powers that will not live together are in our midst, and tugging at each other's throats. They will search each other out, though you separate them a hundred times. And if by an insane blindness you shall contrive to put off the issue, and send this unsettled dispute down to your children, it will go down, gathering volume and strength at every step, to waste and desolate their heritage. Let it be settled now. Clear the place. Bring in the champions. Let them put their

* Mr. Banks disclaims this sentiment.

lances in rest for the charge. Sound the trumpet, and God save the right!"

At a public meeting held in his church, to promote emigration to Kansas, the Rev. Henry Ward Beecher made the following remarks, as we find them in the report of the New York Evening Post:—

"He believed that the Sharp rifle was truly moral agency, and there was more moral power in one of those instruments, so far as the slaveholders of Kansas were concerned, than in a hundred Bibles. You might just as well, said he, read the Bible to buffaloes as to those fellows who follow Atchison and Stringfellow; but they have a supreme respect for the logic that is embodied in Sharp's rifles. The Bible is addressed to the conscience; but when you address it to them it has no effect—there is no conscience there. Though he was a peace man, he had the greatest regard for Sharp's rifles, and for that pluck that induced those New England men to use them. In such issues, under such circumstances, he was decidedly in favor of such instrumentalities. General Scott had said it was difficult to get the New England men into a quarrel, but when they are waked up and have the law on their side, they are the ugliest customers in the world."

"The object to be accomplished is this: That the free states shall take possession of the government by their united votes. Minor interests and old party affiliations and prejudices must be forgotten. We have the power in number; our strength is in union."—*Simon Brown, Massachusetts Free-Soil Candidate for Lieutenant Governor.*

"If asked to state specially what he would do, he would answer: First, repeal the Nebraska bill; second, repeal the fugitive slave law; third, abolish slavery in the District of Columbia; fourth, abolish the inter-state slave-trade; next, he would declare that slavery should not spread to one inch of the territory of the Union; he would then put the government actually and perpetually on the side of freedom—by which he meant that a bright-eyed boy in Massachusetts should have as good a chance for promotion in the Navy as a boy of one of the first families in Virginia. He would have our foreign consuls take side with the noble Kossuth, and against that butcher Bedini. He would have judges who believe in a higher law, and an anti-slavery constitution, an anti-slavery Bible, and an anti-slavery God! Having thus denationalized slavery, he would not menace it in the states where it exists; but would say to the states, It is your local institution—hug it to your bosom until it destroys you. But he would say, You must let our freedom alone. [Applause.] If you but touch the hem of the garment of freedom we will trample you to the earth. [Loud applause.] This is the only condition of repose, and it must come to this. He was encouraged by the recent election in the North, and he defended the 'new movement,' which he said was born of Puritan blood, and was against despotism of all kinds. This new party should be judged, like others, by its fruits. It had elected a champion of freedom to the United States Senate for four years, to fill the place of a man who was false to freedom, and not true to slavery. For himself, he could say that, so long as life dwelt in his bosom, so long would he fight for liberty and against slavery. In conclusion, he expressed the hope that soon the time might come when the sun should not rise on a master, nor set on a slave."—*Mr. Burlingame.*

"I will not stop to inquire whether or not the act is constitutional. If it is not, it ought to be. I view the act as the faithful expression of the moral sentiment of the people of Massachusetts."—*Mayor Chapin of Worcester.*

"I sincerely hope a civil war may soon burst upon the country. I want to see American slavery abolished in my time." * * * "Then my most fervent prayer is that England, France, and Spain, may take this slavery-accursed nation into their special consideration; and when the time arrives for the streets of the cities of this 'land of the free and home of the brave' to run with blood to the horses' bridles, if the writer of this be living there will be one heart to rejoice at the retributive justice of Heaven."—*Mr. W. O. Duval.*

"If the Angel Gabriel had done what their fathers did, he would be a scoundrel for it. Their fathers placed within the Constitution a provision for the rendition of fugitive slaves, and therein did a wicked thing. It would have been no more wrong for George the Third to put chains on George Washington than it was for George Washington to put chains on the limbs of his slaves. Their fathers had undoubtedly believed that they had made a government which would work beautifully, and that in a few years slavery would be extinct. But in that they were deceived. The government was running as it was made to run, and it could not be made to run otherwise; so the Republicans might not boast of what they would do if they had the government as it was in the days of Washington and Jefferson. It was said in the good book that the Lord sitteth on a high throne, and that all mankind are as grasshoppers before him. He expected that that included Congress and the President, and the Supreme Court, and the Church. [Laughter.] Where slavery and freedom are put in the one nation there must be a fight—there must be an explosion, just as if fire and powder were brought together. There never was an hour when this blasphemous and infamous government should be made, and now the hour was to be prayed for when that disgrace to humanity should be dashed to pieces for ever."—*Rev. Andrew T. Foss of N. H. at the American Anti-Slavery Society meeting at New York, May* 13, 1857.

"If Kansas were saved from oppression while the Carolinas were under the heel of the slaveholder, it would be said 'God is a liar.' They had to strike off every chain from every Southern slave. To do that the sum proposed to be raised was insignificant. Nevertheless, she hoped that those persons present would be induced to double their subscriptions and contributions this year, which is the best year for their labor."—*Abby Kelly Foster at the American Anti-Slavery Society meeting, May* 13, 1857.

"They demanded justice for the slave at any price—of constitution, of Union, of country. This was the principle of the anti-slavery association. It was it which urged their next demand—the immediate emancipation of the slave—for the same reason as they would demand of a person pursuing a vicious course of drunkenness, gambling, or debauchery, that he should desist from it at once, at any cost of physical pain. Immediate emancipation presented no financial or political difficulty. He believed that this Union effectually prevented them from advancing in the least degree the work of the slave's redemption. Disunion is a spiritual process. It must be begun, ended, and potentially completed in the mind before it is commenced as a fact. They could break from it internally with no greater convulsion than would arise from passing from one state of temper to another. The breaking off from the savage idea of money-making would be a step leading to disunion. Let such an internal disunion be effected, and the dissolution of the states would follow as a matter of course. God be thanked, said he, this internal disunion already exists. [Slight applause.] The Northern people were beginning to see that the South was divided from them by its system of labor and by its ideas of human rights. They wanted to make that gulf of division deeper. They wanted it to be understood that there could be no union between light and darkness. They must cherish a conviction which could not live and breathe in the same atmosphere with the slaveholders. If they would abolish the ignorance and gloom in which the crime of slavery shadows itself, they must withdraw from it. In no temper of malignity or animosity toward the slaveholders need this be done. As to the word 'Union' they all knew it was but a political catchword."—*Rev. O. B. Frothingham of N. J. at the American Anti-Slavery Society meeting, New York, May* 13, 1857.

"Were the same charge made against yourself, it could not be more groundless than it is against me. The power of language does not permit me to express the utter loathing I have for the conduct attributed to me. Far sooner would I be the poor quivering wretch on the road again to the agony of bondage, than a volunteer guard to aid in his return. He who invented the charge grossly slandered me; they who repeat it, or believe it, do not know me.

"It is not true that I am, or have ever been, in favor of the fugitive slave bill. I never voted for a man who favored it, knowing such to be his views, and I must very much change before I ever do. I never, by word, act, or vote, favored its passage, and I am an advocate of its essential modification, or in lieu thereof, its unconditional repeal. Returning from Canada last June, I read in the cars that there was a petition for its repeal at the Exchange news room, and, on my arrival, before even going to my place of business, I hastened to the Exchange, and signed the petition."—*Hon. Henry J. Gardner.*

"So long as this blood-stained Union existed there was but little hope for the slave. They saw the work to be done. Darkness was around them, but God's truth was over them. He asked them to bring God's truth home with them. They were murderers if they turned away and refused to help their brother, and said 'Am I my brother's keeper?' This case was their own. He asked them to argue it out of their own nature. Let them suppose the case that on their going home they should find their home desolate, their wife gone, their children gone, and gone irrevocably. This was the case with the slaves. They should make their cause their own. It was a glorious cause, good for time and good for eternity."—*Wm. Lloyd Garrison at American Anti-Slavery Society meeting, New York, May* 13, 1857.

William Lloyd Garrison spoke thus in New York on the 1st day of August, 1855:—

"The issue is this: God Almighty has made it impossible from the beginning for liberty and slavery to mingle together, or a union to be founded between abolitionists and slaveholders—between those who oppress and those who are oppressed. This Union is a lie; the American Union is a sham, an imposture, a covenant with death, an agreement with hell, and it is our business to call for a dissolution. Let that Union be accursed wherein three millions and a half of slaves can be driven to unrequited toil by their masters.

"I will continue to experiment no longer—it is all madness. Let the slaveholding Union go, and slavery will go with the Union down into the dust. If the Church is against disunion, and not on the side of the slave, then I pronounce it as of the devil.

"I say let us cease striking hands with thieves and adulterers, and give to the winds the rallying cry, 'no union with slaveholders, socially or religiously, and up with the flag of disunion.'"

The following extracts are taken from a letter addressed by the Hon. J. R. Giddings, of the House of Representatives, to an anti-fugitive slave law meeting held at Palmyra, Ohio, in 1850:—

"The fugitive slave law commands us to participate in arresting and sending victims to this Southern immolation by torture a thousand times more cruel than ordinary as-

sassination. I would be as willing to handle the scourge—to sink the thong into his quivering flesh, and to tear from him the life which God has given him—as to seize him and hand him over to his tormentors, with the full knowledge and conviction that they will do it. Nor is the crime of the slave-catcher less in the sight of God and good men than is the guilt of him who consummates the outrage by this final sacrifice of the victim.

"Yet we are told we must obey this law, and perpetuate these crimes, until a slave-ridden Congress shall see fit to reclaim us from such sin against God by repealing the law. 'Whether it be right to obey God rather than man, judge ye.'

"From my innermost soul, I abhor, detest, and repudiate this law. I despise the human being who would obey it, if such a being has existence. I should regard such a man as a moral nuisance, contaminating the air of freedom, and would kick him from my door should he attempt to enter my dwelling.

"The authors of this law may take from me my substance, may imprison me, or take my life; but they have not the power to degrade me, by compelling me to commit such transcendent crimes against my fellow man and against God's law.

"I rejoice exceedingly that the people of the free states comprehend and appreciate this insult to every freeman at the North. Public feeling is aroused; popular indignation is speaking trumpet-tongued to those servants of the people who dared thus degrade the American character by constituting us the catchpoles of Southern slave-hunters."

The Columbus (Ohio) State Journal, Rep., contains the following extract, taken from a Washington letter, dated the 5th of December, 1856:—

"On the 1st of December, at a very full meeting of the members opposed to the extension of slavery, the following resolution was offered by Mr. Giddings, and adopted without a dissenting voice:

"Resolved, That we will support no man for Speaker who is not pledged to carry out the parliamentary law by giving to each proposed measure ordered by the House to be committed a majority of such special committee, and to organize the standing committees of the House by placing on each a majority of the friends of freedom, and who are favorable to making reports on all petitions committed to them."

The Hon. J. R. Giddings, in a letter to the Ashtabula (Ohio) Sentinel, dated Washington, December 6, 1855 (a letter which he subsequently admitted to be his on the floor of the House), thus spoke of the above meeting and its resolve:—

"This unanimity of feeling was so strongly exhibited that my own mind ran back to other scenes and other times, the history of which is familiar to my readers; but the recollection is, perhaps, more vividly impressed on my own mind than that of any other man living. I will not, however, trust my pen nor my language to express the emotions which I then experienced.

"Our friends now appeared to feel that we had found a common sentiment and a common principle on which we could rally. Hope seemed to cheer them, and a firmer purpose to unite appeared to pervade the minds of all present."

—

"Why, sir, I never saw a panting fugitive speeding his way to a land of freedom, that an involuntary invocation did not burst from my lips, that God would aid him in his flight! Such are the feelings of every man in our free states, whose heart has not become hardened in iniquity. I do not confine this virtue to Republicans, nor to Anti-Slavery men; I speak of all men, of all parties, in all Christian communities. Northern Democrats feel it: they ordinarily bow to this higher law of their natures, and they only prove recreant to the law of the 'Most High,' when they regard the interests of the Democratic party as superior to God's law and the rights of mankind.

"Gentlemen will bear with me when I assure them and the President that I have seen as many as nine fugitives dining at one time in my own house—fathers, mothers, husbands, wives, parents, and children. When they came to my door, hungry and faint, cold and but partially clad, I did not turn round to consult the Fugitive Law, nor to ask the President what I should do. I knew the constitution of my country, and would not violate it. I obeyed the divine mandate, to feed the hungry and clothe the naked. I fed them. I clothed them, gave them money for their journey, and sent them on their way rejoicing. I obeyed God rather than the President. I obeyed my conscience, the dictates of my heart, the law of my moral being, the commands of Heaven, and, I will add, of the constitution of my country; for no man of intelligence ever believed that the framers of that instrument intended to involve their descendants of the free states in any act that should violate the teachings of the Most High, by seizing a fellow-being, and returning him to the hell of slavery. If that be treason, make the most of it.

"Mr. Bennett, of Mississippi. I want to know if the gentleman would not have gone one step further?

"Mr. Giddings. Yes, sir; I would have gone one step further. I would have driven the slave-catcher who dared pursue them from my premises. I would have kicked him from my door-yard, if he had made his appearance there; or, had he attempted to enter my dwelling, I would have stricken him down upon the threshold of my door.

"I do not speak these things to give the President unhappiness. I mention them to show the people of our free states the rights

which I hold to be clear and sacred under the constitution. There is neither constitution nor law that forbids them to speak their opinions in regard to slavery. As already stated, the master holds the power of life and death over the slaves; he not only robs the slave of his earnings, his intelligence, his manhood, but murders him if he refuses to be flogged—a tyranny revolting to every sense of justice, to every dictate of Christianity—a tyranny more unmitigated than any despotism of the Old World."—*Hon. J. R. Giddings, in House of Representatives, First Session, 34th Congress.*

"The gentleman, however, says that Abolitionists look to the insurrection of the slaves. Sir, who does not look to that inevitable result, unless the slave states remove the heavy burdens which now rest upon the down-trodden and degraded people whom they oppress? Is there a slaveholder who can shut his eyes to this sure finale of slavery? And why should we not expect it? Were we thus oppressed, outraged, and abused, would we not use all the means which God and nature have placed within our power to remove such evils? Would not duty to ourselves, to our offspring, to God, and to humanity, demand that we should rise with one accord and hurl our oppressors from us? Can we justify our fathers of the Revolution in their patriotic struggle for political freedom, and then turn round and condemn the slaves of the South for breaking the chains which hold them in physical bondage and in intellectual degradation? No, sir; no lover of justice, no unbiassed mind, could blame them for asserting and maintaining their inalienable rights."—*Hon. J. R. Giddings, in House of Representatives, April* 25, 1848.

"The people of Boston did not see fit to interfere between the administration and the 'negroes' of that city. In the name of humanity I thank them for it, and assure them and the country that those whom I represent never will interfere in such case. The citizen who would do so would be driven from decent society in northern Ohio. It is here, on this point, that I take issue with the supporters of this law. That portion which commands me to assist in catching slaves is a flagrant usurpation of power, unauthorized by the constitution. My constituents hold that portion of the law in detestation. They spurn and abhor it. I say, as I have often said, 'My constituents will not help you catch your slaves.' They will feed the hungry, clothe the naked, and direct the wanderer on his way, and use every peaceful means to assist him to regain his God-given rights. If you pursue your slave there, they will let you catch him, if you can. If he defends himself against you, they will rejoice. If you press him so hard that he is constrained actually to slay you in self-defence, why, sir, they will look on and submit with proper resignation. In such cases they will carry out their peace principles by abstaining from all interference."—*Hon. J. R. Giddings. See page* 453 *of his Book of Speeches.*

"I would not be understood as desiring a servile insurrection; but I say to Southern gentlemen, that there are hundreds of thousands of honest and patriotic men who will 'laugh at your calamity, and will mock when your fear cometh.' If blood and massacre should mark the struggle for liberty of those who for ages have been oppressed and degraded, my prayer to the God of heaven shall be, that justice, stern, unyielding justice, may be awarded to both master and slave. I desire that every human being may enjoy the rights with which the God of nature has endowed him. If those rights can be regained by the down-trodden sons of Africa in our Southern States, by quiet and peaceful means, I hope they will pursue such peaceful measures. But, if they cannot regain their God-given rights by peaceful measures, I nevertheless hope they will regain them; and, if blood be shed, I should certainly hope that it might be the blood of those who stand between them and freedom, and not the blood of those who have long been robbed of their wives and children, and all they hold dear in life."—*Hon. J. R. Giddings. See pages* 159 *and* 160 *of his Book of Speeches.*

"Sir, I would intimidate no one; but I tell you there is a spirit in the North which will set at defiance all the low and unworthy machinations of this Executive, and of the minions of its power. When the contest shall come; when the thunder shall roll, and the lightning flash; when the slaves shall rise in the South; when, in imitation of the Cuban bondmen, the southern slaves of the South shall feel that they are men; when they feel the stirring emotions of immortality, and recognise the stirring truth that they are men, and entitled to the rights which God has bestowed upon them; when the slaves shall feel that, and when masters shall turn pale and tremble; when their dwellings shall smoke, and dismay sit on each countenance: then, sir, I do not say, 'We will laugh at your calamity, and mock when your fear cometh;' but I do say, when that time shall come, the lovers of our race will stand forth and exert the legitimate powers of this government for freedom. We shall then have constitutional power to act for the good of our country, and do justice to the slave.

"Then will we strike off the shackles from the limbs of the slaves. That will be a period when this government will have power to act between slavery and freedom, and when it can make peace by giving freedom to the slaves. And let me tell you, Mr. Speaker, that that time hastens. It is rolling forward. The President is exerting a power that will hasten it, though not intended by him. I hail it as I do the approaching dawn of that political and moral millennium which I am well assured will come upon the world."—*Hon. J. R. Giddings, in House of Rep., March* 16, 1854.

"Mr. Hale congratulated the convention upon the spirit of unanimity with which it had done its work. I believe, said he, that this is not so much a convention to change the administration of the government, but to say whether there shall be any government to be administered. You have assembled, not to say whether this Union shall be preserved, but to say whether it shall be a blessing or a scorn and hissing among the nations. Some men pretend to be astonished and surprised at the events which are occurring around us; but I am not more surprised than I shall be this autumn to see the fruits following the buds and the blossoms."—*Hon. J. P. Hale, Senator from New Hampshire, a delegate to the Republican Convention of the 17th of June*, 1856.

"Washington, Sunday, Aug. 10, 1856.

"Gentlemen:—I have received your very polite note of the 6th inst., inviting me to attend a mass meeting at the Tabernacle on the evening of the 21st inst. I regret that it is not in my power to be present with you on that occasion, but my engagements will not permit me. I rejoice in your movement. I have faith and hope in progress. I look forward hopefully for the day when the word slave shall be without practical meaning in this, or the Eastern Continent; when universal man shall stand erect as God intended he should, calling no one lord or master save the common Father of us all, and recognising no government save that which is founded on the principles of Eternal Justice and universal rights of humanity. If I did not believe that the election of Fremont and Dayton would be a step in that direction, the movement would receive little sympathy from me.

"With much respect, gentlemen, I am your friend, JOHN P. HALE."

"A man, then, who has no feeling in common with us, who never felt the pulse of liberty till he set foot upon our soil, such a man is to enjoy the opportunity and the right to vote amongst us, whilst these rights are to be denied to the unfortunate black man, who has ten times more intelligence, and who has lived in the state of Indiana from his birth."—*David Kilgore, in the Indiana Constitutional Convention in* 1850. [See Debates in the Convention, vol. 1, p. 253.]

"Justice and liberty, God and man, demand the dissolution of this slaveholding Union and the formation of a Northern Confederacy, in which slaveholders shall stand before the law as felons and be treated as pirates. God and humanity demand a ballot-box in which the slaveholders shall never cast a ballot. In this, what state so prepared to lead as the old Bay State? She has already made it a penal offence to help to execute a law of the Union. I want to see the officers of the state brought into collision with those of the Union.

"No union with slaveholders. Up with the flag of disunion, that we may have a free and glorious union of our own," &c.—*William L. Garrison.*

"Mark! How stands Massachusetts at this hour in reference to the Union? Just where she ought to be—in an attitude of open hostility."—*The Liberator, Garrison's paper.*

"A Northern Confederacy, with no union with slaveholders. To all this is fast tending, and to this all must soon come. The longer it is delayed, the worse for the country, and for the cause of freedom. To this end all who love liberty will labor."—*Liberator*, Sept., 1855.

"BUT ONE ISSUE—THE DISSOLUTION OF THE UNION.—See what the desperate and infernal spirit of the South is, by turning to the 'Refuge of Oppression,' and by reading the intelligence from Kansas in subsequent columns, and then sign and circulate this petition.

"*To the Senate and House of Representatives of the United States:*

"The undersigned, citizens and inhabitants of State of respectfully submit to Congress:

"That as, in the nature of things, antagonistical principles, interests, pursuits, and institutions can never unite:

"That an experience of more than threescore years having demonstrated that there can be no real union between the North and the South, but, on the contrary, ever increasing alienation and strife, at the imminent hazard of civil war, in consequence of their conflicting views in relation to freedom and slavery:

"That the South, having declared it to be not only her right and purpose to eternize her slave system where it now exists, but to extend it over all the territories that now belong or may hereafter be annexed to the republic, come what may; and having outlawed from her soil the entire free colored population of the North, made it perilous for any Northern white citizen to exercise his constitutional right of freedom of speech in that section of the country, and even in the national capitol, and proclaimed her hostility to all free institutions universally:

"We, therefore, believe that the time has come for a new arrangement of elements so hostile, of interests so irreconcileable, of institutions so incongruous; and we earnestly request Congress, at its present session, to take such initiatory measures for the speedy, peaceful, and equitable dissolution of the existing Union as the exigencies of the case require—leaving the South to depend upon her own resources, and to take all the responsibility, in the maintenance of her slave system, and the North to organize an independent government in accordance with her own ideas of justice and the rights of man."—*Liberator*, June 20, 1856.

"The United States Constitution is a covenant with death, and an agreement with hell."—*Liberator*, June 20, 1856.

"Independence Day.—This is the Eightieth Aniversary of American Independence. That independence began in a spirit of compromise with the foul spirit of slavery; it ends with every seventh person in the land a chattel slave—the universal mastery of a slaveholding oligarchy—the overthrow of all the constitutional rights of Northern citizens—the reign of Lynch Law and Border Ruffianism throughout the entire South—the subversion of the national government by a clique of desperate and unprincipled demagogues, of which the President is a miserable and perjured tool—the reign of violence, tyranny, and blood, on a frightful scale. So much for disregarding the 'Higher Law' by our fathers! So much for entering into 'a covenant with death, and an agreement with hell!' Truly, God is just, and our national retribution another striking proof that, as a people sow, so shall they also reap. A new revolution has begun—another secession is to take place—and freedom for all secured upon a sure basis. 'No union with slaveholders!'"—*Liberator, 4th July*, 1856.

"The Dissolution of the Union essential to the Abolition of Slavery.—But until we cease to strike hands religiously, politically, and governmentally with the South, and declare the Union to be at an end, I believe we can do nothing even against the encroachments of the slave power upon our rights. When will the people of the North see that it is not possible for liberty and slavery to commingle, or for a true union to be formed between freemen and slaveholders? Between those who oppress and the oppressed, no concord is possible. This Union—it is a lie, an imposture, and our first business is to seek its utter overthrow. In this Union there are three millions and a half of slaves clanking their chains in hopeless bondage. Let the Union be accursed! Look at the awful compromises of the constitution by which that instrument is saturated with the blood of the slave!"—*Boston Liberator.*

"In conclusion I have only to add that such is my solemn and abiding conviction of the character of slavery, that under a full sense of my responsibility to my country and my God, I deliberately say, better disunion—better a civil or a servile war—better anything that God in his providence shall send—than an extension of the bounds of slavery."—*Hon. Horace Mann, formerly of Massachusetts, in the House of Rep. during the 31st Congress.*

"Having thus given an exposition of the action of the Convention, and defined our position, we shall henceforth do all that may lie in our power to bring about a perfect union of the friends of freedom at home and of good faith and peace in our foreign relations, against the Cincinnati nominations, pledged as they are by the platform which accompanies them, and the majority who framed both, to slavery at home and filibustering abroad. Like many others, we may have been vexed, disappointed, sometimes mortified, at the injudicious and unfair measures of men who ought to have known better; but, we place our great movement above men: it is the only movement which aims or is calculated to save Kansas, and put an end to the despotism which repealed the Missouri Compromise, and is perpetually seeking to subjugate the country to slavery: its platform is clear, sound, and comprehensive: its nominations must represent it: by sustaining them, we sustain it: opposition to them will only tend to perpetuate the spirit and policy of an administration which has brought the country to the verge of civil and foreign war. Will not patriotic men, whatever may have been their preferences, hesitate long before assuming such a responsibility as that?"

* * * * *

"Thank God! the movement has escaped this danger; the counsels of temporizing men have failed; to the bold, clear-sighted Joshua R. Giddings, sustained by the good sense of the Convention, are we indebted for the preservation of the Great Movement against the Slave Power, *free* from all entangling alliances."—*National Era, of June* 26, 1856.

"The Philadelphia Convention has defined the issues of the campaign, framed the platform, made the nominations, and respectfully called upon the people of the United States, without distinction of party, to sustain them. We shall be very happy to see North Americans and South Americans and all sorts of Americans rallying to the standard of Fremont, and uniting to put down the slave power, but let us have no talk of special arrangements with any particular class or party."—*National Era, July* 3, 1856.

"Let me suppose a case which may happen here and before long. A woman flies from South Carolina to Massachusetts to escape from bondage. Mr. Greatheart aids her in her escape, harbors and conceals her, and is brought to trial for it. The punishment is a fine of one thousand dollars and imprisonment for six months. I am drawn to serve as a juror and pass upon this offence. I may refuse to serve and be punished for that, leaving men with no scruples to take my place, or I may take the juror's oath to give a verdict according to the law and the testimony. The law is plain, let us suppose, and the testimony conclusive. Greatheart himself confesses that he did the deed alleged, saving one ready to perish. The judge charges that if the jurors are satisfied of that fact, then they must return that he is guilty. This is a nice matter. Here are two questions. The one put to me in my official capacity as juror, is this—"Did Greatheart aid the woman?" The other, put to me in my natural character as man, is this—"Will you help to punish Greatheart with fine and imprisonment for helping a woman to obtain her unalienable rights?" If I have extinguished my manhood by my juror's oath, then I shall do my

official business and find Greatheart guilty, and I shall seem to be a true man; but if I value my manhood, I shall answer after my natural duty to love a man and not hate him, to do him justice, not injustice, to allow him the natural rights he has not alienated, and shall say 'not guilty.' Then men will call me forsworn and a liar, but I think human nature will justify the verdict. * * *

"The man who attacks me to reduce me to slavery, in that moment of attack alienates his right to life, and if I were the fugitive, and could escape in no other way, I would kill him with as little compunction as I would drive a mosquito from my face."—*A Sermon, by Rev. Theodore Parker.*

"We confess that we intend to trample under foot the constitution of this country. Daniel Webster says: 'You are a law-abiding people;' that the glory of New England is, 'that it is a law-abiding community.' Shame on it, if this be true; if even the religion of New England sinks as low as its statute-book. But I say *we are not a law-abiding community.* God be thanked for it!"—*Wendell Phillips, of Massachusetts, at a Free-Soil meeting in Boston, in May*, 1849.

Wendell Phillips issued a pamphlet in 1850, reviewing Mr. Webster's speech "on the constitutional rights of the States," in which is the following:—

"We are disunionists, not from any love of separate confederacies, or as ignorant of the thousand evils that spring from neighboring and quarrelsome States, but we would get rid of this Union."

"He wished for the dissolution of the Union, because he wanted Massachusetts to be left free to right her own wrongs. If so, she would have no trouble in sending her ships to Charleston and laying it in ashes. There was no state in the Union that would not contract, at a low figure, to whip South Carolina. Massachusetts could do it with one hand tied behind her back. He did not like such a republic as this. It was against his conscience. He hated and abhorred it. In order to hold any office under the government of the United States a man must swear to support the constitution, and consequently to support slavery in its various phases. It was as inevitable that this Union should be dissolved as that water and oil must separate, no matter how much they may be shaken. They could not tell how it was to be done, but done it must be."—*Edmund Quincy, of Mass., at American N. Y. Anti-Slavery Society meeting, at New York, May* 13, 1857.

"The Nebraska fraud is not that burden on which I now intend to speak. There is one nearer home, more immediately present and more insupportable. Of what that burden is I shall speak plainly. The obligation incumbent upon the free states to deliver up fugitive slaves is that burden—and it must be obliterated from that Constitution at every hazard.

"And such an obliteration can be demonstrated to be as much the interest of the South as it is of the North."—*Hon. Josiah Quincy at Boston, Aug.* 18, 1854.

"Resolved, That while we would express our deep gratitude to all those earnest men and women who find time and strength, amid their labors in behalf of British reform, to study, understand, and protest against American slavery, to give us their sympathy and aid, by munificent contributions, and by holding our Union up to the contempt of Europe, we feel it would not be invidious to mention William and Mary Howitt, Henry Vincent, and George Thompson, as those to whose untiring advocacy our cause is especially indebted in this country, as well as for the hold it has gained on the hearts of the British people.

"Resolved, That the discriminating sense of justice, the steadfast devotedness, the generous munificence, the untiring zeal, the industry, skill, taste, and genius, with which British abolitionists have co-operated with us for the extinction of slavery, command our gratitude.

"From the abolitionists of England, Scotland, and Ireland, we have received renewed and increasing assurances and proofs of their constant and enlightened zeal in behalf of the American slave. Liberal gifts from all of these countries, falling behind none of the most bounteous of former years, helped to fill the scanty treasury of the slave."—*Resolutions of the American Foreign Anti-Slavery Society.*

A convention held in Boston in 1855, adopted by a unanimous vote, these resolutions:—

"Resolved, That a constitution which provides for a slave representation and a slave oligarchy in Congress, which legalizes slave-hunting and slave-catching on every inch of American soil, and which pledges the military and naval power of the country to keep four millions of chattel slaves in their chains, is to be trodden under foot and pronounced accursed, however unexceptionable or valuable may be its other provisions.

"Resolved, That the one great issue before the country is, the dissolution of the Union, in comparison with which all other issues with the slave power are as dust in the balance; therefore we will give ourselves to the work of annulling this 'covenant with death,' as essential to our own innocency, and the speedy and everlasting overthrow of the slave system."

The following resolution passed the Legislature of New Hampshire, of 1856:—

"Resolved, That the people of New Hampshire demand as a right the restoration of said Compromise, and the amendment of the Kansas and Nebraska bill, so called, so as to exclude slavery from said territories, and will never consent to the admission into the Union of any state out of said territory with a constitution tolerating slavery."

A convention was held in the city of Buffalo in 1843, at which the following resolution

was unanimously adopted, with Salmon P. Chase as chairman of the committee on resolutions:—

"Resolved, That we hereby give it to be distinctly understood, by this nation and the world, that, as Abolitionists, considering that the strength of our cause lies in its righteousness, and our hopes for it in our conformity to the laws of God, and our support of the rights of man, we owe to the sovereign Ruler of the Universe, as a proof of our allegiance to Him, in all our civil relations and offices, whether as friends, citizens, or as public functionaries, sworn to support the Constitution of the United States, to regard and treat the third clause of the instrument, whenever applied in the case of a fugitive slave, as utterly null and void, and consequently as forming no part of the Constitution of the U. States, whenever we are called upon or sworn to support it."

—

"Recognising, therefore, the paramount issue, I recognise, as the only practical means of sustaining our position upon that issue, our co-operation with the masses of our friends in other states in the formation of the Republican party of the Union.—*Julius Rockwell, Massachusetts Free-soil Candidate for Governor.*

"Yes, with that freedom and Fremont and Dayton emblazoned on the ample folds of our national banner, we will drive the base minions of slavery from their control of the Government, and we will use its powers to build up our new country free from the taints of slavery, and make America worthy of being the North Star of freedom, by which the eye of the exile can be guided with safety to the asylum of liberty."—*Hon. R. W. Sapp, of Ohio, in the House of Reps., 1st Sess. 34th Cong.*

Mr. Seward declared, in a speech which he made in Cleveland, in 1848:

"What, then, you say, can nothing be done for freedom because the public conscience is inert? Yes; much can be done, everything can be done.

—

"Auburn, April 5, 1851.

"Dear Sir: Your letter inviting me to attend a convention of the people of Massachusetts opposed to the fugitive slave law, and to communicate in writing my opinion on that statute, if I should be unable to attend the convention, has been received.

"While offering the pressure of duties here too long deferred as an apology for non-attendance, I pray you to assure the committee in whose behalf you act of my profound sense of their courtesy and kindness. It would be an honor to be invited to address the people of Massachusetts on any subject, but it might well satisfy a generous ambition to be called upon to speak to that great and enlightened Commonwealth on a question of human rights and civil liberty.

"I confess, sir, that I have earnestly desired not to mingle in the popular discussions of the measures of the last Congress. The issue necessarily involves the claims of their advocates and adversaries in the public councils to the confidence of the country. Some of those advocates have entered the popular arena, criminating those from whom they had differed, while others have endeavored by extraordinary means either to control discussion or to suppress it altogether, and thus they have shown themselves disqualified, by prejudice or interest, for practising that impartiality and candor which the occasion demanded.

"I am unwilling even to seem to imply, by reiterating arguments already before the public, either any distrust of the position of those with whom I stood in Congress or impatience for that favorable popular verdict which I believe to be near, and know to be ultimately certain.

"Nevertheless, there can be no impropriety in my declaring, when thus questioned, the opinions which will govern my vote upon any occasion when the fugitive slave law shall come up for review in the national legislature.

"I think the act signally unwise, because it is an attempt, by a purely federative government, to extend the economy of slave states throughout states which repudiate slavery as a moral, social, and political evil. Any despotic government would awaken sedition from its profoundest slumbers by such an attempt.

"*The attempt by the Government has aroused constitutional resistance, which will not cease until the effort shall be relinquished.* He who teaches another faith than this, whether self-deceived or not, misleads. I think, also, that the attempt was unnecessary; that political ends—merely political ends—and not real evils resulting from the escape of slaves, constituted the prevailing motives to the enactment."—*Letter of the Hon. W. H. Seward.*

"We deem the principle of the law, for the recapture of fugitive slaves, unjust, unconstitutional, and immoral; and thus, while patriotism withholds its approbation, the conscience of our people condemns it. You will say that these convictions of ours are disloyal. Grant it, for the sake of argument. They are nevertheless honest; and the law is to be executed among us, not among you; not by us, but by the federal authority. Has any government ever succeeded in changing the moral convictions of its subjects by force? But these convictions imply no disloyalty. We reverence the Constitution, although we perceive this defect, just as we acknowledge the splendor and the power of the sun, although its surface is tarnished with here and there an opaque spot.

"We cannot, in our judgment, be either true Christians or real freemen, if we impose on another a chain that we defy all human power to fasten on ourselves. You believe and think otherwise, and doubtless with equal

sincerity. We judge you not, and He alone, who ordained the conscience of man and its laws of action, can judge us. Do we then, in this conflict, demand of you an unreasonable thing, in asking that, since you will have property that can and will exercise human powers to effect its escape, you shall be your own police, and in acting among us as such, you shall conform to principles indispensable to the security of admitted rights of freemen? If you will have this law executed, you must alleviate, not increase its rigors.

"The Constitution regulates our stewardship; the Constitution devotes the domain to union, to justice, to defence, to welfare, and to liberty.

"But there is a higher law than the Constitution, which regulates our authority over the domain, and devotes it to the same noble purposes."—*Mr. Seward's Higher Law Speech.*

"Wherein do the strength and security of slavery lie? You answer that they lie in the constitution of the United States, and the constitutions and laws of the slaveholding states. Not at all. They lie in the erroneous sentiment of the American people. Constitutions and laws can no more rise above the virtue of the people than the limpid stream can climb above its native spring. Inculcate, then, the love of freedom and the equal rights of man under the paternal roof; see to it that they are taught in the schools and in the churches; reform your own code; extend a cordial welcome to the fugitive who lays his weary limbs at your door, and defend him as you would your paternal gods. Correct your own error—that slavery has any constitutional guarantee which may not be released, and ought not to be relinquished."

And he says further on:

"Whenever the public mind shall will the abolition of slavery, the way will open for it. —*Mr. Seward's Speech at Cleveland in* 1848.

"Slavery can be limited to its present bounds; it can be ameliorated. It can be, and it must be abolished, and you and I can and must do it.—*Speech of Mr. Seward.*"

"The task is as simple and easy as its consummation will be beneficent, and its rewards glorious. It requires to follow only this simple rule of action: To do everywhere and on every occasion, what we can, and not to neglect or refuse to do what we can, at any time, because at that precise time and on that particular occasion we cannot do more. Circumstances determine possibilities."—*Speech of Mr. Seward.*

"Slavery is not, and never can be, perpetual. It will be overthrown either peacefully and lawfully under this Constitution, or it will work the subversion of the Constitution together with its own overthrow. Then the slaveholders would perish in the struggle. The change can now be made without violence, and by the agency of the ballot-box. The temper of the nation is just, liberal, and forbearing. It will contribute any money and endure any sacrifices to effect this great and important change; indeed, it is half made already. The House of Representatives is already yours, as it always must be when you choose to have it. The Senate of the United States is equally within your power, if you only will persistently endeavor, for two years, to have it. Notwithstanding all the wrong that has been done, not another slave State can now come into the Union. Make only one year's constant, decisive effort, and you can determine what States shall be admitted. * * * * * * * * * *

"I do not know, and personally I do not greatly care, that it [abolition] shall work out its great ends this year or the next, or in my lifetime; because I know that those ends are ultimately sure, and that time and trial are the elements which make all great reformations sure and lasting."—*From the Hon. W. H. Seward's speech at Albany, Oct.* 12, 1855.

"In the case of the alternative being presented of the continuance of slavery or a dissolution of the Union, I am for dissolution, and I care not how quick it comes."—*Judge Spaulding of Ohio, in the Republican Convention.*

Senator Sumner, of Massachusetts, in a speech delivered in Faneuil Hall, Boston, on the 2d November, 1855, said:

"Not that I love the Union less, but freedom more, do I now, in pleading this great cause, insist that freedom, at all hazards, shall be preserved. God forbid that for the sake of the Union, we should sacrifice the very thing for which the Union was made."

Debate in the Senate on the 26th of June, 1854.

"Mr. Butler. I would like to ask the Senator, if Congress repealed the Fugitive Slave Law, would Massachusetts execute the constitutional requirements, and send back to the South the absconding slaves?

"Mr. Sumner. Do you ask if I would send back a slave?

"Mr. Butler. Why, yes.

"Mr. Sumner. Is thy servant a dog, that he should do this thing?

"Mr. Butler. Then you would not obey the constitution. Sir, standing here before this tribunal, where you swore to support it, you rise and tell me that you regard it the office of a dog to enforce it. You stand in my presence as a co-equal Senator, and tell me that it is a dog's office to execute the Constitution of the United States?" To which Mr. Sumner said: "I recognise no such obligation."

The New York Tribune, a leading and powerful press in the North, whilst the Nebraska bill was before Congress, remarked:—

"Better that confusion should ensue; better that discord should reign in the national coun-

cils; better that Congress should break up in wild disorder; nay, better that the Capitol itself should blaze by the torch of the incendiary, or fall and bury all its inmates beneath its crumbling ruins, than that this perfidy and wrong should be finally accomplished."

—

"We love (quoted) the Whig party, but we love its principles more. We dislike Abolitionism; but we would rather a thousand times vote for Garrison and Tappan as President and Vice-President than tamely submit for an hour to the humiliation which the Senate has put upon us by the repeal of the Missouri Compromise.

"We are willing (quoted again) to consort with the most rabid Abolitionists in order to restore the Missouri Compromise, and thus redress a great wrong."—*Gen. Webb's New York Courier and Enquirer.*

Gen. James Watson Webb was a delegate to the Republican Convention, at Philadelphia, and delivered a speech, from which we make the following extract:—

"Why, I ask, are we here? We are here because the country is in danger. We are here because a solemn compact, by which the curse of slavery was limited for ever to latitude 36 deg. 30 min. has been violently disruptured, torn asunder, and the people of the North told 'you shall have this matter forced upon you.' Now, what are the people doing? Our people, loving order and loving law, and willing to abide by the ballot-box, come together from all parts of the Union and ask us to give them a nomination which, when fairly put before the people, will unite public sentiment, and, through the ballot-box, will restrain and repel this pro-slavery extension, and this aggression of the slavocracy. What else are they doing? They tell you that they are willing to abide by the ballot-box, and willing to make that the last appeal. If we fail there, what then? We will drive it back, sword in hand, and, so help me God! believing that to be right, I am with them. [Loud cheers, and cries of 'Good.'] Now, then, gentlemen, on your action depends the result. You may, with God's blessing, present to this country a name rallying around it all the elements of the opposition, and we will thus become so strong that through the ballot-box we shall save the country. But, if a name be presented on which we may not rally, and the consequence is civil war—yes, nothing more, nothing less, but civil war—I ask, then, what is our first duty?"

The Hon. Benjamin F. Wade, now a U. S. Senator from Ohio, spoke thus:—

"He thought there was but one issue before the people, and that was the question of American slavery. He said the Whig party is not only dead, but stinks. It shows signs occasionally of convulsive spasms, as is sometimes exhibited in the dead snake's tail after the head and body have been buried."

Senator Wade of Ohio, in a speech to a mass meeting of the Republicans, held in the State of Maine in 1855, according to the Boston Atlas said:—

"There was no freedom at the South for either white or black, and he would strive to protect the free soil of the North from the same blighting curse. There was really no Union now between the North and the South, and he believed no two nations upon the earth entertained feelings of more bitter rancor towards each other than these two sections of the republic. The only salvation of the Union, therefore, was to be found in divesting it entirely from all taint of slavery. There was no Union with the South. Let us have a Union, said he, or let us sweep away this remnant which we call a Union. I go for a Union where all men are equal, or for no Union at all, and I go for right."

—

"Let us remember that more than three millions of bondmen, groaning under nameless woes, demand that we shall cease to reprove each other, and that we labor for their deliverance. * * * * *

"I tell you here to-night, that the agitation of this question of human slavery will continue while the foot of a slave presses the soil of the American republic."—*Henry Wilson, United States Senator.*

Hear Henry Wilson, Senator, in the Philadelphia American Convention, June 12, 1856:

"I am in favor of relieving the Federal Government from all connection with, and responsibility for, the existence of slavery. To effect this object I am in favor of the abolition of slavery in the District of Columbia, and the prohibition of slavery in all the Territories."

In October of 1855, Senator Wilson of Mass. made a speech at the Tabernacle, in New York, in which he said:—

"Every generous impulse of the human heart is with us—every affection of the human conscience is with us; the great hopes of the human race are all with us, and we shall triumph in the end; we shall overthrow the slave power of the republic; we shall enthrone freedom; shall abolish slavery in the territories; we shall sever the national government from all responsibility for slavery, and all connection with it; and then, gentlemen, then, when we have put the nation, in the words of Mr. Van Buren, openly, actually, and perpetually on the side of freedom, we shall have glorious allies in the South. We shall have men like Cassius M. Clay. [Loud applause.] We shall have generous, brave, gallant men rise upon the South, who will, in their own time, in their own way, for the interest of the master and bondsman, lay the foundations of a policy of emancipation that shall give freedom to three and a half millions of men, in America. [Enthusiastic applause.] I say,

gentlemen, these are our objects, and these are our purposes.

"We shall change the Supreme Court of the United States, and place men in that Court who believe with its pure and immaculate Chief Justice, John Jay, that our prayers will be impious to Heaven while we sustain and support human slavery. We shall free the Supreme Court of the United States from Judge Kane. [Loud applause.] And here let me say there is a public sentiment growing up in this country that regards Passmore Williamson in his prison—[tremendous applause]—in his prison in Philadelphia, as a martyr to the holy cause of personal liberty. [Great applause.] There is a public sentiment springing up that will brand upon the brow of Judge Kane a mark that will make him exclaim, as his namesake, the elder Cain, 'It is too great for me to bear.'"

Hon. Henry Wilson spoke in Boston:—

"Mr. Chairman and Ladies and Gentlemen: This is not the time nor the place for me to utter a word. You have listened to the eloquence of my young friend, and here to-night I endorse every sentiment he has uttered. In public or private life, in majorities or in minorities, at home or abroad, I intend to live and die with unrelenting hostility to slavery on my lips. I make no compromises anywhere, at home or abroad; I shall yield nothing of my anti-slavery sentiments to advance my own personal interests, to advance party interest, or to meet the demands of any state or section of our country. I hope to be able to maintain, on all occasions, these principles, to comprehend in my affections the whole country—and when I say the whole country, I want everybody to understand that I include in that term Massachusetts and the North. This is not the time for me to detain you. You have called on me, most unexpectedly, to say a word, and, having done so, I will retire, thanking you for the honor of this occasion."

"I recognise no power under heaven that can make a man a slave. I recognise no constitution—no law that can deprive a man of his personal rights and liberty; and I, a citizen of New York, am ready to place this state in that attitude.

"Suppose New York takes that ground; what then? Some talk of revolution, as if that were to be the dreaded result. Sir, I love the word. When this great state, with her three millions and upward of freemen, takes that position, then I know that a deathblow is struck against African slavery.

"I would not permit a fugitive from the South to be taken from our limits. What then? What power can compel us to acquiesce? Will James Buchanan march troops into New York to coerce us into submission? We know that no attempt will be made thus to coerce this state when it takes this position."—*Speaker of the N. Y. House of Delegates, on the Dred Scott Case.*

Adams, John Quincy.

Speech of, on the Admission of Arkansas.

Mr. Chairman, I cannot, consistently with my sense of my obligations as a citizen of the United States, and bound by oath to support their Constitution, I cannot object to the admission of Arkansas into the Union as a slave state; I cannot propose or agree to make it a condition of her admission that a convention of her people shall expunge this article from her constitution. She is entitled to admission as a slave state as Louisiana, and Mississippi, and Alabama, and Missouri have been admitted, by virtue of that article in the treaty for the acquisition of Louisiana, which secures to the inhabitants of the ceded territories all the rights, privileges, and immunities of the original citizens of the United States, and stipulates for their admission, conformably to that principle, into the Union. Louisiana was purchased as a country wherein slavery was the established law of the land. As Congress have not power in time of peace to abolish slavery in the original states of the Union, they are equally destitute of the power in those parts of the territory ceded by France to the United States, by the name of Louisiana, where slavery existed at the time of the acquisition. Slavery is in this Union the subject of internal legislation in the states, and in peace is cognizable by Congress only, as it is tacitly tolerated and protected where it exists by the Constitution of the United States, and as it mingles in their intercourse with other nations. Arkansas, therefore, comes, and has the right to come, into the Union with her slaves and her slave laws. It is written in the bond, and however I may lament that it ever was so written, I must faithfully perform its obligations.

Aiken, William.

Vote of, on last ballot for Speaker of 34th Congress. (See N. P. Banks, Jr.)

Letter of, containing his Answers to certain Interrogatories.

House of Representatives,
Feb. 4, 1856.

Dear Sir:—I observe in the Globe of this morning a note appended by Mr. Barclay to his remarks of Saturday, in which my reply to Mr. A. K. Marshall, of Kentucky, is incorrectly stated. I have this moment conferred with Mr. Marshall, and his recollection concurs with my own, that the following is the substance of his question and of my answer:

Mr. Marshall's question: "Are you hostile to, or have you ever denounced the American party?"

My answer was—"It is not my habit to denounce anything—either men or measures—and I have friends in the American party, though not a member of it myself."

Let me request you to publish this note in the Globe, &c. Resp'y yours,

William Aiken.

John C. Rives, Esq.

Alabama.

By Act of Congress of March 3, 1817, the eastern portion of the territory of Mississippi was constituted into a territory, called Alabama. This act was silent as to slavery.

By Act of March 2, 1819, the people of Alabama territory were authorized to form a state government. This act was also silent on the question of slavery.

On the 8th of December, 1819, in the Senate, the bill reported by Mr. Williams, of Mississippi, from a committee on the subject, admitting Alabama as a state into the Union, was passed by unanimous consent.

On the same day it was passed by the House without a vote by yeas and nays, and was approved by the President on the 14th of December, 1819.

Alien Suffrage.

QUALIFICATIONS OF VOTERS IN STATES AND TERRITORIES, WHERE ALIEN SUFFRAGE IS ALLOWED.

INDIANA.—Sec. 1. All elections shall be free and equal.

2. In all elections, not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this state during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

ILLINOIS.—Sec. 1. In all elections, every white male citizen above the age of twenty-one years, having resided in the state one year next preceding the election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of the state at the time of the adoption of this constitution, shall have the right of voting as aforesaid, but no such citizen or inhabitant shall be entitled to vote except in the district or county in which he shall actually reside at the time of such election.

MICHIGAN.—Sec. 1. In all elections, every white male citizen and every white male inhabitant residing in the state on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every white male inhabitant residing in this state on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this state two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this state three months, and in the township or ward in which he offers to vote, ten days next preceding such election.

WISCONSIN.—Every male person of the age of twenty-one years or upwards, of the following classes, who shall have resided in this state for one year next preceding any election, shall be deemed a qualified elector at such election.

White citizens of the United States.

White persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization.

The Ordinance of 1787 provided the following qualification of voters in the N. W. Territory:

"That a freehold in fifty acres of land in the district, having been a citizen of one of the states and being a resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative."

MISSISSIPPI TERRITORY.—The act of April 7, 1798, extended the above provision of the Ordinance of 1787 to that territory.

INDIANA TERRITORY.—The act of May 7, 1800, retained the above provision of the Ordinance of 1787, over that portion of the N. W. territory formed into Indiana.

ILLINOIS TERRITORY.—The act of May 7, 1800, also retained the above provision of the Ordinance of 1787, over the Illinois portion of Indiana territory.

MICHIGAN TERRITORY.—Act of Jan. 11, 1805, retained the above provision of the Ordinance of 1787, over the Michigan portion of Indiana Territory.

OREGON TERRITORY—*Organic Law.*—Every white male inhabitant above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the Legislative Assembly. Provided that the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared on oath their intention to become such, and shall have taken an

oath to support the Constitution of the United States.

Minnesota Territory.—The organic law passed and approved by Congress, contained a similar provision to that of the Oregon bill.

The territorial Legislature have passed the following act:—

"All free white male inhabitants over the age of twenty-one years, who shall have resided within this territory six months next preceding an election, shall be entitled to vote at any election for delegates to Congress and for territorial, county, and precinct officers: *Provided*, That they shall be citizens of the United States, or shall have resided within the United States for a period of two years next preceding such election, and declared on oath before any court of record having a seal and clerk, or in time of vacation before the clerk thereof, his intention to become such; and shall have taken an oath to support the Constitution of the United States, and the provisions of an act of Congress entitled 'An act to establish the territorial government of Minnesota,' approved March the third, one thousand eight hundred and forty-nine; *And provided also*, That nothing in this chapter shall be so construed as to prohibit all persons of mixed white and Indian blood who have adopted the customs and habits of civilization, from voting."

Washington Territory—*Organic Act.*—Every white male inhabitant above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act.

Legislative Act.—That any white American citizen above the age of twenty-one years, and all other white male inhabitants of this territory above that age who shall have declared on oath their intention to become citizens, and to support the Constitution of the United States, at least six months previous to the day of election, and who shall have resided six months in the territory, and twenty days in the county, next preceding the day of election, and none others, shall be entitled to hold office or vote at any election in this territory.

Nebraska and Kansas—*Organic Law.*—Every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act.

The Act of May 20, 1812, extended the right of suffrage in Illinois territory to every free white male person of twenty-one years of age, who shall have paid a county or territorial tax, and who shall have resided one year in said territory previous to any general election, &c.

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On the 1st of April, 1836, the bill for the admission of Michigan into the Union being under consideration, Mr. Clay of Kentucky moved to amend the same by inserting, after that part of it declaring that the constitution of Michigan is ratified and confirmed by Congress, the words "except that provision of said constitution by which aliens are permitted to enjoy the right of suffrage."

The amendment was rejected by the following vote:—

Yeas.—Messrs. Black of Miss., Calhoun of S. C., Clay of Ky., Crittenden of Ky., Davis of Mass., Ewing of O., Hendricks of Ind., Leigh of Va., Naudain of Del., Porter of La., Southard of N. J., Swift of Vt., Tomlinson of Conn., and White of Tenn.—14.

Nays.—Messrs. Benton of Mo., Brown of N. C., Buchanan of Pa., Cuthbert of Ga., Ewing of Ill., Grundy of Tenn., Hill of N. H., Hubbard of N. H., King of Ala., King of Ga., Linn of Mo., Morris of O., Nicholas of La., Rives of Va., Robinson of Ill., Ruggles of Me., Shepley of Me., Talmadge of N. Y., Tipton of Ind., Walker of Miss., and Wright of N. Y.—22.

On the 2d of March, 1854, the Clayton amendment to the Kansas-Nebraska bill of the Senate, which prohibited alien suffrage in the territories, was adopted by yeas and nays as follows:—

Yeas.—Messrs. Adams, Atchison, *Badger*, *Bell*, *Benjamin*, Brodhead, Brown, Butler, Clay, *Clayton*, *Dawson*, *Dixon*, Evans, Fitzpatrick, Houston, Hunter, Johnson, *Jones* of Tenn., Mason, *Morton*, *Pratt*, Sebastian, and Slidell.—23.

Nays.—Messrs. Chase, Dodge of Wis., Dodge of Ia., Douglass, *Fessenden*, *Fish*, *Foot*, Gwin, Hamlin, Jones of Ia., Norris, Pettit, *Seward*, Shields, *Smith*, Stuart, Sumner, Toucey, *Wade*, Walker, and Williams.—21.

Democrats in roman, Whigs in italics, Free-Soilers in small caps.

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In the House of Representatives, on the 22d of May, 1854, the vote on inserting Mr. Richardson's substitute for the Senate Kansas and Nebraska bill was as follows. Mr. Richardson's substitute was the same as the Senate bill, with the exception that it allowed alien suffrage, whilst the Senate bill did not: in other words, the bill of Mr. Richarson omitted the Clayton amendment.

Yeas.—Messrs. Abercrombie of Ala., James C. Allen of Ill., Willis Allen of Ill., Ashe of N. C., David J. Bailey of Ga., Thomas H. Bayley of Va., Barksdale of Miss., Barry of

Miss., Bell of Texas. Bocock of Va., Boyce of S. C., Breckenridge of Ky., Bridges of Pa., Brooks of S. C., Caskie of Va., Chastain of Ga., Chrisman of Ky., Churchwell of Tenn., Clark of Mich., Clingman of N. C., Cobb of Ala., Colquitt of Ga., *Cox* of Ky., Craige of N. C., Cumming of N. Y., Cutting of N. Y., John G. Davis of Ind., Dawson of Pa., Disney of O., Dowdell of Ala., Dunbar of La., Dunham of Ind., Edmondson of Va., John M. Elliott of Ky., English of Ind., Faulkner of Va., Florence of Pa., Fuller of Me., Goode of Va., Green of O., Greenwood of Ark., *Grey* of Ky., Hamilton of Md., Samson W. Harris of Ala., Hendricks of Ind., Horner of Ia., Hibbard of N. H., *Hill* of Ky., Hillyer of Ga., Houston of Ala., Ingersoll of Conn., George W. Jones of Tenn., J. Glancy Jones of Pa., Roland Jones of La., *Kerr* of N. C., Kidwell of Va., Kurtz of Pa., Lamb of Mo., Lane of Ind., Latham of Cal., Letcher of Va., Lilly of N. J., *Lindley* of Mo., McDonald of Me., McDougall of Cal., McNair of Pa., Maxwell of Fla., May of Md., *John G. Miller* of Mo., Smith Miller of Ind., Olds of O., *Mordecai Oliver* of Mo., Orr of S. C., Packer of Pa., John Perkins of La., Phelps of Mo., Philips of Ala., Powell of Va., Pratt of Conn., *Preston* of Ky., *Ready* of Tenn., *Reese* of Ga., Richardson of Ill., Riddle of Del., Robbins of Pa., Rowe of N. Y., Ruffin of N. C., Seymour of Conn., Shannon of O., Shaw of N. C., Shower of Md., Singleton of Miss., Samuel A. Smith of Tenn., William Smith of Va., William R. Smith of Ala., George W. Smith of Texas, Snodgrass of Va., Frederick P. Stanton of Tenn., Richard H. Stanton of Ky., *Alexander H. Stephens* of Ga., Straub of Pa., David Stuart of Mich., John J. Taylor of N. Y., Tweed of N. Y., Vail of N. J., Vansant of Md., Walbridge of N. Y., Walker of N. Y., Walsh of N. Y., Warren of Ark., Westbrook of N. Y., Witte of Pa., Daniel Wright of Miss., Hendrick B. Wright of Pa., Zollicoffer of Tenn.—115.

NAYS.—Messrs. *Ball* of O., Banks of Mass., Belcher of Con., *Bennett* of N. Y., *Benson* of Me., Benton of Mo., *Bugg* of Tenn., *Campbell* of O., *Carpenter* of N. Y., *Chandler* of Pa., *Crocker* of Mass., *Cullom* of Tenn., Curtis of Pa., Thomas Davis of R. I., Dean of N. Y., *De Witt* of Mass., *Dick* of Pa., *Dickinson* of Mass., Eastman of Wis., Edgerton of O., *Edmands* of Mass., *Thomas D. Elliott* of Mass., Ellison of O., *Etheridge* of Tenn., *Everhart* of Pa., *Farley* of Me., Fenton of N. Y., *Flagler* of N. Y., Gamble of Pa., GIDDINGS of O., Grow of Pa., *Goodrich* of Mass., *Aaron Haslam* of O., Andrew Haslam of Ind., *Harrison* of O., *Hastings* of N. Y., *Haven* of N. Y., *Heister* of Pa., *Howe* of Pa., Hughes of N. Y., *Hunt* of La., Johnson of O., Daniel T. Jones of N. Y., Kittredge of N. H., *Knox* of Ill., Lindsley of O., Lyon of N. Y., *McCulloch* of Pa., Mace of Ind., *Matteson* of N. Y., Mayall of Me., *Meacham* of Vt., *Middleswarth* of Pa., Millson of Va., *Morgan* of N. Y., Morrison of N. H., Murray of N. Y., Nichols of O., Noble of Mich., *Norton* of Ill., Andrew Oliver of N. Y., Peck of N. Y., *Parker* of Ind., *Pennington* of N. J., Bishop Perkins of N. Y., *Pringle* of N. Y., *Puryear* of N. C., *David Ritchie* of Pa., Thomas Ritely of O., *Rogers* of N. C., *Russell* of Pa., *Sabin* of Vt., *Sage* of N. Y., *Sapp* of O., *Simmons* of N. Y., Skelton of N. J., GERRIT SMITH of N. Y., Hester L. Stevens of Mich., Stratton of N. J., Andrew Stuart of O., *John L. Taylor* of O., *Nathaniel G. Taylor* of Tenn., Thurston of R. I., *Tracy* of Vt., Trout of Pa., *Upham* of Mass., *Walley* of Mass., *Wade* of O., *Elihu B. Washburne* of Ill., *Israel Washburne* of Me., Wells of Wis., John Wentworth of Ill., *Tappen Wentworth*, Wheeler of N. Y., *Yates* of Ill.—96.

Democrats in roman—Whigs in *italics*—Free-Soilers in SMALL CAPS.

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In Senate, May 25, 1854. The Nebraska and Kansas bill being under consideration, Mr. Pearce, of Md., moved to amend the fifth section by striking out the words:

"All those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act."

So that the proviso shall read:

"Provided that the right of suffrage and of holding office shall be exercised only by citizens of the United States."

The amendment of Mr. Pearce, the same as the Clayton amendment, was rejected by yeas and nays, as follows:

YEAS.—Messrs. Bayard of Del., *Bell* of Tenn., Brodhead of Pa., Brown of Mo., *Clayton* of Del., *Pearce* of Md., and *Thompson* of Ky.—7.

NAYS.—Messrs. Allen of R. I., Atchison of Mo., *Benjamin* of La., Butler of S. C., Cass of Mich., CHASE of O., Clay of Ala., *Dawson* of Ga., Dodge of Wis., Douglass of Ill., *Fish* of N. Y., Fitzpatrick of Ala., *Foot* of Vt., GILLETTE of Conn., Gwin of Cal., Hunter of Va., James of R. I., Johnson of Ark., Jones of Ia., *Jones* of Tenn., Mallory of Fla., Mason of Va., *Morton* of Fla., Norris of N. H., Pettit of Ind., *Pratt* of Md., Rusk of Tex., Sebastian of Ark., *Seward* of N. Y., Shields of Ill., Slidell of La., Stuart of Mich., SUMNER of Mass., Thomson of N. J., *Toombs* of Ga., Toucey of Conn., *Wade* of O., Walker of Wis., Weller of Cal., Williams of N. H., Wright of N. J.—41.

This vote cannot be considered a test vote, as the friends of the bill determined to vote down all amendments, so as not to send it back to the House.

On the 21st of February, 1857, the bill of the House to authorize the people of Minnesota to form a state government, being before the Senate, Mr. Biggs, of N. C., moved the following amendment to the same:

Provided, That only citizens of the United States shall be entitled to vote at the election provided for by this act.

The following debate ensued:—

Mr. Douglas said. The organic act, creating the territory of Minnesota many years since, provided that—

"Every free white male inhabitant above the age of twenty-one years, who shall have been a resident of the said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office in the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the Legislative Assembly: Provided, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act."

That was the organic law of the territory. Under that law the territorial legislature have prescribed the qualifications of voters. The present bill provides that the legal voters of Minnesota may assemble and elect delegates to a convention, to form a constitution and state government for admission into the Union, leaving the qualifications of voters in the territory for this purpose, precisely what they have been ever since the territory was organized, and as they are now fixed by law. I see no reason why we should change the existing law of Minnesota on that point for this one election, when there is no pretence that any evil consequences have grown out of the exercise of the elective franchise under the present law. If my friend from North Carolina could show me that any injurious consequences had grown out of the law of Minnesota fixing the qualifications of voters, there would be an argument in favor of the change; but there is no objection on that score; no consideration of that kind has been urged. The amendment, therefore, is only to carry out a theory of the Senator, and not to remedy any practical existing evil in the territory.

My friend from North Carolina is entirely mistaken in the supposition that it has been the uniform practice in laws enabling territories to become states, to restrict the right of voting to citizens of the United States. I have sent for the laws, and will present them if it be necessary, in the course of the discussion,

to show that he is entirely mistaken in that respect. The rule is rather the reverse, if there be any rule on the subject. The fact is, that there has been a variety of laws on that point. In some territories where there was no contest about it, the right was confined to citizens of the United States; in others, all the inhabitants possessing certain qualifications were allowed to vote. In all the N. W. Territory, in Ohio, Indiana, Illinois, Michigan, and Wisconsin, aliens, under certain conditions, were permitted to vote, not only while those states were territories, but when they became states; and this provision was not peculiar to the North-Western States, as has been supposed.

Mr. Clay. It has not been done at the South.

Mr. Douglas. My friend from Alabama is mistaken in saying that it has not been done at the South. I remember well that I served some years ago on the committee of elections in the House of Representatives when there was a contested seat between Mr. John W. Jones and Mr. John M. Botts; and it turned out that Mr. Jones had received some eighty-nine votes, I think, of foreigners unnaturalized according to the laws of the United States, but who were legal voters according to the laws of Virginia. There certainly was a class of persons in Virginia, who, under her laws, were allowed to vote, although they were not naturalized citizens of the United States, and they did vote in that election between Jones and Botts under the law of Virginia, authorizing them to become voters, although they were not citizens of the United States according to the laws of the United States. It was under some special law. The impression is on my mind firmly, because I was on the committee that investigated this question.

Mr. Hunter. Virginia, as you well know, Mr. President, has a naturalization act of her own, making citizens of Virginia, or prescribing the qualifications on which persons shall be citizens of the state of Virginia; but the provisions of that act are quite as stringent as those of the United States.

Mr. Douglas. There is the very point. Virginia prescribes who shall be citizens of Virginia, and in some cases has not confined the right of voting to citizens of the United States. That is just what Michigan did when she came into the Union with a constitution, providing that all citizens of the United States should be permitted to vote, and also, all other persons who were inhabitants of the state at the time of the adoption of the constitution. By that constitution, Michigan made those other inhabitants who had not been naturalized, but possessed certain specified qualifications, citizens of the state of Michigan, although they were not citizens of the United States. That is precisely what we did in Illinois under the old constitution. We allowed an unnaturalized foreigner who possessed certain qualifications to vote in that state, although he had not become a citizen of the United States; in other words, we made him a citizen of the state of Illinois, and authorized him to vote at our elections, notwithstanding the fact that he had not complied with the law of Congress in regard to citizenship. That is all Virginia has done, and I believe it is only in limited cases.

But, sir, I did not wish to open a debate on this subject. I referred to the Virginia case only for illustration. The simple question here is, shall we authorize the present legal voters of Minnesota to vote for the election of delegates to form a state constitution? I hope the amendment will not be adopted.

Mr. Brown. I do not know that I quite concur with my friend from Pennsylvania on the point that you have no constitutional power to do this; I do not know that I am prepared to go quite so far as he goes on that question; but on the point of its expediency, in every possible sense in which the question can be presented, my mind is entirely free from all doubt. A man who votes in reference to the organization of a state—who settles the institutions of an infant state just coming into the Union, affects not only the rights of that state, but the rights of all the other states; he adds a new member to the confederacy—he aids in bringing two more votes on this floor. If he does not think well enough of the country to have shown his allegiance to its constitution and to its laws, what business has he, and upon what principle ought he to be allowed to take an active participation in moulding the institutions of a new member of the confederacy? If he desire to vote, let him make himself a citizen, in the manner prescribed by the laws passed in obedience to your constitution. If his heart is in fatherland—if he is so much devoted to the land of his birth that he will not take the oath of allegiance, and will not take the preparatory steps to make himself a citizen of the country, I maintain that he ought to have nothing to do with this government, the making of its laws, or the shaping of the institutions of infant states.

Mr. Mason. Under the laws of Virginia, as they existed prior to 1850, there was a mode by which alien friends might become citizens of the state of Virginia. It was a part of her domestic policy. It was an old law, passed in 1792, the purpose of which was to invite emigration of valuable citizens either from without or within the United States to reside in Virginia, and certain privileges were given to them. Under that law, according to my recollection (and I have recently looked at it), it was provided only that, in addition to citizens of the United States under the Constitution of the United States, such as the state of Virginia in her own good pleasure might deem proper to consider as her citizens under her laws, should be entitled to certain privileges, but not to all the privileges of citizens. It was provided, for instance, that any alien friend, who could give evidence of good character, migrating into Virginia for the

purpose of residing there, and who would take an oath of fidelity to the commonwealth of Virginia, should become a citizen of Virginia for certain purposes; but until he had resided five years after that oath, he was declared ineligible to any office, judicial, executive, or otherwise; nor could he hold any office until he had given some evidence of permanent attachment by intermarrying with a citizen of Virginia or a citizen of the United States, or purchasing a freehold estate of a certain value.

That was the law of Virginia; and such people were entitled to vote in the state of Virginia, under the laws of Virginia; a right that I hold pertains to every state, and which it is not in the power of the Federal Government to qualify or take from them in any way. The Constitution of the United States has reserved to the government a power to declare uniform rules of naturalization; and the only effect of that is, when under those laws of naturalization an alien is made a citizen of the United States, to entitle him to what? To such privileges of citizenship as the Constitution confers, but no further; nor does it derogate in the slightest degree, in my humble judgment, from the right of every state of its sovereign will and pleasure to declare who shall be citizens, and who shall not be citizens, within its own limits, subject, of course, and subject only, to so much power as the state may have parted with to the Federal Government.

Upon the particular provision now before us, I shall vote certainly for the amendment offered by the honorable Senator from North Carolina, because I deny absolutely that there is any power, or ought to be any power, delegated to any territory, or to the people of any territory, to declare who shall, as citizens of the territory, vote to erect themselves into an independent state, and by association with the states in the Union, to take their share in the administration of the government of the United States, and their partition in the policy of the United States. When the territory become a state under the Constitution, she is placed upon the footing of all the states, and has all the power that any other state has; and then, if in the pleasure of the state she chooses to admit any persons to citizenship, or to vote, who are neither naturalized by the laws of the states, nor the laws of the United States, well and good; it is her power and her pleasure.

Mr. Biggs. It will be recollected that a discussion took place here during the first session of the present Congress in regard to the bill authorizing the people of Kansas to form a state constitution. On that occasion an amendment was offered by the Senator from Mississippi, [Mr. Adams,] differing in form, but in substance precisely the same character as this. That bill, as reported by the Committee on Territories, allowed those persons who were qualified voters by the organic law passed for the territories of Nebraska and Kansas to vote for delegates to form a state constitution; and the organic act authorized persons who had declared their intention to become citizens of the United States, and had resided in the territory for twelve months, to vote. The Senator from Mississippi moved to strike out that provision, so as to confine the qualifications of electors for members of the convention to citizens of the United States. A discussion was had on that amendment, and by the vote which I have before me it was adopted. That was the last bill adopted by this body in relation to this matter. The amendment of the Senator from Mississippi was adopted by a vote of twenty-two to fifteen. The votes were:

Yeas.—Messrs. Adams, Bayard, Bell of Tenn., Biggs, Brodhead, Brown, Clay, Clayton, Collamer, Crittenden, Fessenden, Fitzpatrick, Foot, Foster, Geyer, Hunter, Iverson, Mallory, Mason, Reid, Thompson of Ky., Yulee.

Nays.—Messrs. Allen, Bigler, Bright, Cass, Dodge, Douglas, Jones of Ia., Pugh, Seward, Stuart, Slidell, Toucey, Weller, Wilson, Wright.

I put it to the Senator from Illinois, now, whether there was any authority by the law creating the Territories of Indiana and Illinois, or authorizing them to form a state constitution, to allow any but citizens of the United States to vote?

Mr. Douglas. Clearly.

Mr. Biggs. I do not so understand.

Mr. Douglas. The organic law of Indiana territory was the ordinance of 1787; the organic law of Illinois territory was the ordinance of 1787; and so with all the northwestern territories. The ordinance of 1787, which constituted the organic law of those territories, expressly provided that citizens of the different states residing there and having a certain amount of property should vote; and it expressly authorized unnaturalized persons to vote, as well as naturalized citizens, provided they owned property. If my friend will look into the matter he will find that there is no question that, under the organic law of those territories, unnaturalized foreigners could and did vote while they were territories; and then the acts authorizing those territories to form constitutions and state governments, provided that all citizens of the United States could vote, and also, all such other persons as were qualified to vote in the territories by existing laws, showing clearly that there was an express recognition of the rights of unnaturalized foreigners to vote who were authorized to vote under the territorial laws. That brings those cases exactly within the limits of the bill now under consideration.

Mr. Toucey. Mr. President, I do not rise for the purpose of debating this question; but as I differ from some of my friends on this point, I wish to state the grounds of my own action.

That clause in the Constitution of the United States which prescribes the body of electors for the election of members of the House of Representatives, refers it to the constitution and laws of the several states; so that every state determines for itself its own electoral

body. It is a primary act in sovereignty. This government has no power to interfere with it. We cannot go into any state of this Union, and undertake to define who of the people shall constitute the body of voters who shall exercise political power. You may naturalize whom you please; but the power of the legislation of Congress in enacting a naturalization law, confers no right of voting in any state of the Union. The subjects are entirely distinct. That right of prescribing the electoral body belongs exclusively to the people of every state, in the formation of its organic law. Thus it is with regard to the election of the most numerous branch of Congress. The people of every state say who shall vote and who shall not vote; and if they see fit, in the exercise of their sovereign power, to confer the right of suffrage on any class of men, we cannot interpose. If they confer it on aliens who have not declared their intentions to become citizens, we have no power to interfere or prevent the exercise of that sovereign right, because, by the arrangement of powers under the Constitution, that sovereign power is left to the states, and it cannot in any manner, either directly or indirectly, be interfered with by Congress. Suppose Congress should undertake to say that those in the several states who should vote for electors for President and Vice President should consist of only one class of voters—men, if you please, possessed of property to the amount of $1000—can any one imagine that that legislation of Congress would have any validity? No, sir. It would be an encroachment on the rights of the several states that would not be tolerated or admitted under the Constitution of the United States.

In 1849, when you organized the territory of Minnesota, you fixed by the organic law the right of suffrage, leaving it to the people of the territory, in the exercise of the legislative power recognised as in their legislature, to fix the qualification of voters, subject to a restriction that no alien should be admitted to vote until after he had declared his intention to become a citizen of the United States, and sworn to support the Constitution of the United States and the organic law. You conferred on the people, or recognized as in the people of the territory, all proper legislative power under the Constitution, subject to that organic law. In the exercise of that power thus recognised as being in them, upon which they have acted—upon which they have passed every law that now governs the territory, fixing all the rights of persons and property in that territory, they have settled for themselves who shall be lawful voters, and the power has been exercised by them, subject to the Constitution of the United States and to the organic law. Now, then, this bill leaves the body of voters as fixed by the organic law, and by the territorial law; and the proposition here is to interfere with that.

The question being taken by yeas and nays, resulted—yeas 27, nays 24; as follows:

YEAS.—Messrs. Adams, Bayard, Bell of Tenn., Benjamin, Biggs, Brodhead, Brown, Butler, Clay, Crittenden, Evans, Fish, Fitzpatrick, Foot, Geyer, Green, Houston, Hunter, Iverson, Johnson, Jones of Tenn., Mason, Reid, Rusk, Slidell, Thompson of Ky., and Thomson of New Jersey.—27.

NAYS.—Messrs. Allen, Bigler, Bright, Cass, Collamer, Dodge, Douglas, Durkee, Fessenden, Fitch, Foster, Hale, Jones of Ia., Nourse, Pugh, Seward, Stuart, Toombs, Toucey, Trumbull, Wade, Weller, Wilson, and Wright.—24.

So the amendment was agreed to.

Mr. PUGH. I do not intend to prolong the discussion; but I wish to correct the Senator from South Carolina, and several other Senators, in what I think is a very essential mistake of fact. He alleges, if I understand him, that this is the first instance in which the act authorizing a territory to form a constitution and state government has admitted alien suffrage. Sir, I can find but two examples to the contrary in the whole history of all the states that have been admitted; and those two are Iowa and Wisconsin. So far as I have been able to examine the statutes, every other state, without exception, came in with it.

Mr. BUTLER. Did Alabama come in in that way?

Mr. PUGH. Yes, sir, with alien suffrage; and I will show it to the Senator. The ordinance of 1787 expressly allowed it. It required a property qualification both for citizens and aliens. After requiring that citizens should have resided a certain period of time, it went on to say that other persons having a certain residence, and certain property qualifications, should be allowed to vote for members of the Territorial Legislature. That was the ordinance of 1787. Under it, the law authorizing Ohio to be admitted, provided that the qualification of suffrage for the election of members of the convention should be the same as for members of the Territorial Legislature. So in Indiana; so in Illinois. The ordinance of 1787, except the anti-slavery clause, was extended over Tennessee, and Tennessee came in with it.

Mr. BELL, of Tenn. Will the honorable Senator allow me to ask him whether, in 1787, there was any question about aliens? Were not all inhabitants then regarded as citizens?

Mr. PUGH. I do not know whether there was any question; but it was allowed.

Mr. BELL, of Tenn. The question was not made, I think, until the case of Michigan.

Mr. BUTLER. Never.

Mr. BELL, of Tenn. The honorable Senator from Michigan perhaps can correct me, but I think I recollect many of the circumstances under which the question came up then. It was under the very influences I alluded to on Saturday. It was a contest between parties for ascendency, and so it was afterwards in Illinois so long as alien suffrage prevailed there. It was allowed in order to give the Democratic party the ascendency. Never before was any question made, that I know of, or recollect.

Mr. PUGH. I agree with the Senator that the question was not made; and what I object to is the making of it now.

Mr. BELL, of Tenn. In 1787 all were regarded as citizens, and so they were until we made the constitution, and prescribed a uniform rule of naturalization.

Mr. PUGH. Let us see what the ordinance of 1787 says:

"Provided, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case he shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided, also, That a freehold of fifty acres of land in the district, having been a citizen of one of the states, and being a resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative."

If that is not alien suffrage, I confess myself unable to understand the English language. He may be a citizen of the United States or not; and in either case the property qualification is superadded and a certain residence required—less residence for a citizen than an alien. That is the ordinance of 1787, which I say was extended over Tennessee while she was a territory; and when she formed her constitution, and applied for admission, it was formed by the qualified electors mentioned in that ordinance.

Mr. BELL, of Tenn. I ask the honorable Senator again, if, up to the time when the uniform rule of naturalization was passed by Congress under the constitution, aliens were admitted or not at pleasure?

Mr. PUGH. There was a uniform rule of naturalization at the time the act constituting the territorial government of Tennessee was passed. There was an express distinction.

Mr. BELL, of Tenn. There was no notice taken of it. It was a mere extension of the provisions of the ordinance, with nothing excepted but a single clause.

Mr. PUGH. The Senator is right in saying there was no question about it; but it is my purpose to show that the question has been raised of late years. Tennessee came in with it. The same ordinance of 1787, with the exception of the anti-slavery clause, was extended over Louisiana, and she came in with it. It was extended over Mississippi and Alabama, and they came in with it. It was extended over Arkansas and Missouri; and the famous Missouri compromise of 1820 expressly admits alien suffrage. I have it here. Here is the third section of the act of 1820, to authorize the people of Missouri to form a constitution and state government:

"That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said territory three months previous to the day of election, and all other persons qualified to vote for representatives to the General Assembly, shall be qualified to be elected, and they are hereby qualified and authorized to vote to choose representatives to form a convention, who shall be apportioned among the several counties as follows."

Who are authorized to vote? All persons who, under the ordinance of 1787, could vote. That was the only territorial law you had. Your whole territorial legislation was in applying the general principles of the ordinance of 1787, excepting the anti-slavery clause, to all except certain territories. It was applied with the anti-slavery clause to Ohio, Indiana, and Michigan. It was applied, excepting the anti-slavery clause, to every other territory you had, down, I believe, to the case of Florida; and I do not know but that it was extended to Florida. Therefore, when Senators say, as the Senator from South Carolina has said, that here is a proposition different from anything we have heard of before, I say that, until the year 1846, when the proviso was inserted in the Iowa and Wisconsin bills, I have not been able to find a case in which such a prohibition as that was put upon a new state. That is all I have to say on that point.

Now, one word to my friend from Mississippi, [Mr. ADAMS.] He refers to the vote taken in the Senate at the last session on the Kansas pacification bill, and says that the Senate, by its vote, struck out the permission to aliens to vote in Kansas. I voted against that; but I think the Senator will recollect the argument which he himself stated. What was it? In the Kansas-Nebraska bill we authorized aliens to vote at the first election; but thereafter they were to vote or not as the territorial legislature provided. The first territorial legislature, which is said to have represented the pro-slavery party, voted the aliens out. That was the action of that branch of the people. The Topeka constitution, which was said to represent the free-state branch of the people, voted them out, too, so that it was said to be the unanimous vote of the people of Kansas, on both sides, that aliens should not vote; and, therefore, although I voted against striking it out in the Kansas pacification bill, I did not think it of much importance.

Mr. ADAMS. It is the vote of sensible men everywhere, in all countries.

Mr. PUGH. I do not know that it is. The Senator may think so. In the state I represent, undoubtedly in the territorial organization aliens were entitled to vote under the ordinance of 1787; and the first constitution of the state, by its proper language, would have admitted them, though, in practice, they did not vote to any great extent. By-and-by the legislature passed an election act, and excluded them. The present constitution excludes them. It is not a question in which I have any interest, because there has never been actually alien suffrage in my state since it has been a state.

Here is the point: You passed, in 1849, a law organizing a territorial government in Minnesota, and followed nine-tenths of the precedents, overruling the exceptional cases of Iowa and Wisconsin; and you said to everybody: "Go there and settle, and you may be a citizen of the territory." They have gone over, lived peaceably, and elected a local legislature. You have had no disturbance or trouble there. You have not had to proclaim martial law, as in other territories. You have never had any disturbance. Still, on an abstract proposition, you propose to

condemn these gentlemen in the lump. My friend from Mississippi said they were paupers and criminals; and I believe his colleague [Mr. Brown], the other day, said they were led up in a body to vote. I do not find it so in my neighborhood. I find they are about as much divided in their votes and opinions as native-born citizens.

Mr. ADAMS. My remark was not a general one. I said paupers and criminals came here, and Congress refused to pass any law to prohibit them. I did not say the respectable portion of them were so, but I said paupers and criminals came here.

Mr. PUGH. The criminals will never find their way to your territories. They will never go there to settle. It is peaceable men who go there. The criminal infests your cities. There is no danger of his voting under this bill. As to a pauper, if gentlemen mean by that term a man who has no great amount of property, instead of considering him an injury to the country, I consider him a great benefit, and hope they will all come.

Mr. STUART. We are pretty near the end of this day, and pretty near the end of this session, and therefore, I simply ask the Senate to proceed to a vote. It seems to me we ought to proceed to take a vote on the question.

Mr. BUTLER. I am not to be called to vote suddenly on a matter of this kind when other people introduce it; and if gentlemen have a mind to introduce this measure again it is not my fault. The time of the Senate would have admonished me not to have it taken up; but as they have taken it up, the Senator from Michigan is mistaken if he supposes I will not probe it to the bottom.

I say my friend from Ohio is in error; and when Senators undertake to force me on a matter so deeply affecting us, I shall vote against the admission of Minnesota if they refuse to put in this amendment. I intend to put myself right before the country in relation to what I said, for I do not like, as a lawyer, to say anything that is not maintainable by the statute. The act in regard to Alabama provides:

"And be it further enacted, That all white male citizens of the United States"—

that excludes women—

"who shall have arrived at the age of twenty-one years"—

that excludes minors—

"and have resided in the said territory three months previous to the day of election—"

that excludes all who did not go there and were not there within three months—

"and all persons having in other respects the legal qualifications to vote for members of the General Assembly of the said territory, be, and they are hereby authorized."

What persons are excluded? Indians, negroes, and aliens. If it meant anything, it intended to give the power to vote only to those who had the right to vote. I suppose it was intended to give it to all white persons who had been there longer than three months, and the fact that it enumerated white male citizens twenty-one years of age, showed distinctly that they intended to exclude aliens. This is the act admitting Alabama, and it is the same in the other cases. They never thought in that day of allowing a commonwealth to come into the confederacy under the auspices of alienage. I am opposed to the whole of the doctrine which would proscribe the foreigner; I am his friend; and I say to the foreigner who comes here with a view to adopt this as his country, "Be jealous of the right which you have to come here; do not let every one come to compete with you." The foreigners that came here twenty and thirty and forty years ago, came from choice; they came here on principle, understanding that they were to abide by the institutions and comply with the laws of this country. They did not come here as upstarts to take their place upon the political chess-board before they were invited. When my friend from Ohio undertakes to say that these states were admitted by foreigners, I say it is not so—I speak of the act admitting Alabama, now.

Mr. PUGH. I use that very act to prove what I said. The gentleman has only to read it to the Senate to show that I am right.

Mr. BUTLER. I have read it; and I venture to say there are no two men in the Senate, when you get them in a corner, who will deny my construction. I have no doubt that here, when you have a big crowd with you, you will be sustained; but take them by themselves, and ask them to tell the truth, and every one will agree with me.

—

Feb. 25, 1857, Mr. Green moved to reconsider the above vote.

Mr. Biggs called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 31, nays 21; as follows:

YEAS.—Messrs. *Allen*, Bell of N. H., *Bigler*, *Bright*, *Cass*, Collamer, *Dodge*, *Douglas*, Durkee, Fessenden, *Fitch*, Foot, Foster, *Green*, Hale, Harlan, *James*, *Johnson*, *Jones* of Ia., Nourse, *Pugh*, *Sebastian*, Seward, *Stuart*, *Toombs*, *Toucey*, Trumbull, Wade, *Weller*, Wilson, and *Fulce*—31.

NAYS.—Messrs. ADAMS, *Bayard*, *Benjamin*, *Biggs*, *Brodhead*, *Brown*, *Butler*, *Clay*, CRITTENDEN, *Evans*, Fish, *Fitzpatrick*, *Geyer*, HOUSTON, *Hunter*, *Mason*, *Pratt*, *Reid*, *Rusk*, *Slidell*, and THOMPSON, of Ky.—21.

Democrats in italic, Republicans in roman, Americans in small caps.

So the vote adopting the first amendment was reconsidered.

The presiding officer, [Mr. Foot in the chair.] The question is upon the amendment of the Senator from North Carolina, (Mr. Biggs.)

Mr. ADAMS called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 24, nays 32; as follows:

YEAS.—Messrs. ADAMS, *Bayard*, BELL of Tenn., *Benjamin*, *Biggs*, *Brodhead*, *Brown*, *Butler*, *Clay*, CRITTENDEN, Fish, *Fitzpatrick*, *Geyer*, *Gwin*, HOUSTON, *Hunter*, *Iverson*, *Jones* of Tenn., *Mason*, *Pratt*, *Reid*, *Rusk*, *Slidell*, and THOMPSON of Ky.—24.

NAYS.—Messrs. *Allen*, Bell of N. H., *Bigler*, *Bright*, *Cass*, Collamer, *Dodge*, *Douglas*, Durkee, Fessenden, *Fitch*, Foot, Foster, *Green*, Hale, Harlan, *James*, *Johnson*, *Jones* of Io., *Mallory*, Nourse, *Pugh*, *Sebastian*, Seward, *Stuart*, *Toombs*, *Toucey*, Trumbull, Wade, *Weller*, Wilson, and *Fulce*.—32.

Democrats in italic, Republicans in roman, Americans in small caps.

The following speech of the Hon. John C. Calhoun, of South Carolina, was delivered in the Senate of the United States, April 2, 1836, on the motion of Senator Porter, of Louisiana, to recommit the bill to establish the Northern boundary of Ohio, and for the admission of Michigan into the Union.

The speech will be found in vol. 2d of the Works of Mr. Calhoun, page 496 to 559.

Mr. Calhoun said:

I regret that my colleague has thought proper to raise the question, whether a state has a right to make an alien a citizen of the state. The question is one of great magnitude—presented for the first time, and claiming a more full and deliberate consideration than can be bestowed on it now. It is not necessarily involved in the present question. The point now at issue is, not whether a state or territory has a right to make an alien a citizen, but whether Congress has a right to prescribe the qualifications of the voters for members of the convention to form a constitution, preparatory to the admission of a territory into the Union. I presume that even my colleague will not deny that Congress has the right. The Constitution confers on Congress the power to govern the territories, and, of course, to prescribe the qualifications of voters within them—without any restriction—unless, indeed, such as the ordinance and Constitution may enforce—a power that expires only when a territory becomes a state.

The practice of the government has been in conformity with these views; and there is not an instance of the admission of a territory into the Union, in which Congress has not prescribed the qualifications of the voters for members of the state, on its admission. The power which Congress has thus invariably exercised, we claim to exercise on the present occasion, by prescribing who shall be the voters to form the constitution for the government of Michigan, when admitted into the Union. Michigan is not yet a state. Her constitution is not yet formed. It is, at best, but in an incipient state, which can only be consummated by complying with the constitution which we may prescribe for her admission. A convention is to be called, under this bill, to agree to these conditions. On motion of the Senator from New York (Mr. Wright), a provision was introduced into the bill, giving the right to the people of the territory at large—without limitation or restriction, as to age, sex, color, or citizenship—to vote for the members of the convention. The Senator from Kentucky (Mr. Clay), while the amendment of the Senator from New York was pending, moved to amend the amendment by striking out people, and inserting free white citizens of twenty-one years of age, thus restricting the voters to the free white citizens of the United States, in conformity with what has been usual on such occasions.

Believing that Congress had the unquestionable right to prescribe the qualifications of voters, as proposed by the Senator from Kentucky, and that the exercise of such right does not involve, in any degree, the question whether a state has a right to confer on an alien the rights of citizenship, I must repeat the expression of my regret, that my colleague has felt it to be his duty to raise a question so novel and important, when we have so little leisure for bestowing on it the attention which it deserves. But, since he considers its decision as necessarily involved in the question before us, I feel it to be my duty to state the reasons why I cannot concur with him in opinion.

I do not deem it necessary to follow my colleague and the Senator from Kentucky, in their attempt to define or describe a citizen. Nothing is more difficult than the definition, or even description, of so complex an idea; and hence all arguments resting on one definition, in such cases, almost necessarily lead to uncertainty and doubt. But though we may not be able to say, with precision, what a citizen is, we may say with the utmost certainty, what he is not. He is not an alien. Alien and citizen are correlative terms, and stand in contradistinction to each other. They, of course, cannot coexist. They are, in fact, so opposite in their nature, that we conceive of the one but in contradistinction to the other. Thus far all must be agreed. My next step is not less certain.

The Constitution confers on Congress the authority to pass uniform laws of naturalization. This will not be questioned; nor will it be, that the effect of naturalization is to remove alienage. I am not certain that the word is a legitimate one.

(Mr. Preston said, in a low tone, it was.)

My colleague says it is. His authority is high on such questions, and with it, I feel myself at liberty to use the word. To remove alienage is simply to put the foreigner in the condition of a native-born. To this extent the act of naturalization goes, and no further.

The next position I assume is no less certain: that when Congress has exercised its authority, by passing a uniform law of naturalization (as it has), it excludes the right of exercising a similar authority on the part of the state. To suppose that the states could pass naturalization acts of their own, after Congress had passed an uniform law of naturalization, would be to make the provision of the Constitution nugatory. I do not deem it necessary to dwell on this point, as I understood my colleague as acquiescing in its correctness.

I am now prepared to decide the question which my colleague has raised. I have shown that a citizen is not an alien, and that alienage is an inseparable barrier, till removed, to citizenship; and that it can only be removed by complying with the act of Congress. It follows, of course, that a state cannot, of its own authority, make an alien a citizen without such compliance. To suppose it can, in-

volves, in my opinion, a confusion of ideas, which must lead to innumerable absurdities and contradictions. I propose to notice but a few. In fact, the discussion has come on so unexpectedly, and has been urged on so precipitately, through the force of party discipline, that little leisure has been afforded to trace to their consequence the many novel and dangerous principles involved in the bill. I, in particular, have not had due time for reflection, which I exceedingly regret. Attendance on the sick-bed of a friend drew off my attention till yesterday, when, for the first time, I turned my thoughts on its provisions. The numerous objections which it presented, and the many and important amendments which were moved to correct them, in rapid succession, until a late hour of the night, allowed but little time for reflection. Seeing that the majority had pre-determined to pass the bill, with all its faults, I retired, when I found my presence could no longer be of any service, and remained ignorant that the Senate had rescinded the order to adjourn over till Monday, until a short time before its meeting this morning; so that I came here wholly unprepared to discuss this and the other important questions involved in the bill. Under such circumstances, it must not be supposed that, in pointing out the few instances of what appear to me the absurdities and contradictions necessarily resulting from the principle against which I contend, there are not many others equally striking. I but suggest those which first occurred to me.

Whatever difference of opinion there may be as to what other rights appertain to a citizen, all must at least agree that he has the right to petition, and also to claim the protection of his government. These belong to him as a member of the body politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a state can make an alien a citizen of the state—or, to present the question more specially, can confer on him the right of voting—would involve the absurdity of giving him a direct and immediate control over the action of the general government, from which he has no right to claim the protection, and to which he has no right to present a petition. That the full force of the absurdity may be felt, it must be borne in mind that every department of the general government is either directly or indirectly under the control of the voters in the several states. The Constitution wisely provides that the voters for the most numerous branch of the legislature in the several states, shall vote for the members of the House of Representatives—and, as the members of this body are chosen by the legislatures of the states, and the Presidential electors either by the legislatures or voters in the several states, it follows, as I have stated, that the action of the general government is either directly or indirectly under the control of the voters in the several states. Now, admit that a state may confer the right of voting on all aliens, and it will follow, as a necessary consequence, that we might have among our constituents persons who have not the right to claim the protection of the government, or to present a petition to it. I would ask my colleague if he would willingly bear the relation of representative to those who could not claim his aid, as Senator, to protect them from oppression, or to present a petition through him to the Senate, praying for a redress of grievance? And yet such might be his condition on the principle for which he contends.

But a still greater difficulty remains. Suppose a war should be declared between the United States and the country to which the alien belongs—suppose, for instance, that South Carolina should confer the right to vote on alien subjects of Great Britain residing within her limits, and that war should be declared between the two countries; what, in such event, would be the condition of that portion of our voters? They, as alien enemies, would be liable to be seized under the laws of Congress, and to have their goods confiscated, and themselves imprisoned, or sent out of the country. The principle that leads to such consequences cannot be true; and I venture nothing in asserting that Carolina, at least, will never give it her sanction. She never will assent to incorporate, as members of her body politic, those who might be placed in so degraded a condition, and so completely under the control of the general government. But let us pass from these (as it appears to me conclusive) views, and inquire what were the objects of the Constitution in conferring on Congress the authority of passing uniform laws of naturalization—from which, if I mistake not, arguments not less conclusive may be drawn in support of the position for which I contend.

In conferring this power the framers of the Constitution must have had two objects in view: One to prevent competition between the states in holding out inducements for the emigration of foreigners, and the other to prevent their improper influence over the general government, through such states as might naturalize foreigners, and could confer on them the right of exercising an elective franchise, before they could be sufficiently informed of the nature of our institutions, or were interested in their preservation. Both of these objects would be defeated, if the states may confer on aliens the right of voting and the other privileges belonging to citizens. On that supposition, it would be almost impossible to conceive what good could be obtained or evil prevented by conferring the power on Congress. The power would be perfectly nugatory. A state might hold out every improper inducement to emigration as freely as if the power did not exist; and might confer on the alien all the political rights and privileges belonging to a native-born citizen; not only to the great injury of the state, but to an improper control of the government of the Union.

To illustrate what I have said—suppose the

dominant party in New York, finding political power about to depart from them, should, to maintain their ascendancy, extend the right of suffrage to the thousands of aliens of every language and from every portion of the world, that annually pour into her great emporium—how deeply might the destiny of the whole Union be affected by such a measure! It might in fact, place the control over the general government in the hands of those who know nothing of our institutions and are indifferent as to the interests of the country. New York gives about one-sixth of the electoral votes in the choice of President and Vice President; and it is well known that her political institutions keep the state nearly equally divided into two great political parties. The addition of a few thousand votes either way might turn the scale, and the electors might, in fact, owe their election, on the supposition, to the votes of unnaturalized foreigners. The Presidential election might depend on the electoral vote of the state, and a President be chosen in reality by them; that is, they might give us a king, for, under the usurpations of the present chief magistrate, the President is in fact a king. I ask my colleague if we ought willingly to yield our assent to a principle that would lead to such results, and if there be any danger on the side for which I contend, comparable to those which I have stated? I know how sincere he is in the truth of the position for which he contends, and that his opinion was founded anterior to this discussion. We have rarely differed in our views on the questions which have come before the Senate; and I deeply regret, as I am sure he does, that we should differ on this highly important subject. * * *

My colleague cites the example of Louisiana, which was admitted into the Union without requiring the inhabitants, at the time, to conform to the act of naturalization. I must think the instance is not in point. That was the case of the incorporation of a foreign community, which had been acquired by treaty, as a member of our confederacy. At the time of the acquisition they were subjects of France, and owed allegiance to that government. The treaty transferred their allegiance to the United States; and the difficulty of incorporating Louisiana into the Union arose, not under the act of naturalization, but the right of acquiring foreign possessions by purchase, and the right of incorporating such possessions into the Union. These were felt, at the time, to be questions of great difficulty. Mr. Jefferson himself, under whose administration the purchase was made, doubted the right, and suggested the necessity of an alteration of the Constitution to meet the case; and if the example of the admission is now to be used to establish the principle that a state may confer citizenship on an alien, we may all live to regret that the Constitution was not amended according to the suggestion.

My colleague insists that to deny the right for which he contends, would be to confer on Congress the right of prescribing who should or should not be entitled to vote in the state, and exercise the other privileges belonging to citizens; and portrayed in strong language the danger to the rights of states from such authority. If his views are correct in this respect, the danger would indeed be imminent, but I cannot concur in their correctness. Under the view which I have taken, the authority of Congress is limited to the simple point of passing uniform laws of naturalization, or, as I have shown, simply to remove alienage. To this extent it may clearly go under the Constitution; and it is no less clear that it cannot go an inch beyond without palpably transcending its powers, and violating the Constitution. Every other privilege, except those which necessarily flow from the removal of alienage, must be conferred by the Constitution and the authority of the state. My remarks are, of course, confined to the states; for within the territories the authority of Congress is as complete in this respect as that of the states within their respective limits, with the exception of such limitations as the ordinance to which I have referred may impose.

But to pass to the question immediately before us. This, as I have stated, does not involve the question whether a state can make an alien a citizen; but whether Congress has a right to prescribe the qualifications to be possessed by those who shall vote for members of a convention to form a constitution for Michigan. Reason and precedent concur that Congress has the right. It has, as I have stated, been exercised in every similar case. If the right does not exist in Congress, it exists nowhere. A territory, until it becomes a state, is a dependent community, and possesses no political rights but what are derived from the community on which it depends. Who shall or shall not exercise political power? and what shall be the qualifications possessed by them? and how shall they be appointed? are all questions to be determined by the paramount community; and in the case under consideration, to be determined by Congress, which has the right under the Constitution, to prescribe all necessary rules for the government of the territories not inconsistent with the provisions of the Constitution. This very bill, in fact, admits the right. It prescribes that the people of Michigan shall vote for the convention to form her constitution on becoming a state. If it belongs to the territory of Michigan (she is not yet a state) to determine who shall vote for the members of the convention, this attempt on our part to designate who shall be the voters would be an unconstitutional interference with her right, and ought to be objected to, as such, by those opposed to our views.

But if, on the other hand, the view I take be correct, that the right belongs to Congress, and not to the territory, the loose, vague, and indefinite manner in which the voters are described in the bill affords a decisive reason for its recommitment. I ask, who are the people

of Michigan? Taken in the ordinary sense, it means everybody, of every age, of every sex, of every complexion, white, black, or red, aliens as well as citizens. Regarded in this light, to pass this bill would sanction the principle that Congress may authorize an alien to vote, or confer that high privilege on the runaway slaves from Kentucky, Virginia, or elsewhere; and thus elevate them to the condition of citizens, enjoying under the constitution all the rights and privileges in the states of the Union which appertain to citizenship. But my colleague says that this must be acquiesced in, if such should be the case, as it results from the principles of the constitution. I know we are bound to submit to whatever are the provisions of that instrument; but surely my colleague will agree with me, that the danger of such a precedent would be great; that the principles on which it is justified ought to be clear and free from all doubt; and I trust I have, at least, shown that such is not the fact in this case.

But, we are told that the people of Michigan means, in this case, the qualified voters. Why, then, was it not so expressed? Why was vague and general language used, when more certain and precise terms might have been employed? But, I would ask, who are the qualified voters? Are they those authorized to vote under the existing laws established for the government of the territory, or are they those who, under the instrument called the constitution, are authorized to vote? Why leave so essential a point in so uncertain a condition, when we have the power to remove the uncertainty? If it be meant by the people of Michigan, the qualified voters under her incipient constitution (as stated by the Senator from New York), then are we sanctioning the rights of aliens to vote. Michigan has attempted to confer this right on that portion of her inhabitants. She has no authority to confer such right under the constitution. I have conclusively shown that a state does not possess it—much less a territory, which possesses no power except such as is conferred by Congress. Congress has conferred no such power on Michigan—nor, indeed, could confer it—as it has no authority, under the Constitution, over the subject, except to pass uniform laws of naturalization.

Alien and Sedition Laws.

AN ACT CONCERNING ALIENS.

SEC. 1. Be it enacted, &c., That it shall be lawful for the President of the United States, at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States, within such time as shall be expressed in such order; which order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the marshal or other person to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States, after the time limited in such order for his departure, and not having obtained a license from the President to reside therein, or, having obtained such license, shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States: Provided always, and be it further enacted, that if any alien, so ordered to depart, shall prove, to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States shall arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States, for such time as he shall judge proper, and at such place as he shall designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties, to the satisfaction of the person authorized by the President to take the same, conditioned for the good behavior of such alien during his residence in the United States, and not violating his license, which license the President may revoke whenever he shall think proper.

SEC. 2. That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested, and sent out of the United States, such of those aliens as shall have been ordered to depart therefrom, and shall not have obtained a license as aforesaid, in all cases where, in the opinion of the President, the public safety requires a speedy removal. And if any alien, so removed or sent out of the United States by the President, shall voluntarily return thereto, unless by permission of the President of the United States, such alien, on conviction thereof, shall be imprisoned so long as, in the opinion of the President, the public safety may require.

SEC. 3. That every master or commander of any ship or vessel which shall come into any port of the United States after the first day of July next, shall, immediately on his arrival, make report, in writing, to the collector or other chief officer of the customs of such port, of all aliens, if any, on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation, and a description of their persons, as far as he shall be informed thereof; and, on failure, every

such master and commander shall forfeit and pay three hundred dollars; for the payment whereof, on default of such master or commander, such vessel shall also be holden, and may, by such collector or other officer of the customs, be detained. And it shall be the duty of such collector, or other officer of the customs, forthwith to transmit to the office of the Department of State true copies of all such returns.

Sec. 4. That the Circuit and District Courts of the United States shall, respectively, have cognisance of all crimes and offences against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States, issued in pursuance or by virtue of this act.

Sec. 5. That it shall be lawful for any alien who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States, by any alien who may be removed as aforesaid, shall be and remain subject to his order and disposal, in the same manner as if this act had not been passed.

Sec. 6. That this act shall continue and be in force for and during the term of two years from the passing thereof.

[Approved: June 25, 1798.]

The legislative history of the above act is this:—

On the 25th of April, 1798, in the Senate of the United States, Mr. Hillhouse, a Senator from Connecticut, offered a resolution for a committee to inquire what provision of law ought to be made, &c., as to the removal of such aliens as may be dangerous to the peace of the country, &c. This resolution was adopted the next day, and Messrs. Livermore of N. H., Hillhouse of Conn., Read of S. C., Sedgewick of Mass., and Lawrence of N. Y., were appointed the committee.

On the 4th of May, 1798, Mr. Livermore, from said committee, reported a bill concerning aliens. It passed the Senate on the 8th of June, 1798, by yeas and nays, as follows:—

YEAS.—Messrs. Bingham of Pa., Chipman of Vt., Clayton of Del., Foster of R. I., Goodhue of Mass., Hillhouse of Conn., Latimer of Del., Lawrence of N. Y., Livermore of N. H., Lloyd of Md., Martin of N. C., North of N. Y., Paine of Vt., Read of S. C., Stockton of N. J., and Tracy of Conn.—16.

NAYS.—Messrs. Anderson of Tenn., Bloodworth of N. C., Brown of Ky., Marshall of Ky., Mason of Va., Tattnal of Ga., and Tazewell of Va.—7.

On the same day on which the Senate bill passed that body, a bill to the same effect was reported in the House by Mr. Sewall of Mass., from the Committee for the Protection of Commerce, &c. Both it and the Senate bill were debated in the House. Messrs. Gallatin of Pa., Baldwin of Geo., Williams of N. C., Livingston of N. Y., McDowell of N. C., J. Smith of Md., spoke against the principle of the bills. Messrs. Otis of Mass., Sewall of N. Y., Harper of S. C., Gordon of N. H., Dayton of N. J., and Kittera of N. H., defended it.

The bill of the Senate eventually passed the House on the 21st of June, 1798, with some few amendments which were concurred in by the Senate, and became a law. The vote on it by yeas and nays in the House was as follows:

YEAS.—Messrs. Allen of Conn., Baer of Ind., Bartlett of Mass., Bayard of Del., Brooks of N. Y., Bullock of Mass., Champlin of Conn., Chapman of Pa., Cochran of N. Y., Coit of Conn., Craik of Md., Dana of Vt., Edmond of Conn., Evans of Va., Foster of Miss., Foster of N. H., Freeman of Mass., Glen of N. Y., Goodrich of Vt., Gordon of N. H., Greswould of Conn., Grove of N. C., Harper of S. C., Hindman of Md., Hosmer of N. Y., Imlay of N. J., Kittera of Pa., Lyman of Mass., Matthews of Ind., Morris of N. Y., Otis of Mass., Parker of Mass., Reed of Mass., Rutledge of S. C., Schureman of N. J., Sewall of Mass., William Shepard of Mass., Sinnickson of N. J., Sitgreaves of Pa., Smith of Conn., Thatcher of Mass., Thomas of Pa., Thomson of Del., Tillinghast of R. I., Van Alen of N. Y., Wadsworth of Mass.—46.

NAYS.—Baldwin of Ga., Bard of Pa., Benton of S. C., Blount of N. C., Brent of Va., Burges of N. C., Claiborne of Va., William Claiborne of Tenn., Clopton of Va., Davis of Ky., Dawson of Va., Dent of Ind., Fowler of Ky., Gallatin of Pa., Gillespie of N. C., Gregg of Ky., Hana of Pa., Harrisson of Va., Havens of N. Y., Huster of Pa., Holmes of Va., Jones of Va., Levingston of N. Y., Locke of N. C., Lyon of Vt., Macon of N. C., McClennachan of Pa., McDowell of N. C., Milledge of Ga., New of Va., S. Smith of Md., William Smith of S. C., Spregg of Md., Stanford of N. C., Sumpter of S. C., A. Trigg of Va., I. Trigg of Va., Varnum of Mass., Venable of Va., Williams of N. Y.—40.

AN ACT IN ADDITION TO THE ACT, ENTITLED "AN ACT FOR THE PUNISHMENT OF CERTAIN CRIMES AGAINST THE UNITED STATES."

Sec. 1. Be it enacted, &c., That if any persons shall unlawfully combine or conspire together with intent to oppose any measure or measures of the government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person, holding a place or office in or under the government of the United States, from undertaking, performing, or executing his trust or duty, and if any person or persons, with intent as aforesaid, shall counsel, advise, or attempt to procure, any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt, shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and, on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months, nor exceeding five years; and further, at the discretion of the court, may be holden to find sureties for his good behavior, in such sum and for such time as the said court may direct.

Sec. 2. That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall, knowingly and willingly, assist or aid

in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the government of the United States, or either House of the Congress of the United States, or the President of the United States, with intent to defame the said government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States; or to stir up sedition within the United States; or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States; or to resist, oppose, or defeat, any such law or act; or to aid, encourage, or abet, any hostile designs of any foreign nation against the United States, their people or government; then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Sec. 3. That if any person shall be prosecuted, under this act, for the writing or publishing any libel, as aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence, in his defence, the truth of the matter contained in the publication charged as a libel; and the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

Sec. 4. That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: Provided, That the expiration of the act shall not prevent or defeat a prosecution and punishment of any offence against the law during the time it shall be in force.

[Approved: July 14, 1798.]

The history of this act is as follows—It originated in the Senate of the United States. A bill having been introduced on leave, by Mr. Lloyd of Maryland, it was referred to a committee consisting of that gentleman, Messrs. Tracy of Conn., Stockton of N. J., Chipman of Vt., and Read of S. C.

The bill passed the Senate on the 4th day of July, 1798, by yeas and nays as follows:

YEAS.—Messrs. Chipman of Vt., Clayton of Del., Foster of R. I., Goodhue of Mass., Greene of R. I., Hillhouse of Conn., Latimer of Del., Lawrence of N. Y., Livermore of N. H., Lloyd of Md., Martin of N. C., North of N. Y., Paine of Vt., Read of S. C., Rutherford of N. J., Sedgewick of Mass., Stockton of N. J., Tracy of Conn.—18.

NAYS.—Messrs. Anderson of Tenn., Brown of Ky., Howard, Langdon of N. H., Mason of Va., Tazewell of Va.—6.

The bill was opposed in the House by Messrs. Nicholas of Va., Livingston of N. Y., Macon of N. C., McDowell of N. C., Gallatin of Pa., Craik of Md., Claiborne of Va., and Smith of Md., and defended by Messrs. Allen of Conn., Harper of S. C., Otis of Mass., Dana of Vt., and Kittera of Pa.

It finally passed the House with amendments on the 10th of July, 1798, which amendments were concurred in, and it became a law.

The vote on it in the House was as follows:—

YEAS.—Messrs. Allen of Conn., Baer Jr of Ind., Bartlett of Mass., Bayard of Del., Brooks of N. Y., Champlin of Conn., Chapman of Pa., Cochran of N. Y., Coit of Conn., Dana of Vt., Edmond of Conn., Evans of Va., Foster of Mass., Foster of N. H., Freeman of Mass., Glen of N. Y., Goodrich of Vt., Gordon of N. H., Griswold of Conn., Grove of N. C., Harper of S. C., Hartley of Pa., Hindman of Md., Hermer of N. Y., Imby of N. J., Kittera of Pa., Lyman, Otis of Mass., Parker of Mass., Reed of Mass., Rutledge of Pa., Schureman of N. J., Sewall of Mass., Shepard of Mass., Sinnickson of N. J., Sitgreaves of Pa., Smith of Conn., Sprague of N. H., Thatcher of Mass., Thomas of Pa., Thomson of Del., Tillinghast of R. I., Van Alen of N. Y., Wadsworth of Mass.—44.

NAYS.—Messrs. Baldwin of Ga., Bard of Pa., Benton, Blount of N. J., Brent of Va., Bullock of Mass., Burges of N. C., Thomas Claiborne of Va., Wm. Claiborne of Tenn., Clopton of Va., Dawson of Va., Dent of Ind., Fowler of Ky., Gallatin of Pa., Gillespie of N. C., Gregg of Ky., Hana of Pa., Harrison of Va., Havens of N. Y., Heister of Pa., Holmes of Va., Jones of Va., Livingston of N. Y., Locke of N. C., Lyon of Vt., Macon of N. C., Maltheus of Ind., McClenachan of Pa., McDowell of N. C., New of Va., Nicholas of Va., Smith of S. C., Smith of Ind., Spriggs Jr of Md., Stanford of N. C., Sumter of S. C., J. Trigg of Va., Van Cortlandt of N. Y., Varnum of Mass., Venable of Va., Williams of S. Y.—41.

Allen, James C., of Illinois.

Mr. Allen was returned as a member of the 34th Congress from the State of Illinois, elected by one vote. Mr. W. B. Archer, his opponent, contested his seat on the ground that two votes cast for him were improperly rejected. The case was referred to the Committee on Elections of the House, consisting of Messrs. Washburne of Me., Watson of Ohio, Spinner of N. Y., Colfax of Indiana, and Bingham of Ohio, Republicans; Stephens of Geo., Savage of Tennessee, and Hickman of Pa., Democrats; and Smith of Ala., American.

Mr. Washburne, on behalf of the majority of the committee, that is, the Republican members of it, reported the following resolutions:—

Resolved, that Jas. C. Allen was not elected and is not entitled to a seat in this house.

Resolved, that W. B. Archer was elected and is entitled to a seat in this House.

The question was decided on the 18th of July, 1856, by the adoption of the first resolution and the rejection of the second.

As the ejection of Mr. Allen from his seat is claimed to have been done by a party vote, Mr. Allen being a Democrat and Mr. Archer a Republican, the vote is given, on the first resolution as follows:—

YEAS.—Messrs. Albright of O., Allison of Pa., Ball of O., Barbour of Ind., Henry Bennett of N. Y., Benson of Me., Billinghurst of Wis., Bingham of O., Bliss of O., Bradshaw of Pa., Brenton of Ind., Buffington of Mass., Burlingame of Mass., James H. Campbell of Pa., Lewis D. Campbell of O., Chaffee of Mass., Ezra Clark of Conn., Clawson of N. J., Colfax of Ind., Comins of Mass., Cragin of N. H., Cumback of Ind.,

Damrell of Mass., Timothy Davis of Mass., Day of O., Dean of Conn., Dewitt of Mass., Dickson of N. Y., Dodd of N. Y., DUNN of Ind., Durfee of R. I., EDWARDS of N. Y., Emrie of O., Giddings of O., Gilbert of N. Y., Granger of N. Y., Grow of Pa., Robert B Hall of Mass., Harlan of O., HARRISSON of O., HAVEN of N. Y., Holloway of Ind., Thomas R. Horton of N. Y., V. B. Horton of O., Hughston of N. Y., Kelsey of N. Y., King of N. Y., Knapp of Mass., Knight of Pa., Knowlton of Me., Knox of Ill., Leiter of O., Matteson of N. Y., McCarty of N. Y., Meacham of Vt., Killian Miller of N. Y., MOORE of O., Morgan of N.Y., Morrill of Vt., Murray of N.Y., Norton of Ill., Parker of N. Y., Pelton of N. Y., Pennington of N. J., Perry of Me., Pettit of Ind., Pike of N. H., Pringle of N. Y., Purviance of Pa., Ritchie of Pa., Robbins of N. J., Roberts of Pa., Sabin of Vt., Sapp of O., Scott of Ind., Sherman of O., Simmons of N. Y., Spinner of N. Y., Stanton of O., Stranahan of N. Y., Tappan of N. H., Thorington of Ja., Thurston of R. I., Todd of Pa., Trafton of Mass., Tyson* of Pa., Wade of Ohio, Wakeman of N. Y., Waldridge of Mich., Waldron of Mich., Elihu B. Washburne of Ill., Israel Washburne of Me., Welch of Conn., and Wood of Me.—94.

NAYS.—Messrs. *Aiken* of S. C., *Barksdale* of Miss., *Bell* of Tex., *Bennett* of Miss., BROOM of Pa., *Burnett* of Ky., *Cadwalader* of Pa., JOHN P. CAMPBELL of Ky., CARLISLE of Va., *Caruthers* of Mo., *Caskie* of Va., Bayard Clark of N. Y., *Clingman* of N. C., *Cobb* of Ga., *Cobb* of Ala., COX, of Ky., *Craige* of N. C., *Crawford* of Ga., CULLEN of Del., *Davidson* of La., *Denver* of Cal., *Dowdell* of Ala., *Edmundson* of Va., *Elliott* of Ky., *English* of Ind., ETHERIDGE of Tenn., *Florence* of Pa., Foster of Ga., *Faller* of Me., *Goode* of Va., *Greenwood* of Ark., *Hall* of Ia., *Harris* of Ala., *Harris* of Ill., HOFFMAN of Md., *Houston* of Ala., *Jeweti* of Ky., *Jones* of Tenn., *Jones* of Pa, *Kelly* of N. Y., KENNETT of Mo., *Kidwell* of Va., LAKE of Miss., *Letcher* of Va., *Lumpkin* of Ga., MARSHALL of Ky., *Marshall* of Ill., *Maxwell* of Fla., *McMullin* of Va., *McQueen* of S. C., *Miller* of Ind., *Milson* of Va., *Packer* of Pa., *Peck* of Mich., *Phelps* of Mo., PORTER of Mo., *Powell* of Va., PURYEAR of N. C., *Quitman* of Miss., READE of N. C., READY of Tenn., RICAUD of Md., *Rivers* of Tenn., *Ruffin* of N. C., *Rust* of Ark., *Savage* of Tenn., *Seward* of Ga., *Shorter* of Ala., *Smith* of Tenn., *Smith* of Va., SNEED of Tenn., *Stephens* of Ga., *Stewart* of Md., SWOPE of Ky., *Talbot* of Ky., *Taylor* of La., TRIPPE of Ga., UNDERWOOD of Ky., *Vail* of N. J., VALK of N. Y., *Warner* of Ga., *Watkins* of Tenn., *Wells* of Wis., *Wheeler* of N. Y., *Whitney* of N. Y., *Williams* of N. Y., *D. B. Wright* of Miss., *J. V. Wright* of Tenn., ZOLLICOFFER of Tenn.—90.

Democrats in *italics;* Republicans in roman; Fillmore Americans in SMALL CAPS.

The vote on the second resolution rejecting it was yeas 89, nays 91. Messrs. Day, HAVEN, MOORE, and Tyson, who voted for the first resolution, voted against this. Mr. Giddings, who voted on the first resolution, did not vote on this.

American Platforms.

PLATFORM OF 1855.

1. The acknowledgment of that Almighty Being who rules over the universe—who presides over the Councils of Nations—who conducts the affairs of men, and who, in every step by which we have advanced to the character of an independent nation, has distinguished us by some token of Providential agency.

2. The cultivation and development of a sentiment of profoundly intense American feeling; of passionate attachment to our country, its history and its institutions; of admiration for the purer days of our national existence; of veneration for the heroism that precipitated our Revolution, and of emulation of the virtue, wisdom, and patriotism that framed our Constitution, and first successfully applied its provisions.

3. The maintenance of the union of these United States, as the paramount political good; or, to use the language of Washington, "the primary object of patriotic desire." And hence—

First. Opposition to all attempts to weaken or subvert it.

Second. Uncompromising antagonism to every principal of policy that endangers it.

Third. The advocacy of an equitable adjustment of all political differences which threaten its integrity or perpetuity.

Fourth. The suppression of all tendencies to political division, founded on "geographical discriminations, or on the belief that there is a real difference of interests and views" between the various sections of the Union.

Fifth. The full recognition of the rights of the several states, as expressed and reserved in the Constitution; and a care fulavoidance by the general government, of all interference with their rights by legislative or executive action.

4. Obedience to the Constitution of these United States as the supreme law of the land, sacredly obligatory upon all its parts and members; and steadfast resistance to the spirit of innovation upon its principles, however specious the pretexts. Avowing that in all doubtful or disputed points it may only be legally ascertained and expounded by the judicial power of the United States.

First. A habit of reverential obedience to the laws, whether national, state, or municipal, until they are repealed or declared unconstitutional by the proper authority.

Second. A tender and sacred regard for those acts of statesmanship, which are to be contradistinguished from acts of ordinary legislation, by the fact of their being of the nature of compacts and agreements; and so, to be considered a fixed and settled national policy.

5. A radical revision and modification of the laws regulating immigration, and the settlement of immigrants—offering the honest immigrant, who, from love of liberty or hatred of oppression, seeks an asylum in the United States, a friendly reception and protection, but unqualifiedly condemning the transmission to our shores of felons and paupers.

6. The essential modification of the naturalization laws.

The repeal by the legislatures of the respective states, of all state laws allowing foreigners not naturalized to vote. The repeal, without retrospective operation, of all acts of Congress making grants of land to unnaturalized foreigners, and allowing them to vote in the territories.

7. Hostility to the corrupt means by which the leaders of party have hitherto forced upon us our rulers and our political creeds.

Implacable enmity against the present demoralizing system of rewards for political subserviency, and of punishments for political independence.

Disgust for the wild hunt after office which characterizes the age.

These on the one hand. On the other—

Imitation of the practice of the purer days

* Mr. Tyson has since supported Mr. Buchanan.

of the republic; and admiration of the maxim that "office should seek the man, and not man the office," and of the rule that the just mode of ascertaining fitness for office is the capability, the faithfulness, and the honesty of the incumbent candidate.

8. Resistance to the aggressive policy and corrupting tendencies of the Roman Catholic Church in our country by the advancement to all political stations—executive, legislative, judicial, or diplomatic—of those only who do not hold civil allegiance, directly or indirectly, to any foreign power, whether civil or ecclesiastical, and who are Americans by birth, education, and training—thus fulfilling the maxim, "Americans only shall govern America."

The protection of all citizens in the legal and proper exercise of their civil and religious rights and privileges; the maintenance of the right of every man to the full, unrestrained, and peaceful enjoyment of his own religious opinions and worship, and a jealous resistance of all attempts by any sect, denomination, or church, to obtain an ascendancy over any other in the state, by means of any special privilege or exemption, by any political combination of its members, or by a division of their civil allegiance with any foreign power, potentate, or ecclesiastic.

9. The reformation of the character of our National Legislature, by elevating to that dignified and responsible position men of higher qualifications, purer morals, and more unselfish patriotism.

10. The restriction of executive patronage—especially in the matter of appointments to office—so far as it may be permitted by the Constitution, and consistent with the public good.

11. The education of the youth of our country in schools provided by the state; which schools shall be common to all, without distinction of creed or party, and free from any influence or direction of a denominational or partisan character.

And, inasmuch as Christianity, by the constitutions of nearly all the states: by the decisions of the most eminent judicial authorities, and by the consent of the people of America, is considered an element of our political system, and as the Holy Bible is at once the source of Christianity, and the depository and fountain of all civil and religious freedom, we oppose every attempt to exclude it from the schools thus established in the states.

12. The American party, having arisen upon the ruins, and in spite of the opposition of the Whig and Democratic parties, cannot be held in any manner responsible for the obnoxious acts or violated pledges of either. And the systematic agitation of the slavery question by those parties having elevated sectional hostility into a positive element of political power, and brought our institutions into peril, it has, therefore, become the imperative duty of the American party to interpose, for the purpose of giving peace to the country and perpetuity to the Union. And as experience has shown it impossible to reconcile opinions so extreme as those which separate the disputants, and as there can be no dishonor in submitting to the laws, the National Council has deemed it the best guarantee of common justice and of future peace, to abide by and maintain the existing laws upon the subject of slavery, as a final and conclusive settlement of that subject, in fact and in substance.

And, regarding it the highest duty to avow their opinions upon a subject so important in distinct and unequivocal terms, it is hereby declared as the sense of this National Council, that Congress possesses no power, under the Constitution, to legislate upon the subject of slavery in the states, where it does or may exist, or to exclude any state from admission into the Union because its constitution does or does not recognise the institution of slavery as a part of its social system: and expressly pretermitting any expression of opinion upon the power of Congress to establish or prohibit slavery in any territory, it is the sense of the National Council that Congress ought not to legislate upon the subject of slavery within the territory of the United States, and that any interference by Congress with slavery as it exists in the District of Columbia, would be a violation of the spirit and intention of the compact by which the state of Maryland ceded the District to the United States, and a breach of the national faith.

13. The policy of the government of the United States, in its relations with foreign governments, is to exact justice from the strongest, and do justice to the weakest; restraining, by all the power of the government, all its citizens from interference with the internal concerns of nations with whom we are at peace.

14. This National Council declares that all the principles of the order shall be henceforth everywhere openly avowed; and that each member shall be at liberty to make known the existence of the order, and the fact that he himself is a member; and it recommends that there be no concealment of the places of meeting of subordinate councils.

E. B. Bartlett of Ky.
President of National Council.
C. D. Deshler of N. J.,
Corresponding Secretary.
James M. Stephens of Md.,
Recording Secretary.

Platform of the American Party, adopted at the session of the National Council, February 21, 1856.

An humble acknowledgment to the Supreme Being, for his protecting care vouchsafed to our fathers in their successful Revolutionary struggle, and hitherto manifested to us, their descendants, in the preservation of the liberties, the independence, and the union of these states.

2d. The perpetuation of the Federal Union, as the palladium of our civil and religious liberties, and the only sure bulwark of American independence.

3d. Americans must rule America, and to this end, native-born citizens should be selected for all state, federal, and municipal offices, or government employment, in preference to all others: nevertheless

4th. Persons born of American parents residing temporarily abroad, should be entitled to all the rights of native-born citizens; but

5th. No person should be selected for political station (whether of native or foreign birth), who recognises any allegiance or obligation of any description to any foreign prince, potentate or power, or who refuses to recognise the federal and state constitutions (each within its sphere) as paramount to all other laws as issues of political action.

6th. The unqualified recognition and maintenance of the reserved rights of the several states, and the cultivation of harmony and fraternal good will, between the citizens of the several states, and to this end, non-interference by Congress with questions appertaining solely to the individual states, and non-intervention by each state with the affairs of any other state.

7th. The recognition of the right of the native-born and naturalized citizens of the United States, permanently residing in any territory thereof, to frame their constitution and laws, and to regulate their domestic and social affairs in their own mode, subject only to the provisions of the Federal Constitution, with the privilege of admission into the Union whenever they have the requisite population for one representative in Congress. Provided always, that none but those who are citizens of the United States, under the Constitution and laws thereof, and who have a fixed residence in any such territory, ought to participate in the formation of the constitution, or in the enactment of laws for said territory or states.

8th. An enforcement of the principle that no state or territory ought to admit others than citizens of the United States to the right of suffrage, or of holding political office.

9th. A change in the laws of naturalization, making a continued residence of twenty-one years, of all not hereinbefore provided for, an indispensable requisite for citizenship hereafter, and excluding all paupers, and persons convicted of crime, from landing upon our shores; but no interference with the vested rights of foreigners.

10th. Opposition to any union between Church and State; no interference with religious faith, or worship, and no test oaths for office.

11th. Free and thorough investigation into any and all alleged abuses of public functionaries, and a strict economy in public expenditures.

12th. The maintenance and enforcement of all laws constitutionally enacted, until said laws shall be repealed, or shall be declared null and void by competent judicial authority.

13th. Opposition to the reckless and unwise policy of the present administration in the general management of our national affairs, and more especially as shown in removing "Americans" by designation and conservatives in principle, from office, and placing foreigners and ultraists in their places; as shown in a truckling subserviency to the stronger, and an insolent and cowardly bravado towards the weaker powers; as shown in re-opening sectional agitation, by the repeal of the Missouri Compromise; as shown in granting to unnaturalized foreigners the right of suffrage in Kansas and Nebraska; as shown in its vacillating course on the Kansas and Nebraska question; as shown in the corruptions which pervade some of the departments of the government; as shown in disgracing meritorious naval officers through prejudice or caprice; and as shown in the blundering mismanagement of our foreign relations.

14th. Therefore, to remedy existing evils, and prevent the disastrous consequences otherwise resulting therefrom, we would build up the "American party" upon the principle hereinbefore stated.

15th. That each state council shall have authority to amend their several constitutions, so as to abolish the several degrees, and institute a pledge of honor, instead of other obligations for fellowship and admission into the party.

16th. A free and open discussion of all political principles embraced in our platform.

American Ritual.

CONSTITUTION OF THE NATIONAL COUNCIL OF THE UNITED STATES OF NORTH AMERICA.

ART. 1st. This organization shall be known by the name and title of THE NATIONAL COUNCIL OF THE UNITED STATES OF NORTH AMERICA, and its jurisdiction and power shall extend to all the states, districts, and territories of the United States of North America.

ART. 2d. The object of this organization shall be to protect every American citizen in the legal and proper exercise of all his civil and religious rights and privileges; to resist the insidious policy of the Church of Rome, and all other foreign influence against our republican institutions in all lawful ways; to place in all offices of honor, trust, or profit, in the gift of the people, or by appointment, none but native-born Protestant citizens, and to protect, preserve, and upholdt he union of these states and the constitution of the same.

Art. 3d. Sec. 1.—A person to become a member of any subordinate council must be twenty-one years of age; he must believe in the existence of a Supreme Being as the Creator and preserver of the universe. He must be a

native-born citizen; a Protestant, either born of Protestant parents, or reared under Protestant influence; and not united in marriage with a Roman Catholic; provided, nevertheless, that in this last respect, the state, district, or territorial councils shall be authorized to so construct their respective constitutions as shall best promote the interests of the American cause in their several jurisdictions; and provided, moreover, that no member who may have a Roman Catholic wife shall be eligible to office in this order; and provided, further, should any state, district, or territorial council prefer the words "Roman Catholic" as a disqualification to membership, in place of "Protestant" as a qualification, they may so consider this constitution and govern their action accordingly.

Sec. 2.—There shall be an interval of three weeks between the conferring of the first and second degrees; and of three months between the conferring of the second and third degrees—provided, that this restriction shall not apply to those who may have received the second degree previous to the first day of December next; and provided, further, that the presidents of state, district, and territorial councils may grant dispensations for initiating in all the degrees, officers of new councils.

Sec. 3.—The national council shall hold its annual meetings on the first Tuesday in the month of June, at such place as may be designated by the national council at the previous annual meeting, and it may adjourn from time to time. Special meetings may be called by the President, on the written request of five delegations representing five state councils; provided, that sixty days' notice shall be given to the state councils previous to said meeting.

Sec. 4.—The national council shall be composed of seven delegates from each state, to be chosen by the state councils; and each district or territory where a district or territorial council shall exist, shall be entitled to send two delegates, to be chosen from said council—provided, that in the nomination of candidates for President and Vice President of the United States, and each state shall be entitled to cast the same number of votes as they shall have members in both houses of Congress. In all sessions of the national council, thirty-two delegates, representing thirteen states, territories, or districts, shall constitute a quorum for the transaction of business.

Sec. 5.—The national council shall be vested with the following powers and privileges:

It shall be the head of the organization for the United States of North America, and shall fix and establish all signs, grips, passwords, and such other secret work, as may seem to it necessary.

It shall have the power to decide all matters appertaining to national politics.

It shall have the power to exact from the state councils, quarterly or annual statements as to the number of members under their jurisdictions, and in relation to all other matters necessary for its information.

It shall have the power to form state, territorial, or district councils, and to grant dispensations for the formation of such bodies, when five subordinate councils shall have been put in operation in any state, territory, or district, and application made.

It shall have the power to determine upon a mode of punishment in case of any dereliction of duty on the part of its members or officers.

It shall have the power to adopt cabalistic characters for the purpose of writing or telegraphing. Said characters to be communicated to the presidents of the state councils, and by them to the presidents of the subordinate councils.

It shall have the power to adopt any and every measure it may deem necessary to secure the success of the organization; provided, that nothing shall be done by the said national council in violation of the constitution; and provided further, that in all political matters, its members may be instructed by the state councils, and if so instructed, shall carry out such instructions of the state councils which they represent until overruled by a majority of the national council.

Art. 4.—The President shall always preside over the national council when present, and in his absence the Vice President shall preside, and in the absence of both the national council shall appoint a president *pro tempore;* and the presiding officers may at all times call a member to the chair, but such appointment shall not extend beyond one sitting of the national council.

Art. 5, Sec 1.—The officers of the National Council shall be a President, Vice President, Chaplain, Corresponding Secretary, Recording Secretary, Treasurer, and two Sentinels, with such other officers as the national council may see fit to appoint from time to time; and the secretaries and sentinels may receive such compensation as the national council shall determine.

Sec. 2.—The duties of the several officers created by this constitution shall be such as the work of this organization prescribes.

Art. 6, Sec. 1.—All officers provided for by this constitution, except the sentinels, shall be elected annually by ballot. The president may appoint sentinels from time to time.

Sec. 2.—A majority of all the votes cast shall be requisite to an election for an office.

Sec. 3.—All officers and delegates of this council, and of all state, district, territorial, and subordinate councils, must be invested with all the degrees of this order.

Sec. 4.—All vacancies in the elective offices shall be filled by a vote of the national council, and only for the unexpired term of the said vacancy.

Art. 7, Sec. 1.—The national council shall entertain and decide all cases of appeal, and it shall establish a form of appeal.

Sec. 2.—The national council shall levy a

tax upon the state, district, or territorial councils, for the support of the national council, to be paid in such manner and at such times as the national council shall determine.

Art. 8.—This national council may alter and amend this constitution at its regular annual meeting in June next, by a vote of the majority of the whole number of the members present. (Cincinnati, Nov. 24, 1854.)

Rules and Regulations.

Rule 1.—Each state, district, or territory, in which there may exist five or more subordinate councils working under dispensations from the National Council of the United States of North America, or under regular dispensations from some state, district, or territory, are duly empowered to establish themselves into a state, district, or territorial council, and when so established, to form for themselves constitutions and by-laws for their government, in pursuance of, and in consonance with the Constitution of the National Council of the United States; provided, however, that all state, district or territorial constitutions shall be subject to the approval of the National Council of the United States. (June, 1854.)

Rule 2.—All state, district, or territorial councils, when established, shall have full power and authority to establish all subordinate councils within their respective limits; and the constitutions and by-laws of all such subordinate councils must be approved by their respective state, district, or territorial councils. (June, 1854.)

Rule 3.—All state, district, or territorial councils, when established and until the formation of constitutions, shall work under the constitution of the National Council of the United States. (June, 1854.)

Rule 4.—In all cases where, for the convenience of the organization, two state or territorial councils may be established, the two councils together shall be entitled to but thirteen delegates* in the National Council of the United States—the proportioned number of delegates to depend on the number of members in the organizations; provided, that no state shall be allowed to have more than one state council, without the consent of the National Council of the United States. (June, 1854.)

Rule 5.—In any state, district, or territory, where there may be more than one organization working on the same basis, (to wit, the lodges and "councils"), the same shall be required to combine; the officers of each organization shall resign and new officers be elected; and thereafter these bodies shall be known as state councils, and subordinate councils, and new charters shall be granted to them by the national council. (June, 1854.)

Rule 6.—It shall be considered a penal offence for any brother not an officer of a subordinate council, to make use of the sign or summons adopted for public notification, except by direction of the president; or for officers of a council to post the same at any other time than from midnight to one hour before daybreak, and this rule shall be incorporated into the by-laws of the state, district, and territorial councils. (June, 1854.)

Rule 7.—The determination of the necessity and mode of issuing the posters for public notification shall be intrusted to the state, district, or territorial councils. (June, 1854.)

Rule 8.—The respective state, district, or territorial councils shall be required to make statements of the number of members within their respective limits, at the next meeting of this national council, and annually thereafter, at the regular annual meeting. (June, 1854.)

Rule 9.—The delegates to the National Council of the United States of North America shall be entitled to three dollars per day for their attendance upon the national council, and for each day that may be necessary in going and returning from the same; and five cents per mile for every mile they may necessarily travel in going to, and returning from the place of meeting of the national council; to be computed by the nearest mail route: which shall be paid out of the treasury of the national council. (November, 1854.)

Rule 10.—Each state, district, or territorial council shall be taxed four cents per annum for every member in good standing belonging to each subordinate council under its jurisdiction on the first day of April, which shall be reported to the national council, and paid into the national treasury, on or before the first day of the annual session, to be held in June; and on the same day in each succeeding year. And the first fiscal year shall be considered as commencing on the first day of December, 1854, and ending on the fifteenth day of May, 1855. (November, 1854.)

Rule 11.—The following shall be the key to determine and ascertain the purport of any communication that may be addressed to the president of a state, district, or territorial council by the president of the national council, who is hereby instructed to communicate a knowledge of the same to said officers:—

A	B	C	D	E	F	G	H	I	J	K	L	M
1	7	13	19	25	2	8	14	20	26	3	9	15
N	O	P	Q	R	S	T	U	V	W	X	Y	Z
21	4	10	16	22	5	11	17	23	6	12	18	24

Rule 12.—The clause of the article of the constitution relative to belief in the Supreme Being is obligatory upon every state and subordinate council, as well as upon each individual member. (June, 1854.)

Rule 13.—The following shall be the compensation of the officers of this council:—

1st. The corresponding secretary shall be paid two thousand dollars per annum, from the 17th day of June, 1854.

2d. The treasurer shall be paid five hundred dollars per annum, from the 17th day of June, 1854.

3d. The sentinels shall be paid five dollars

* Note.—See Constitution, Art. 3, Sec. 4, p. 5.

for every day they may be in attendance on the sittings of the national council.

4th. The chaplain shall be paid one hundred dollars per annum, from the 17th day of June, 1854.

5th. The recording secretary shall be paid five hundred dollars per annum, from the 17th day of June, 1854.

6th. The assistant secretary shall be paid five dollars per day, for every day he may be in attendance on the sitting of the national council. All of which is to be paid out of the national treasury, on the draft of the president. (November, 1854.)

Special Voting.

Vote 1st.—This national council hereby grants to the state of Virginia two state councils, the one to be located in Eastern and the other in Western Virginia, the Blue Ridge Mountains being the geographical line between the two jurisdictions. (June, 1854.)

Vote 2d.—The president shall have power, till the next session of the national council, to grant dispensations for the formation of state, district, or territorial councils, in form most agreeable to his own discretion, upon proper application being made. (June, 1854.)

Vote 3d.—The seats of all delegates to and members of the present national council shall be vacated on the first Tuesday in June, 1855, at the hour of six o'clock in the forenoon; and the national council convening in annual session upon that day, shall be composed exclusively of delegates elected under and in accordance with the provisions of the constitution, as amended at the present session of this national council: provided, that this resolution shall not apply to the officers of the national council. (November, 1854.)

Vote 4th.—The corresponding secretary of this council is authorized to have printed the names of the delegates to this national council; also, those of the presidents of the several state, district, and territorial councils, together with their address, and to forward a copy of the same to each person named; and further, the corresponding secretaries of each state, district, and territory are requested to forward a copy of their several constitutions to each other. (November, 1854.)

Vote 5th.—In the publication of the constitution and the ritual, under the direction of the committee—brothers Deshler, Damrell, and Stephens—the name, signs, grips, and passwords of the order shall be indicated by [* * *], and a copy of the same shall be furnished to each state, district, and territorial council, and to each member of that body. (November, 1854.)

Vote 6th.—A copy of the constitution of each state, district, and territorial council, shall be submitted to this council for examination. (November, 1854.)

Vote 7th.—It shall be the duty of the treasurer, at each annual meeting of this body, to make a report of all moneys received or expended in the interval. (November, 1854.)

Vote 8th.—Messrs. Gifford of Pa., Barker of N. Y., Deshler of N. J., Williamson of Va., and Stephens of Md., are appointed a committee to confer with similar committees that have been appointed for the purpose of consolidating the various American orders, with power to make the necessary arrangements for such consolidation—subject to the approval of this national council, at its next session. (November, 1854.)

Vote 9th.—On the receipt of the new ritual by the members of this national council who have received the third degree, they or any of them may, and they are hereby empowered to, confer the third degree upon members of this body in their respective states, districts, and territories, and upon the presidents and other officers of their state, district, and territorial councils. And further, the presidents of the state, district, and territorial councils shall in the first instance confer the third degree upon as many of the presidents and officers of their subordinate councils as can be assembled together in their respective localities; and afterwards the same may be conferred upon officers of other subordinate councils, by any presiding officer of a council who shall have previously received it under the provisions of the constitution. (November, 1854.)

Vote 10th.—To entitle any delegate to a seat in this national council, at its annual session in June next, he must present a properly-authenticated certificate that he was duly elected as a delegate to the same, or appointed a substitute in accordance with the requirements of the constitutions of state, territorial, or district councils. And no delegate shall be received from any state, district, or territorial council which has not adopted the constitution and ritual of this national council. (November, 1854.)

Vote 11th.—The committee on printing the constitution and ritual is authorized to have a sufficient number of the same printed for the use of the order. And no state, district, or territorial council shall be allowed to reprint the same. (November, 1854.)

Vote 12th.—The right to establish all subordinate councils in any of the states, districts, and territories represented in this national council, shall be confined to the state, district, and territorial councils which they represent. (November, 1854.)

Constitution for the Government of Subordinate Councils.

Art. I. Sec. 1.—Each subordinate council shall be composed of not less than thirteen members, all of whom shall have received all the degrees of the order, and shall be known and recognised as ——— Council, No. ——, of the ——— of the county of ———, and State of North Carolina.

Sec. 2.—No person shall be a member of any subordinate council in this state, unless he possesses all the qualifications, and comes up to all the requirements laid down in the

constitution of the national council, and whose wife (if he has one), is not a Roman Catholic.

Sec. 3. No application for membership shall be received and acted on from a person residing out of the state, or resides in a county where there is a council in existence, unless upon special cause to be stated to the council, to be judged of by the same; and such person, if the reasons be considered sufficient, may be initiated the same night he is proposed, provided he resides five miles or more from the place where the council is located. But no person can vote in any council, except the one of which he is a member.

Sec. 4. Every person applying for membership, shall be voted for by ballot, in open council, if a ballot is requested by a single member. If one-third of the votes cast be against the applicant, he shall be rejected. If any applicant be rejected, he shall not be again proposed within six months thereafter. Nothing herein contained shall be construed to prevent the initiation of applicants privately, by those empowered to do so, in localities where there are no councils within a convenient distance.

Sec. 5. Any member of one subordinate council wishing to change his membership to another council, shall apply to the council to which he belongs, either in writing or orally through another member, and the question shall be decided by the council. If a majority are in favor of granting him an honorable dismission, he shall receive the same in writing, to be signed by the president and countersigned by the secretary. But until a member thus receiving an honorable dismission has actually been admitted to membership in another council, he shall be held subject to the discipline of the council from which he has received the dismission, to be dealt with by the same, for any violation of the requirements of the order. Before being received in the council, to which he wishes to transfer his membership, he shall present said certificate of honorable dismission, and shall be received as new members are.

Sec. 6. Applications for the second degree shall not be received except in second degree councils, and voted on by second and third degree members only, and applications for the third degree shall be received in third degree councils, and voted on by third degree members only.

Art. II.—Each subordinate council shall fix on its own time and place for meeting: and shall meet at least once a month, but where not very inconvenient, it is recommended that they meet once a week. Thirteen members shall form a quorum for the transaction of business. Special meetings may be called by the president, at any time, at the request of four members of the order.

Art. III.—Sec. 1. The members of each subordinate council shall consist of a president, vice president, instructor, secretary, treasurer, marshal, inside and outside sentinel, and shall hold their offices for the term of six months, or until their successors are elected and installed.

Sec. 2. The officers of each subordinate council (except the sentinels, who shall be appointed by the president), shall be elected at the first regular meetings in January and July, separately, and by ballot; and each shall receive a majority of all the votes cast to entitle him to an election. No member shall be elected to any office, unless he be present and signify his assent thereto at the time of his election. Any vacancy which may occur by death, resignation, or otherwise, shall be filled at the next meeting thereafter, in the manner and form above described.

Sec. 3. The President.—It shall be the duty of the president of each subordinate council, to preside in the council, and enforce a due observance of the constitution and rules of the order, and a proper respect for the state council and the national council; to have sole and exclusive charge of the charter and the constitution and ritual of the order, which he must always have with him when his council is in session, to see that all officers perform their respective duties; to announce all ballotings to the council; to decide all questions of order; to give the casting vote in all cases of a tie; to convene special meetings when deemed expedient; to draw warrants on the treasurer for all sums, the payment of which is ordered by the council; and to perform such other duties as are demanded of him by the constitutions and ritual of the order.

Sec. 4. The vice president of each subordinate council shall assist the president in the discharge of his duties, whilst his council is in session; and in his absence, shall perform all the duties of the president.

Sec. 5. The instructor shall perform the duties of the president, in the absence of the president and vice president, and shall, under the direction of the president, perform such duties as may be assigned to him by the ritual.

Sec. 6. The secretary shall keep an accurate record of the proceedings of the council. He shall write all communications, fill all notices, attest all warrants drawn by the president for the payment of money; he shall keep a correct roll of all the members of the council, together with their age, residence, and occupation, in the order in which they have been admitted; he shall, at the expiration of every three months, make out a report of all work done during that time, which report he shall forward to the secretary of the state council; and when superseded in his office shall deliver all books, papers, &c., in his hands, to his successor.

Sec. 7. The treasurer shall hold all moneys raised exclusively for the use of the state council, which he shall pay over to the secretary of the state council at its regular sessions, or whenever called upon by the president of the state council. He shall receive all moneys for the use of the subordinate council, and pay all amounts drawn for on him, by the presi-

dent of the subordinate council, if attested by the secretary.

Sec. 8.—The marshal shall perform such duties, under the direction of the president, as may be required of him by the ritual.

Sec. 9.—The inside sentinel shall have charge of the inner door, and act under the directions of the president. He shall admit no person, unless he can prove himself a member of this order, and of the same degree in which the council is opened, or by order of the president, or is satisfactorily vouched for.

Sec. 10.—The outside sentinel shall have charge of the outer door, and act in accordance with the orders of the president. He shall permit no person to enter the outer door unless he give the password of the degree in which the council is at work, or is properly vouched for.

Sec. 11.—The secretary, treasurer, and sentinels, shall receive such compensation as the subordinate councils may each conclude to allow.

Sec. 12.—Each subordinate council may levy its own fees for initiation, to raise a fund to pay its dues to the state council, and to defray its own expenses. Each council may, also, at its discretion, initiate without charging the usual fee, those it considers unable to pay the same.

Sec. 13.—The president shall keep in his possession the constitution and ritual of the order. He shall not suffer the same to go out of his possession under any pretence whatever, unless in case of absence, when he may put them in the hands of the vice president or instructor, or whilst the council is in session, for the information of a member wishing to see it, for the purpose of initiation, or conferring of degrees.

Art. IV.—Each subordinate council shall have power to adopt such by-laws, rules, and regulations, for its own government, as it may think proper, not inconsistent with the constitutions of the national and state councils.

Form of Application for a Charter to Organize a new Council.

Post Office —— county,
Date ——.

To ——

President of the State Council of North Carolina:—

We, the undersigned, members of the Third Degree, being desirous of extending the influence and usefulness of our organization, do hereby ask for a warrant of dispensation, instituting and organizing us as a subordinate branch of the order, under the jurisdiction of the State Council of the State of North Carolina, to be known and hailed as Council No. ——, and to be located at ——, in the county of ——, State of North Carolina.

And we do hereby pledge ourselves to be governed by the Constitution of the State Council of the State of North Carolina, and of the Grand Council of the U. S. N. A., and that we will, in all things, conform to the rules and usages of the order.

Names. Residences.

Form of Dismission from one Council to another.

This is to certify that Brother ——, a member of —— Council No. ——, having made an application to change his membership from this council to that of —— Council, No. ——, at ——, in the county of ——, I do hereby declare, that said brother has received an honorable dismission from this council, and is hereby recommended for membership in —— Council, No. ——, in the county of ——, N. C.; provided, however, that until Brother —— has been admitted to membership in said council, he is to be considered subject to the discipline of this council, to be dealt with by the same for any violation of the requirements of the order. This the —— day of ——, 185—, and the —— year of American Independence.

—— President, —— Council, No. ——.

—— Secretary.

Form of Certificate for Delegates to the State Council.

—— Council, No. ——,
—— county of ——, N. C.

This is to certify that —— and —— were at the regular meeting of this council, held on the ——, 185—, duly elected delegates to represent this council in the next annual meeting of the state council, to be held in ——, on the 3d Monday in November next. And by virtue of the authority in me reposed, I do hereby declare the said —— and —— to be invested with all the rights, powers, and privileges of the delegates as aforesaid. This being the —— day of ——, 185—, and the —— year of our national independence.

—— —— President of —— Council, No. ——

—— —— Secretary.

Form of Notice from the Subordinate Councils to the State Council, whenever any Member of a Subordinate Council is expelled.

—— Council, No. ——,
—— county of ——, N. C.

To the President of the State Council of North Carolina:

Sir:—This is to inform you that at a meeting of this council, held on the —— day of ——, 185—, —— —— was duly expelled from membership in said council, and thus deprived of all the privileges, rights, and benefits of this organization.

In accordance with the provision of the constitution of the state council, you are hereby duly notified of the same, that you may officially notify all the subordinate councils of the state to be upon their guard against the said ——, as one unworthy to associate with

patriotic and good men, and (*if expelled for violating his obligation*) as a perjurer to God and his country. The said —— is about —— years of age, and is by livelihood a ——.

Duly certified, this the —— day of —— 185—, and in the —— year of our national independence.

—— —— President of
—— Council, No. ——.

—— Secretary.

First Degree Council.

To be admitted to membership in this order, the applicant shall be—

1st. Proposed and found acceptable.

2d. Introduced and examined under the guarantee of secrecy.

3d. Placed under the obligation which the order imposes.

4th. Required to enroll his name and place of residence.

5th. Instructed in the forms and usages and ceremonies of the order.

6th. Solemnly charged as to the objects to be obtained, and his duties.

[A recommendation of a candidate to this order shall be received only from a brother of approved integrity. It shall be accompanied by minute particulars as to name, age, calling, and residence, and by an explicit voucher for his qualifications, and a personal pledge for his fidelity. These particulars shall be recorded by the secretary in a book kept for that purpose. The recommendation may be referred, and the ballot taken at such time and in such a manner as the state council may prescribe; but no communication shall be made to the candidate until the ballot has been declared in his favor. Candidates shall be received in the ante-room by the marshal and the secretary.]

OUTSIDE.

Marshal.—Do you believe in a Supreme Being, the Creator and Preserver of the universe.

Ans.—I do.

Marshal.—Before proceeding further, we require a solemn obligation of secrecy and truth. If you will take such an obligation, you will lay your right hand upon the Holy Bible and cross.

(When it is known that the applicant is a Protestant, the cross may be omitted, or affirmation may be allowed.)

OBLIGATION.

You do solemnly swear (or affirm) that you will never reveal anything said or done in this room, the names of any persons present, nor the existence of this society, whether found worthy to proceed or not, and that all your declarations shall be true, so help you God?

Ans.—"I do."

Marshal.—Where were you born?

Marshal.—Where is your permanent residence?

(If born out of the jurisdiction of the United States, the answer shall be written, the candidate dismissed with an admonition of secrecy, and the brother vouching for him suspended from all the privileges of the order, unless upon satisfactory proof that he has been misinformed.)

Marshal.—Are you twenty-one years of age?

Ans.—"I am."

Marshal.—Were you born of Protestant parents, or were you reared under Protestant influence?

Ans.—"Yes."

Marshal.—If married, is your wife a Roman Catholic?

("No" or "Yes"—the answer to be valued as the Constitution of the State Council shall provide.)

Marshal.—Are you willing to use your influence and vote only for native-born American citizens for all offices of honor, trust, or profit in the gift of the people, to the exclusion of all foreigners and aliens, and Roman Catholics in particular, and without regard to party predilections?

Ans.—"I am."

INSIDE.

(The marshal shall then repair to the council in session, and present the written list of names, vouchers, and answers to the president, who shall cause them to be read aloud, and a vote of the council to be taken on each name, in such manner as prescribed by its by-laws. If doubts arise in the ante-room, they shall be referred to the council. If a candidate be dismissed, he shall be admonished to secrecy. The candidates declared elected shall be conducted to seats within the council, apart from the brethren. When all are present the president, by one blow of the gavel, shall call to order and say:)

President.—Brother marshal, introduce the candidates to the vice president.

Marshal.—Worthy Vice President, I present to you these candidates, who have duly answered all questions.

Vice President, rising in his place.—Gentlemen, it is my office to welcome you as friends. When you shall have assumed the patriotic vow by which we are all bound, we will embrace you as brothers. I am authorized to declare that our obligations enjoin nothing which is inconsistent with the duty which every good man owes to his Creator, his country, his family, or himself. We do not compel you, against your convictions, to act with us in our good work; but should you at any time wish to withdraw, it will be our duty to grant you a dismissal in good faith. If satisfied with this assurance, you will rise upon your feet (*pausing till they do so*), place the left hand upon the breast, and raise the right hand towards heaven.

(The brethren to remain seated till called up.)

OBLIGATION.

In the presence of Almighty God and these witnesses, you do solemnly promise and swear, that you will never betray any of the secrets of this society, nor communicate them even to proper candidates, except within a lawful council of the order; that you never will permit any of the secrets of this society to be written, or in any other manner made legible, except for the purpose of official instruction; that you will not vote, nor give your influence for any man, for any office in the gift of the people, unless he be an American born citizen, in favor of Americans ruling America, nor if he be a Roman Catholic; that you will in all political matters, so far as this order is concerned, comply with the will of the majority, though it may conflict with your personal preference, so long as it does not conflict with the Constitution of the United States of America, or that of the state in which you reside; that you will not, under any circumstances whatever, knowingly recommend an unworthy person for initiation, nor suffer it to be done, if in your power to prevent it; that you will not, under any circumstances, expose the name of any member of this order, nor reveal the existence of such an association; that you will answer an *imperative notice* issued by the proper authority; obey the command of the state council, president, or his deputy, while assembled by such notice, and respond to the claim of a *sign* or a *cry* of the order, unless it be physically impossible; and that you will acknowledge the State Council of ——— as the legislative head, the ruling authority, and the supreme tribunal of the order in the state of ———, acting under the jurisdiction of the National Council of the United States of North America.

Binding yourself in the penalty of excommunication from the order, the forfeiture of all intercourse with its members, and being denounced in all the societies of the same, as a wilful traitor to your God and your country.

(The president shall call up every person present, by three blows of the gavel, when the candidates shall all repeat after the vice president in concert:)

All this I voluntarily and sincerely promise, with a full understanding of the solemn sanctions and penalties.

Vice President.—You have now taken solemn oaths, and made as sacred promises as man can make, that you will keep all our secrets inviolate; and we wish you distinctly to understand that he that takes these oaths and makes these promises, and then violates them, leaves the foul, the deep and blighting stain of perjury resting on his soul.

President.—(Having seated all by one blow of the gavel.)—Brother Instructor, these new brothers having complied with the demands of the order, are entitled to the secrets and privileges of the same. You will, therefore, invest them with everything appertaining to the first degree.

Instructor.—Brothers: the practices and proceedings in our order are as follows:

We have pass-words necessary to be used to obtain admission to our councils; forms for our conduct while there; means of recognising each other when abroad; means of mutual protection; and methods for giving notices to members.

At the outer door you will* (*make any ordinary alarm* to attract the notice of the outside sentinel).

When the wicket is opened you will pronounce the (*words—what's the pass*), in a whisper. The outside sentinel will reply (*Give it*), when you will give the term pass-word and be admitted to the ante-room. You will then proceed to the inner door and give (one rap). When the wicket is opened, give your name, the number of, and location of your council, the explanation of the term pass, and the degree pass-word.

If these be found correct, you will be admitted; if not, your name will be reported to the vice president, and must be properly vouched for before you can gain admission to the council. You will then proceed to the centre of the room and address the (*President*) with the countersign, which is performed thus (*placing the right hand diagonally across the mouth*). When this salutation is recognized, you will quietly take your seat.

This sign is peculiar to this degree, and is never to be used outside of the council room, nor during the conferring of this degree. When retiring, you will address the (*Vice President*) in the same manner, and also give the degree pass-word to the inside sentinel.

The "term pass-word" is (*We are*).

(The pass-word and explanation is to be established by each State Council for its respective subordinates.)

The "explanation" of the "term-pass," to be used at the inner door, is (*our country's hope.*)

The "degree pass-word" is (*Native*).

The "travelling pass-word" is (*The memory of our pilgrim fathers*).

(This word is changed annually by the President of the National Council of the United States, and is to be made and used only when the brother is travelling beyond the jurisdiction of his own state, district, or territory. It and all other pass-words must be communicated in a whisper, and no brother is entitled to communicate them to another, without authority from the presiding officer.)

"The sign of recognition" is (*grasping the right lappel of the coat with the right hand, the fore finger being extended inwards.*)

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* In the Ritual the words in parentheses are omitted. In the key to the Ritual, they are written in figures—the alphabet used being the same as printed below. So throughout.

Key to Unlock Communications.

A	B	C	D	E	F	G	H	I	J	K	L	M
1	7	13	19	25	2	8	14	20	26	3	9	15
N	O	P	Q	R	S	T	U	V	W	X	Y	Z
21	4	10	16	22	5	11	17	23	6	12	18	24

The "answer" is given by (*a similar action with the left hand*).

The "grip" is given by (*an ordinary shake of the hand*).

The person challenging shall (*then draw the fore finger along the palm of the hand*). The answer will be given by (*a similar action forming a link by hooking together the ends of the fore finger*); when the following conversation ensues—the challenging party first saying (*is that yours?*) The answer, (*it is.*) Then the response (*how did you get it?*), followed by the rejoinder (*it is my birth-right*).

Public notice for a meeting is given by means of a (*piece of white paper the shape of a heart*).

(In cities* the *** of the *** where the meeting is to be held, will be written legibly upon the notice; and upon the election day said *** will denote the *** where your presence is needed. This notice will never be passed, but will be *** or thrown upon the sidewalk with a *** in the centre.)

If information is wanting of the object of the gathering, or of the place, &c., the inquirer will ask of an undoubted brother (*where's when?*) The brother will give the information if possessed of it; if not, it will be yours and his duty to continue the inquiry, and thus disseminate the call throughout the brotherhood.

If the color of *the paper* (be *red*), it will denote actual trouble, which requires that you come prepared to meet it.

The "cry of distress"—to be used only in time of danger, or where the American interest requires an immediate assemblage of the brethren—is (*oh, oh, oh.*) The response is (*hio, hio, h-i-o.*)

The "sign of caution"—to be given when a brother is speaking unguardedly before a stranger—is (*drawing the fore finger and thumb together across the eyes, the rest of the hand being closed*), which signifies "keep dark."

Brothers, you are now initiated into and made acquainted with the work and organization of a council of this degree of the order; and the marshal will present you to the worthy president for admonition.

President.—It has, no doubt, been long apparent to you, brothers, that foreign influence and Roman Catholicism have been making steady and alarming progress in our country. You cannot have failed to observe the significant transition of the foreigner and Romanist from a character quiet, retiring, and even abject, to one bold, threatening, turbulent, and despotic in its appearance and assumptions. You must have become alarmed at the systematic and rapidly augmenting power of these dangerous and unnatural elements of our national condition. So it is, brothers, with others beside yourselves in every state of the Union. A sense of danger has struck the great heart of the nation. In every city, town, and hamlet, the danger has been seen and the alarm sounded. And hence true men have devised this order as a means of disseminating patriotic principles, of keeping alive the fire of national virtue, of fostering the national intelligence, and of advancing America and the American interest on the one side, and on the other of checking the strides of the foreigner or alien, or thwarting the machinations and subverting the deadly plans of the papist and Jesuit.

Note.—The President shall impress upon the initiates the importance of secrecy, the manner of proceeding in recommending candidates for initiation, and the responsibility of the duties which they have assumed.

SECOND DEGREE COUNCIL.

Marshal.—Worthy President: These brothers have been duly elected to the second degree of this order. I present them to you for obligation.

President.—Brothers: You will place your left hand upon your right breast, and extend your right hand towards the flag of our country, preparatory to obligation. (Each council room should have a neat American flag festooned over the platform of the President.)

OBLIGATION.

You, and each of you, of your own free will and accord, in the presence of Almighty God and these witnesses, your left hand resting upon your right breast, and your right hand extended to the flag of your country, do solemnly and sincerely swear, that you will not under any circumstances disclose in any manner, nor suffer it to be done by others, if in your power to prevent it, the name, signs, passwords, or other secrets of this degree, except in open council for the purpose of instruction; that you will in all things conform to all the rules and regulations of this order, and to the constitution and by-laws of this or any other council to which you may be attached, so long as they do not conflict with the Constitution of the United States, nor that of the state in which you reside; that you will under all circumstances, if in your power so to do, attend to all regular signs or summons that may be thrown or sent to you by a brother of this or or any other degree of this order; that you will support in all political matters, for all political offices, members of this order in preference to other persons; that if it may be done legally, you will, when elected or appointed to any official station conferring on you the power to do so, remove all foreigners, aliens, or Roman Catholics from office or place, and that you will in no case appoint such to any office or place in your gift. You do also promise and swear that this and all other obligations which you have previously taken in this order, shall ever be kept through life sacred and inviolate. All this you promise and declare, as Americans, to sustain and abide by, without any

* Concerning what is said of cities, the key to the Ritual says: "Considered unnecessary to decipher what is said in regard to cities."

hesitation or mental reservation whatever. So help you God and keep you steadfast.

(Each will answer "I do.")

President.—Brother Marshal, you will now present the brothers to the instructor for instructions in the second degree of the order.

Marshal.—Brother Instructor, by direction of our worthy president, I present these brothers before you that you may instruct them in the secrets and mysteries of the second degree of the order.

Instructor.—Brothers, in this degree we have an entering sign and a countersign. At the outer door proceed (*as in the first degree*). At the inner door you will make (*two raps*), and proceed as in the first degree, giving the second degree pass-word, which is *American*, instead of that of the first degree. If found to be correct, you will then be admitted, and proceed (*to the centre of the room*), giving the countersign, which is made thus (*extending the right arm to the national flag over the president, the palm of the hand being upwards*).

The sign of recognition in this degree is the same as in the first degree, with the addition of (*the middle finger*), and the response to be made in a (*similar manner*).

Marshal, you will now present the brothers to the worthy president for admonition.

Marshal.—Worthy President, I now present these candidates to you for admonition.

President.—Brothers, you are now duly initiated into the second degree of this order. Renewing the congratulations which we extended to you upon your admission to the first degree, we admonish you by every tie that may nerve patriots, to aid us in our efforts to restore the political institutions of our country to their original purity. Begin with the youth of our land. Instil into their minds the lessons of our country's history—the glorious battles and the brilliant deeds of patriotism of our fathers, through which we received the inestimable blessings of civil and religious liberty. Point them to the example of the sages and the statesmen who founded our government. Implant in their bosoms an ardent love for the Union. Above all else, keep alive in their bosoms the memory, the maxims, and the deathless example of our illustrious WASHINGTON.

Brothers, recalling to your minds the solemn obligations which you have severally taken in this and the first degree, I now pronounce you entitled to all the privileges of membership in this the second degree of our order.

THIRD DEGREE COUNCIL.

Marshal.—Worthy President, these brothers having been duly elected to the third degree of this order, I present them before you for obligation.

President.—Brothers, you will place yourselves in a circle around me, each one crossing your arms upon your breasts, and grasping firmly each other's hands, holding the right hand of the brother on the right, and the left hand of the brother on the left, so as to form a circle, symbolical of the links of an unbroken chain, and of a ring which has no end.

Note.—This degree is to be conferred with the national flag elevated in the centre of the circle, by the side of the president or instructor, and not on less than five at any one time, in order to give it solemnity, and also for the formation of the circle—except in the first instance of conferring it on the officers of the state and subordinate councils, that they may be empowered to progress with the work.

The obligation and charge in this degree may be given by the president or instructor, as the president may prefer.

OBLIGATION.

You, and each of you, of your own free will and accord, in the presence of Almighty God and these witnesses, with your hands joined in token of that fraternal affection which should ever bind together the states of this Union—forming a ring, in token of your determination that, so far as your efforts can avail, this Union shall have no end—do solemnly and sincerely swear [or affirm] that you will not under any circumstances disclose in any manner, nor suffer it to be done by others if in your power to prevent it, the name, signs, pass-words, or other secrets of this degree, except to those to whom you may prove on trial to be brothers of the same degree, or in open council, for the purpose of instruction; that you do hereby solemnly declare your devotion to the Union of these states; that in the discharge of your duties as American citizens, you will uphold, maintain, and defend it; that you will discourage and discountenance any and every attempt, coming from any and every quarter, which you believe to be designed or calculated to destroy or subvert it, or to weaken its bonds; and that you will use your influence, so far as in your power, in endeavoring to procure an amicable and equitable adjustment of all political discontents or differences which may threaten its injury or overthrow. You further promise and swear [or affirm] that you will not vote for any one to fill any office of honor, profit, or trust of a political character, whom you know or believe to be in favor of a dissolution of the Union of these states, or who is endeavoring to produce that result; that you will vote for and support for all political offices, third or union degree members of this order in preference to all others; that if it may be done consistently with the constitution and laws of the land, you will, when elected or appointed to any official station which may confer on you the power to do so, remove from office or place all persons whom you know or believe to be in favor of a dissolution of the Union, or who are endeavoring to produce that result; and that you will in no case appoint such persons to any political office or place whatever. All this you promise and swear [or affirm] upon your honor as American citizens and friends of the Ame-

rican Union, to sustain and abide by without any hesitation or mental reservation whatever. You also promise and swear [or affirm] that this and all other obligations which you have previously taken in this order, shall ever be kept sacred and inviolate. To all this you pledge your lives, your fortunes, and your sacred honors. So help you God and keep you steadfast.

(Each one shall answer, "I do.")

President.—Brother Marshal, you will now present the brothers to the instructor for final instruction in this the third degree of the order.

Marshal.—Instructor, by direction of our worthy president, I present these brothers before you that you may instruct them in the secrets and mysteries of this the third degree of our order.

Instructor.—Brothers, in this degree as in the second, we have an entering password, a degree password, and a token of salutation. At the outer door (*make any ordinary alarm.* The outside sentinel will *say U; you say ni;* the sentinel will rejoin *on*). This will admit you to the inner door. At the inner door you will make (*three*) distinct (*raps*). Then announce your name, with the number (or name) and location of the council to which you belong, giving the explanation to the password, which is (*safe*). If found correct, you will then be admitted, when you will proceed to the centre of the room, and placing the (*hands on the breast with the fingers interlocked*), give the token of salutation, which is (*by bowing to the president*). You will then quietly take your seat.

The sign of recognition is made by the same action as in the second degree, with the addition of (*the third finger*), and the response is made by (a similar action with *the left hand*).

(The grip is given by taking hold of the *hand in the usual way*, and then by *slipping the fingers around on the top of the thumb;* then extending the *little finger and pressing the inside* of the *wrist*. The person challenging shall say, *do you know what that is?* The answer is *yes*. The challenging party shall say, further, *what is it?* The answer is, *Union.*)

[The instructor will here give the grip of this degree, with explanations, and also the true password of this degree, which is (*Union.*)]

CHARGE.

To be given by the president.

Brothers, it is with great pleasure that I congratulate you upon your advancement to the third degree of our order. The responsibilities you have now assumed, are more serious and weighty than those which preceded, and are committed to such only as have been tried and found worthy. Our obligations are intended as solemn avowals of our duty to the land that gave us birth; to the memories of our fathers; and to the happiness and welfare of our children. Consecrating to your country a spirit unselfish and a fidelity like that which distinguished the patriots of the Revolution, you have pledged your aid in cementing the bonds of a Union which we trust will endure for ever. Your deportment since your initiation has attested your devotion to the principles we desire to establish, and has inspired a confidence in your patriotism, of which we can give no higher proof than your reception here.

The dangers which threaten American liberty arise from foes without and from enemies within. The first degree pointed out the source and nature of our most imminent peril, and indicated the first measure of safety. The second degree defined the next means by which, in coming time, such assaults may be rendered harmless. The third degree, which you have just received, not only reiterates the lessons of the other two, but it is intended to avoid and provide for a more remote, but no less terrible danger, from domestic enemies to our free institutions.

Our object is briefly this:—to perfect an organization modelled after that of the Constitution of the United States, and co-extensive with the confederacy. Its object and principles, in all matters of national concern, to be uniform and identical, whilst in all local matters the component parts shall remain independent and sovereign within their respective limits.

The great result to be attained—the only one which can secure a perfect guarantee as to our future—is UNION; permanent, enduring, fraternal UNION! Allow, me, then, to impress upon your minds and memories the touching sentiments of the Father of his Country, in his Farewell Address:—

"The unity of government which constitutes you one people," says Washington, "is justly dear to you, for it is the main pillar in the edifice of your real independence, the support of your tranquillity at home, of your peace abroad, of your safety, your prosperity —even that liberty you so justly prize.

" * * It is of infinite moment that you should properly estimate the immense value of your *National Union*, to your collective and individual happiness. You should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it, as the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now bind together the various parts."

Let these words of paternal advice and warning, from the greatest man that ever lived, sink deep into your hearts. Cherish them, and teach your children to reverence them, as you cherish and reverence the memory of Washington himself. The Union of these states is the great conservator of that

liberty so dear to the American heart. Without it, our greatness as a nation would disappear, and our boasted self-government prove a signal failure. The very name of liberty, and the hopes of struggling freedom throughout the world, must perish in the wreck of this Union. Devote yourselves, then, to its maintenance, as our fathers did to the cause of independence; consecrating to its support, as you have sworn to do, your lives, your fortunes, and your sacred honors.

Brothers: Recalling to your minds the solemn obligations which you have severally taken in this and the preceding degrees, I now pronounce you entitled to all the privileges of membership in this organization, and take pleasure in informing you that you are now members of the order of (*the American Union*).

Officers of the National Council.—President, James W. Barker, of New York, N. Y. Vice President, W. W. Williamson, of Alexandria, Va. Corresponding Secretary, C. D. Deshler, of New Brunswick, N. J. Recording Secretary, James M. Stephens, of Baltimore, Md. Treasurer, Henry Crane, of Cincinnati, Ohio. Inside Sentinel, John P. Hilton, of Washington, D. C.

Arkansas.

At the second session of the 15th Congress, the subject of erecting the southern part of Missouri territory into a new territory, to be called Arkansas, engaged the attention of Congress. A bill to that effect was reported to the House.

Mr. Taylor of N. Y., on the 18th of Feb., 1819, moved to amend the same by inserting the following proviso therein:—

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted.

"And that all children born within the said state, after the admission thereof into the Union, shall be free at the age of 25 years."

The question was divided and taken on the first branch first, with the following result:—

Yeas.—Messrs. Adams and Allen of Mass., Anderson of Pa., Barber of Ohio, Bateman of N. J., Bennett of N. J., Boden of Pa., Boss of R. I., Comstock of N. Y., Crafts of Vt., Cushman of N. Y., Darlington of Pa., Drake of N. Y., Folger of Mass., Fuller of Mass., Hall of Del., Hasbrouck of N. Y., Hendricks of Ind., Herrick of O., Heister of Pa., Hitchcock of O., Hostetter of Pa., Hubbard of N. Y., Hunter of Vt., Huntington of Conn., Irving of N. Y., Lawyer of N. Y., Lincoln of Mass., Linn of N. J., Livermore of N. H., W. Maclay of Pa., W. P. Maclay of Pa., Marchand of Pa., Mason of R. I., Morrill of Vt., Robert Moore of Pa., Samuel Moore of Pa., Morton of Mass., Moseley of Conn., Murray of Pa., J. Nelson of Mass., Ogle of Pa., Orr of Mass., Palmer of N. Y., Patterson of Pa., Pawling of Pa., Rice of Mass., Rich of Vt., Richards of Vt., Rogers of Pa., Ruggles of Mass., Sampson of Mass., Savage of N. Y., Scudder of N. Y., Seybert of Pa., Sherwood, Southard of N. J., Spencer of N. Y., Tallmadge of N. Y., Tarr of Pa., Taylor of N. Y., Terry of Conn., Tompkins of N. Y., Townsend of N. Y., Wallace of Pa., Wendover of N. Y., Whiteside of Pa., Williams of Conn., Williams of N. Y., and Wilson of Pa.—70.

Nays.—Messrs. Anderson of Ky., Austin of Va., Ball of Va., Barbour of Va., Bassett of Va., Bayley of Md., Beecher of O., Bloomfield of N. J., Blount of Tenn., Bryan of N. C., Burwell of Va., Butler of La., Cobb of Geo., Cook of Geo., Crawford of Geo., Culbreth of Md., Desha of Ky., Earl of S. C., Edwards of N. C., Garnett of Va., Hall of N. C., Harrison of O., Hogg of Tenn., Holmes of Mass., Johnson of Va., Johnson of Ky., Jones of Tenn., Kinsey of N. J., Lewis of Va., Little of Md., Lowndes of S. C., McCoy of Va., Marr of Tenn., Mason of Mass., H. Nelson of Va., T. M. Nelson of Va., New of Ky., Newton of Va., Ogden of N. Y., Owen of N. C., Parrott of N. H., Pegram of Va., Peter of Md., Pindall of Va., Pleasants of Va., Porter of N. Y., Quarles of Ky., Reed of Geo., Rhea of Tenn., Robertson of Ky., Sawyer of N. C., Settle of N. C., Shaw of Mass., Simpkins of S. C., Slocum of N. C., L. Smith of Md., A. Smyth of Va., I. S. Smith of N. C., Speed of Ky., Stewart of N. C., Storrs of N. Y., Stuart of Md., Terrell of Geo., Trimble of Ky., Tucker of Va., Tucker of S. C., Tyler of Va., Walker of N. C., and Williams of N. C.—71.

So the first part of the proviso was lost.

The second part of it was adopted by a vote of yeas 75, nays 73.

All who voted for the first amendment voted for this, except Mr. Allen of Mass., who was absent and not voting.

In addition thereto, Messrs. Ellicott of N. Y., Gilbert of Conn., Kirtland of N. Y., Mills of Mass., Schuyler of N. Y., Westerlo of N. Y., Williams of N. C., voted in the affirmative on this amendment.

Mr. Williams of N. C. had voted in the affirmative for the purpose of moving a reconsideration, which he did; but which was lost by a vote of yeas 77, nays 79.

On the 19th of Feb., 1819, Mr. Robertson moved to recommit the bill to a select committee, with instructions to strike out the amendment freeing slave children born in said territory, after they had reached the age of 25 years.

The vote on Mr. Robertson's motion was yeas 88, nays 88.

The Speaker voted in the affirmative, so the motion was carried.

The committee was appointed by the Speaker, and they amended the bill according to instructions, and struck out the amendment before referred to.

Upon the motion to concur with the select committee in striking out, the vote was yeas 89, nays 87; so the house resolved to strike out the said amendment.

But one Southern man, Mr. Hale of Delaware, voting no.

The entire North, with the exception of Messrs. Baldwin of Pa., Beecher of Ohio, Campbell of Ohio, Cruger of N. Y., Harrison of Ohio, Holmes of Mass., Kinsey of N. Y., Mason of Mass., Ogden of N. Y., Parrott of N. H., Shaw of Mass., and Storrs of N. Y., who voted aye, voted in the negative on this vote.

Mr. Taylor of N. Y. then moved an amendment "that during the existence of the territorial government of Arkansas, no slaves shall be brought into the said territory to remain for a longer time than nine months from the date of their arrival."

Mr. Taylor's amendment was lost by yeas 86, nays 90.

It is not deemed necessary to give this vote, its character being so similar to the previous one.

Mr. Taylor then moved an amendment in the shape of what was afterwards known as the Missouri Compromise, which amendment he afterwards withdrew.

The bill passed the house on the 20th of February, 1819.

In the Senate, on the 1st of March, 1819, Mr. Burrill of R. I. moved to recommit the bill with instructions to amend the same, so as to prohibit slavery in the said territory.

The ayes and noes on the adoption of Mr. Burrill's amendment were as follows:—

YEAS.—Messrs. Burrill of R. I., Daggett of Conn., Dana, Dickenson of N. J., Lacock of Pa., Mellen of Mass., Noble of Ind., Roberts of Pa., Ruggles of O., Sanford of N. Y., Storer of N. H., Tickener of Vt., Wilson of N. J.—14.

NAYS.—Messrs. Barbour of Va., Crittenden of Ky., Eaton of Tenn., Edwards of Ill., Eppes of Va., Fromentin of La., Gaillard of S. C., Goldsborough of Md., Johnson of La., Leake of Miss., Macon of N. C., Morrow of O., Stokes of N. C., Tait of Ga., Talbot of Ky., Taylor of Ind., Thomas of Ill., Williams of Miss., Williams of Tenn.—19.

The bill was then passed and approved by the President on the 2d of March, 1819.

On the 22d of March, 1836, the bill for the admission of Arkansas into the Union was reported in the Senate by Mr. Buchanan from a select committee, to whom had been referred the memorial of the territory of Arkansas on the subject.

On the 4th of April, 1836, the bill was passed by yeas and nays as follows:—

YEAS.—Messrs. Benton of Mo., Brown of N. C., Buchanan of Pa., Calhoun of S. C., Clayton of Del., Cuthbert of Ga., Ewing of Ill., Ewing of O., Grundy of Tenn., Hendricks of Ind., Hill of N. H., Hubbard of N. Y., King of Ala., King of Ga., Linn of Mo., McKean of Pa., Mangum of N. C., Moore of Ala., Morris of O., Nicholas of La., Niles of Conn., Preston of S. C., Rives of Va., Robinson of Ill., Ruggles of Me., Shepley of Me., Tallmadge of N. Y., Tipton of Ind., Walker of Miss., White of Tenn., Wright of N. Y.—31.

NAYS.—Messrs. Clay of Ky., Knight of R. I., Porter of La., Prentiss of Vt., Robbens of R. I., Swift of Vt.—6.

On the 9th of June, 1836, the bill from the Senate for the admission of Arkansas into the Union being under consideration in the committee of the whole of the House of Representatives, Mr. Adams moved to amend the bill by introducing a clause, "that nothing in the act shall be construed as to an assent by Congress to the article in the constitution of said state in relation to slavery and the emancipation of slaves."

Mr. Cushing of Mass. addressed the committee against the admission of Arkansas with her pro-slavery constitution, as did also Mr. Briggs of the same state. The question was then taken on the amendment of Mr. Adams, and it was rejected by a vote of yeas 98, nays 32. There were no yeas and nays in committee of the whole, so this vote was not taken in that way.

Mr. Adams endeavored to bring his amendment before the House when the bill was taken out of committee, but failed to get the floor for that purpose.

The bill was passed on the 13th of June, 1836, by a vote of yeas 143, nays 50.

The negative vote was as follows:—

Messrs. Adams of Mass., Allen of Vt., Anthony of Pa., Bailey of Me., Bond of O., Borden of Mass., Briggs of Mass., Calhoun of Mass., Childs of N. Y., Clark of Pa., Crane of O., Cushing of Mass., Darlington of Pa., Denny of Pa., Evans of Me., Everett of Vt., P. C. Fuller of N. Y., Grennell of Mass., Hall of Vt., Hard of N. Y., Harper of Pa., Hazletine of N. Y., Henderson of N. Y., Heister of Pa., Hoar of Mass., Jackson of Mass., Janes of Vt., Jones of Va., Laporte of Pa., Lawrence of Mass., Lay, of N. Y., Lincoln of Mass., Love of N. Y., Mason of Ohio, McCarty of Ind., McKennan of Pa., Morris of Pa., Parker of N. J., Pearce of Md., Phillips of Mass., Potts of Pa., Reed of Mass., Russell of N. Y., Shinn of N. J., Slade of Vt., John Thomson of O., Underwood of Ky., Vinton of O., Whittlesey of O., and Williams of N. C.

On the 16th of June the act was approved by the President, and became a law.

Articles of Confederation, &c.

To all to whom these presents shall come. We, the undersigned, delegates of the States affixed to our names, send greeting:—

Whereas, the Delegates of the United States of America, in Congress assembled, did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz.:—

Articles of confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

Article 1. The style of this confederacy shall be "The United States of America."

Art. 2. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

Art. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretext whatever.

Art. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this Union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the in-

habitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided, also, that no imposition, duties, or restriction, shall be laid by any state on the property of the United States, or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor, or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Art. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time, within the year, and to send others in their stead for the remainder of the year.

No state shall be represented in Congress by less than two nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding an office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

Art. 6. No state, without the consent of the United States in Congress assembled, shall send an embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purpose for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace, by any state, except such number as shall be deemed necessary by the United States in Congress assembled, for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, or letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Art. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

Art. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and im-

provements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in Congress assembled.

Art. 9. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article: of sending and receiving ambassadors: entering into treaties and alliances: provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever: of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated: of granting letters of marque and reprisal, in times of peace: appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures; provided, that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each state, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence, and other proceedings, being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:" provided also, that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction as they may respect such lands and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States: regulating the trade and managing all affairs with Indians not members of any of the states; provided, that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office: appointing all officers of the land forces in the service of the United States, excepting regimental officers: appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated "a committee of the states;" and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction: to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years: to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses: to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy: to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in each state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled; But if the United States in Congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot safely be spared out of the same: In which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can safely be spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Art. 10. The committee of the states, or any nine of them, shall be authorized to execute in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the Congress of the United States assembled is requisite.

Art. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this Union, but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

Art. 12. All bills of credit emitted, moneys borrowed, debts contracted, by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

Art. 13. Every state shall abide by the determination of the United States in Congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislature of every state.

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve and to authorize us to ratify the said articles of confederation and perpetual union: Know ye, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said

articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which, by the said confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the state of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

On the part and behalf of the State of New Hampshire.

Josiah Bartlett, John Wentworth, Jr., August 8, 1778.

On the part and bebalf of the State of Massachusetts Bay.

John Hancock, Francis Dana,
Samuel Adams, James Lovell,
Elbridge Gerry, Samuel Holten.

On the part and behalf of the State of Rhode Island and Providence Plantations.

William Ellery, John Collins.
Henry Marchant,

On the part and behalf of the State of Connecticut.

Roger Sherman, Titus Hosmer,
Samuel Huntington, Andrew Adams.
Oliver Wolcott,

On the part and behalf of the State of New York.

Jas. Duane, Wm. Duer,
Fra. Lewis, Gouv. Morris.

On the part and behalf of the State of New Jersey.

Jno. Witherspoon, Nath. Scudder, Nov. 26, 1778.

On the part and behalf of the State of Pennsylvania.

Robt. Morris, William Clingan,
Daniel Roberdeau, Joseph Reed, 22d July, 1778.
Jona. Bayard Smith,

On the part and behalf of the State of Delaware.

Tho. M'Kean, Feb. 13, 1779. Nicholas Van Dyke.
John Dickinson, May 5, 1779.

On the part and behalf of the State of Maryland.

John Hanson, Mar. 1, 1781. Daniel Carroll, Mar. 1, 1781.

On the part and behalf of the State of Virginia.

Richard Henry Lee, Jno. Harvie,
John Banister, Francis Lightfoot Lee.
Thomas Adams,

On the part and behalf of the State of North Carolina.

John Penn, July 21, 1778, Jno. Williams.
Corns. Harnett,

On the part and behalf of the State of South Carolina.

Henry Laurens, Richard Hutson,
William Henry Drayton, Thos. Heyward, Jr.
Jno. Matthews,

On the part and behalf of the State of Georgia.

Jno. Walton, July 24, 1778. Edwd. Langworthy.
Edwd. Telfair,

[NOTE.—From the circumstance of delegates from the same state having signed the articles of confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in Congress, after they had been authorized by their constituents.]

[The above articles of confederation continued in force until the 4th day of March, 1789, when the Constitution of the United States took effect.]

Atherton, Charles G.

CELEBRATED RESOLUTIONS OF.

In the House of Representatives, on the 11th Dec., 1838, Mr. Atherton, a Democratic member from New Hampshire, asked leave to introduce the following resolutions:—

"Resolved, That this government is a government of limited powers, and that by the Constitution of the United States, Congress has no jurisdiction whatever over the institution of slavery in the several states of the confederacy.

"Resolved, That petitions for the abolition of slavery in the District of Columbia and the territories of the United States, and against the removal of slaves from one state to another, are a part of a plan of operations set on foot to affect the institution of slavery in the several states, and thus indirectly to destroy that institution within their limits.

"Resolved, *That Congress has no right to do that indirectly, which it cannot do directly:* and that the agitation of the subject of slavery in the District of Columbia or the territories as a means, and with the view of disturbing or overthrowing that institution in the several states, is against the true spirit and meaning of the Constitution, an infringement of the right of the states affected, and a breach of the public faith upon which they entered into the confederacy.

"Resolved, *That the Constitution rests on the broad principle of equality among the members of this confederacy,* and that Congress, in the exercise of its acknowledged powers, has no right to discriminate between the institutions of one portion of the states and another, with a view of abolishing the one and promoting the other.

"Resolved, therefore, *That all attempts on the part of Congress to abolish slavery in the District of Columbia or the territories, or to prohibit the removal of slaves from state to state, or to discriminate between the institutions of one portion of the confederacy and another with the views aforesaid, are in violation of the Constitution, destructive of the fundamental principle on which the union of these states rests, and beyond the jurisdiction of Congress;* and that every petition, memorial, resolution, proposition, or paper, touching or relating in any way or to any extent whatever to slavery as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table without being debated, printed, or referred."

Mr. Cushing, of Mass., objected to their introduction. Mr. Atherton moved to suspend the rules, which was carried.

Mr. Wise of Va., repudiated them as Southern resolutions, denounced them as a plot sprung upon the South, and said as a Southern representative he was not there on the subject of abolition.

Mr. Biddle of Pa., declined to vote upon the second resolution, as it designed to place him in a false light for the mere transient purposes of party.

Mr. Wise refused to vote on any of the resolutions, and said the fifth resolution admitted the right to petition on the subject.

Mr. Kennedy of Md., endeavored to correct the bad grammar of the fourth resolution.

Mr. Wise moved to strike out the words "*with the views aforesaid,*" in the fifth resolution; but the motion was ruled out of order.

Mr. Wise then remarked that "these are the words that sold the South."

Mr. Dawson of Ga., said, that in voting for the fifth resolution, he would do so omitting the words "*with the views aforesaid.*" Congress had no constitutional power for *any* "*views,*" or for any purposes whatever, to interfere with the question.

Messrs. Pope and Chambers of Ky., declined voting on the second branch of the last resolution, for the reason that they did not wish to affirm the reception of abolition petitions, and because it was inconsistent with the propositions already adopted.

That part of the third, fourth, and fifth resolutions *italicised* being the first branch, and that part not *italicised* being the second branch of each.

The following Table shows the vote adopting the first and second, and each branch of the remaining resolutions:—

MEMBERS' NAMES.	Vote on the 1st resolution.	On the 2d resolution.	On 1st branch of 3d resolution.	On 2d branch of 3d resolution.	On 1st branch of 4th resolution.	On 2d branch of 4th resolution.	On 1st branch of 5th resolution.	On 2d branch of 5th resolution.	MEMBERS' NAMES.	Vote on the 1st resolution.	On the 2d resolution.	On 1st branch of 3d resolution.	On 2d branch of 3d resolution.	On 1st branch of 4th resolution.	On 2d branch of 4th resolution.	On 1st branch of 5th resolution.	On 2d branch of 5th resolution.
Adams of Mass.	nay	nay	nay	nay	nay	nay	nay	nay	Gray of N. Y.	yea	yea	yea	yea	yea	yea	yea	nay
Alexander of Ohio	yea	nay	yea	yea	yea	yea		nay	Grennell of Mass.	yea	nay	nay	nay		nay	nay	nay
Allen of Vt.	yea	nay	nay	nay	nay	nay	nay	nay	Griffin of S. C.	yea	yea	yea	yea	yea	yea	yea	
Allen of Ohio	yea	nay	yea	yea	yea	yea	yea	nay	Haley of Conn.	yea		yea	yea	yea	yea	nay	nay
Anderson of Me.	yea	yea	yea	yea	yea	yea	yea	yea	Hall of Vt.	yea	nay	nay	nay	nay	nay	nay	nay
Andrews of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea	Halstead of N. J.		nay	yea	nay	yea	nay	nay	nay
Atherton of N. H.	yea	yea	yea	yea	yea	yea	yea	yea	Hammond of Pa.	yea		yea	yea	yea	yea	yea	
Ayerigg of N. J.	yea	nay	yea	yea	yea	yea	nay	nay	Hamer of Ohio	yea	yea	yea	yea	yea	yea	yea	yea
Banks of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Harlan of Ky.	yea	yea	yea		yea	yea	yea	yea
Beatty of Pa.	yea	yea	yea	yea	yea	yea	yea	yea	Harrison of Mo.	yea	yea	yea	yea	yea	yea	yea	yea
Beers of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea	Harper of Ohio	yea	nay	yea	yea	yea	yea	yea	nay
Beirne of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Hastings of Mass.		nay		nay	nay	nay	nay	nay
Bell of Tenn.	yea	yea	yea	yea	yea	yea	yea	nay	Hawes of Ky.	yea	yea	yea	yea		yea	yea	yea
Bicknell of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea	Hawkins of N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Biddle of Pa.	yea								Haynes of Ga.	yea	yea	yea	yea	yea	yea	yea	yea
Birdsall of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea	Henry of Pa.		nay	yea		yea	yea	nay	nay
Bond of Ohio	yea	nay	nay	yea	yea	yea	yea	nay	Herod of Ind.	yea	nay	yea		yea	yea	nay	nay
Borden of Mass.	yea		nay	nay	nay	nay	nay	nay	Hoffman of N. Y.								
Bouldin of Va.	yea	yea	yea	yea		yea	yea	nay	Holt of Conn.	yea	yea	yea	yea	yea	yea	yea	yea
Briggs of Mass.	yea	nay	nay	nay	yea	yea	nay	nay	Hopkins of Va.	yea	yea	yea	yea	yea	yea		yea
Boon of Ind.									Howard of Md.	yea	yea	yea	yea	yea	yea	yea	yea
Brodhead of N. Y.	yea	yea	yea	yea	yea	yea		yea	Hubley of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Bronson of N. Y.	yea		yea	yea	yea	yea		nay	Hunter of Ohio	yea		yea	yea		yea	yea	yea
Buchanan of Pa.	yea	yea	yea	yea	yea	yea	yea	yea	Hunter of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Bynum of N. C.	yea	yea	yea	yea	yea	yea	yea	yea	Ingersoll of Pa.								
Calhoon of Ky.	yea	yea	yea	yea			yea	yea	Ingham of Conn.	yea		yea	yea	yea	yea		nay
Calhoun of Mass.		nay		nay	nay	nay	nay	nay	Jackson of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Cambreling of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea	Jenifer of Md.								
Campbell of Tenn.	yea	yea	yea	nay	yea	yea	yea	yea	Jackson of Geo.	yea	yea	yea	yea	yea	yea	yea	yea
Campbell of S. C.	yea		yea	yea	yea	yea	yea	yea	Johnson of La.	yea	yea	yea	yea	yea	yea	yea	yea
Carter of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea	Johnson of Md.	yea	yea	yea	yea	yea		yea	yea
Casey of Ill.	yea	yea	yea	yea	yea	yea	yea	yea	Johnson of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Chambers of Ky.	yea	yea		yea		yea	yea		Jones of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Chaney of Ohio	yea	yea	yea	yea	yea	yea	yea	yea	Jones of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Chapman of Ala.	yea	yea	yea	yea	yea	yea	yea	yea	Keim of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Cheatham of Tenn.	yea								Kemble of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Childs of N. Y.	yea	nay	nay	nay			nay	nay	Kennedy of Md.	yea	yea	nay	yea	nay	yea	yea	yea
Clarke of N. Y.	yea	nay	yea	yea	yea	yea		nay	Klingensmith, Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Cleveland of Geo.									Legare of S. C.	yea		yea	yea	yea	yea	yea	yea
Clowney of S. C.	yea	yea	yea	yea	yea	yea	yea	yea	Leadbetter of Ohio	yea	yea	yea	yea			yea	yea
Coffin of Ohio	yea	nay	yea	yea	yea	yea		nay	Lewis of Ala.	yea	yea	yea	yea	yea	yea	yea	yea
Coles of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Lincoln of Mass.	yea	nay	nay	nay	yea	nay	nay	nay
Conner of N. C.	yea	yea	yea	yea	yea	yea	yea	yea	Logan of Pa.	yea		yea	yea	yea	yea	yea	
Corwin of Ohio	yea	nay	yea	yea	yea	yea	yea	nay	Loomis of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Crabb of Ala.	yea	yea	yea	yea	yea	yea	yea	nay	Lyon of Ala.	yea	yea	yea	yea	yea		yea	yea
Craig of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Mallory of Va.	yea	yea	yea	yea	yea	yea	yea	
Crary of Mich.	yea	yea	yea	yea	yea	yea	yea	yea	Marvin of N. Y.	yea	nay			yea	yea	nay	nay
Cranston of R. I.	yea	nay	nay	nay	nay	nay	nay	nay	Mason of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Crockett of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea	Mason of Ohio	yea	nay	yea	nay	yea	yea	nay	nay
Curtis of N. Y.	yea		nay	yea	nay		yea	nay	Martin of Ala.	yea	yea	yea	yea	yea	yea	yea	yea
Cushing of Mass.	yea	nay	nay	nay	yea	yea	nay	nay	Maury of Tenn.	yea		yea	yea	yea	yea	yea	yea
Cushman of Mass.	yea	yea	yea	yea	yea	yea	yea	yea	May of Illinois	yea		yea	yea	yea		yea	yea
Darlington of Pa.		nay	nay	nay	nay	nay	nay	nay	Maxwell of N. J.	yea	nay	yea	yea	nay	yea	nay	nay
Dawson of Geo.	yea	yea	yea	yea	yea	yea	yea	yea	McKay of N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Davee of Maine	yea	nay	yea	yea	yea	yea		nay	McClellan of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea
Davies of Pa.	yea	nay	nay	nay	nay	nay	nay	nay	McClellan of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Deberry of N. C.	yea	yea	yea	yea	yea	yea	yea	yea	McClure of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
De Graff of N. Y.	yea		yea	yea	yea		yea	yea	McKennan of Pa.	yea	nay	yea	nay	yea	yea	nay	nay
Dennis of Md.	yea	yea	yea	yea	yea	yea	yea	yea	Menefee of Ky.	yea	yea		yea	yea		yea	yea
Dromgoole of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Mercer of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Duncan of Ohio	yea	yea	yea	yea	yea	yea	yea	nay	Miller of Mo.								
Dunn of Ind.	yea	nay	yea	nay	yea	nay	nay	nay	Milligan of Del.	yea	yea	yea	yea	yea	yea		nay
Edwards of N. Y.	yea	nay	yea	yea	yea	yea	nay	nay	Mitchell of N. Y.	yea	nay	yea	nay	yea	yea	nay	nay
Elmore of S. C.	yea	yea	yea	yea	yea	yea	yea	yea	Montgomery, N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Evans of Maine	nay	nay	nay	nay	nay	n y	nay	nay	Moore of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Everett of Vt.	nay	nay	nay	nay	nay	nay	nay	nay	Morgan of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Ewing of Ind.		nay	yea		yea	yea		nay	Morris of Ohio	yea	nay	nay	nay	yea	yea	nay	nay
Farrington of N. H.	yea	yea	yea	yea	yea	yea	yea	yea	M. Morris of Pa.								
Fairfield of Maine	yea	yea	yea	yea	yea	yea	yea	yea	S. W. Morris of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Fletcher of Vt.	yea	yea	yea	nay	yea	yea	nay	nay	Murray of Ky.	yea	yea	yea	yea	yea	yea	yea	yea
Fletcher of Mass.		nay	nay	nay	nay	nay	nay	nay	Naylor of Pa.	yea	nay			yea	yea	nay	nay
Fillmore of N. Y.	yea	nay	nay	nay	yea	nay	nay	nay	Noble of Me.	yea	yea	yea	yea	yea	yea	yea	yea
Foster of N. Y.	yea	yea	yea	yea	yea	yea	nay	nay	Noyes of Me.		nay	yea	nay	yea		nay	nay
Fry of Pa.	yea	nay	yea	yea	yea	yea	yea	yea	Ogle of Pa.								
Gallup of N. Y.		yea	yea	yea	yea		yea	yea	Owens of Ga.								
Garland of Va.	yea	yea	yea	yea	yea	yea	yea	yea	Palmer of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Garland of La.	yea	yea	yea	yea	yea	yea	yea	yea	Parker of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Giddings of Ohio	yea	nay	nay	nay	yea	nay	nay	nay	Parmenter, Mass.	yea	nay			yea	yea		nay
Glascock of Geo.	yea	yea	yea	yea	yea	yea	yea		Parris of Me.	yea	yea	yea	yea	yea	yea	yea	yea
Goode of Ohio	yea	nay	yea	nay	yea	yea	nay	nay	Paynter of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Graham of N. C.	yea	yea	yea	yea	yea	yea	yea	yea	Pearce of Md.		yea	yea	yea	yea	yea	yea	yea
Graham of Ind.	yea	nay	yea		yea	yea		nay	Peck of N. Y.		nay	nay	nay	yea	nay	nay	nay
Grantland of Geo.	yea	yea	yea	yea	yea	yea	yea	yea	Pennybacker, Va.								
Grant of N. Y.	yea	yea	yea	yea	yea		nay	nay	Petriken of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Graves of Ky.	yea	yea	yea	yea		yea		yea	Phelps of Conn.	yea	yea	yea	yea	yea	yea	yea	yea

MEMBERS' NAMES.	Vote on the 1st resolution.	On the 2d resolution.	On 1st branch of 3d resolution.	On 2d branch of 3d resolution.	On 1st branch of 4th resolution.	On 2d branch of 4th resolution.	On 1st branch of 5th resolution.	On 2d branch of 5th resolution.
Pickens of S. C.	yea	yea	yea	yea	yea	yea	yea	yea
Potts of Pa.	nay	nay	nay	nay	nay	nay	nay	nay
Plummer of Pa.	yea	yea	yea	yea	yea		yea	
Pope of Ky.	yea	yea	yea	yea	yea	yea	yea	
Potter of Pa.								
Pratt of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Prentiss of N. Y.			yea					
Putnam of N. Y.	yea	nay	nay	nay	yea	yea	nay	nay
Randolph of N. J.	yea	nay	yea	yea	nay	yea	yea	nay
Rariden of Ia.		nay	nay	nay	yea	nay	nay	nay
Riley of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Reed of Mass.		nay					nay	nay
Rencher of N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Rhett of S. C.	yea	yea	yea	yea	yea	yea	yea	yea
Richardson of S. C.								
Ridgeway of Ohio	yea	nay	yea	nay	yea	yea		nay
Rives of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Robertson of Va.	yea	yea		yea	yea	yea	yea	yea
Robinson of Me.	yea	nay	yea	nay	nay	nay	nay	nay
Rumsey of Ky.	yea	yea	yea	yea	yea	yea	yea	yea
Russell of N. Y.	nay	nay		nay	nay			nay
Saltonstall of Mass.	yea	nay	nay	nay	nay	nay	nay	nay
Sawyer of N. C.	yea		yea	yea	yea		yea	yea
Sergeant of Pa.		nay						nay
Sheffer of Pa.	yea						nay	nay
Shephard of N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Shepard of N. C.	yea	yea	yea	yea	yea	yea	yea	yea
Shields of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea
Shepler of Ohio	yea	yea	yea	yea	yea	yea		
Sibley of N. Y.	yea	nay		nay		yea	nay	
Slade of Vt.	nay	nay	nay	nay	nay	nay	nay	nay
Smith of Me.	yea	nay	nay			nay		
Snyder of Ill.	yea	yea	yea	yea	yea	yea	yea	yea
Southgate of Ky.	yea	yea	yea	yea	yea	yea	yea	yea
Spencer of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Stanley of N. C.								
Stewart of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Stone of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea
Stratton of N. J.	yea	nay	yea	yea	yea	yea	nay	nay
Swearingen, Ohio	yea	yea	yea	yea	yea	yea	yea	yea
Taliaferro of Va.	yea	yea	yea	yea	yea	yea	yea	yea
Taylor of N. Y.	yea	yea	yea	yea	yea	yea	yea	yea
Tillinghast of R. I.		nay	nay	nay	nay	nay	nay	nay
Thomas of Md.	yea	yea		yea	yea	yea	yea	yea
Thompson of S. C.	yea	yea		yea	yea	yea	yea	yea
Titus of N. Y.	yea	yea	yea	yea	yea		yea	yea
Toland of Pa.	yea	nay						nay
Toucey of Conn.	yea	yea	yea	yea	yea	yea	yea	yea
Towns of Geo.	yea	yea	yea		yea	yea	yea	yea
Turney of Tenn.	yea	yea	yea	yea	yea	yea	yea	yea
Underwood of Ky.								
Vail of N. Y.	yea	yea	yea	yea	yea	yea	yea	
Vanderweer, N. Y.					yea	yea		
Wagoner of Pa.	yea	yea	yea	yea	yea	yea	yea	yea
Webster of Ohio	yea	yea		yea	yea	yea	yea	yea
White of Ind.	yea	nay	yea	yea	nay	yea	yea	nay
White of Ky.	yea	yea	yea	yea	yea	yea	yea	yea
Whittlesey, Conn.	yea	yea	yea	yea	yea	yea	yea	yea
Williams of N. C.			yea					
Williams of Ky.	yea	yea	yea	yea	yea	yea	yea	yea
Williams of N. H.	yea	yea	yea	yea	yea	yea	yea	yea
J. L. Williams, Ten.	yea	nay	yea	yea	yea	yea	nay	nay
C. H. Williams, Ten.	yea	yea	yea	yea	yea	yea	yea	yea
Word of Miss.	yea	yea	yea	yea	yea	yea	yea	nay
Yell of Ark.	yea	yea	yea	yea	yea	yea	yea	yea
Yorke of N. J.	yea	nay	nay	yea	nay	yea		nay
Yeas	198	136	178	164	180	174	146	126
Nays	6	65	30	40	26	25	50	77

Bank of the United States.

THE first act to incorporate the subscribers to the Bank of the United States, was approved Feb. 25, 1791, by President Washington; its term of incorporation to expire at the end of the year 1811, and no other bank to be incorporated by the United States during the continuance of the charter hereby granted.

This bill passed the Senate on the 20th of Jan., 1791. In that body on that day a motion to limit the charter to 1801, was lost by yeas and nays as follows:—

YEAS.—Messrs. Butler of S. C., Few of Ga., Gunn of Ga., Hawkins of N. C., Izard of S. C., and Monroe of Va.—6.

NAYS.—Messrs. Bassett of Del., Dalton of Mass., Ellsworth of Conn., Emes of N. J., Foster of R. I., Johnson of Conn., King of N. Y., Langdon, Maclay and Morris of Pa., Read of Del., Schuyler of N. Y., Stanton of R. I., Strong of Mass., and Wingate of N. H.—16.

A vote to strike out from the bill the pledge that the United States would not establish another bank during the existence of this charter was lost, yeas 5, nays 18.

The vote in the affirmative was the same as on the previous vote with the exception of Mr. Gunn, who voted in the negative on this motion, as did all who voted "No" on the former vote, and also Mr. Johnston of N. C., who did not vote on the former vote.

The bill was opposed in the House by Messrs. Jackson of Ga., Lee of Va., Madison of Va., and Tucker of S. C., and defended by Messrs. Lawrence of N. Y., Sherman of Conn., Gerry of Mass., Ames and Sedgewick of Mass., Boudinot of N. J., Smith of S. C., and Vining of Del.; but finally passed that body on the 8th of Feb., 1791, by yeas and nays as follows:—

YEAS.—Messrs. Ames of Mass., Benson of N. Y., Boudinot of N. J., Bourne of R. I., Cadwalader of N. J., Clymer of Pa., Fitzsimmons of Pa., Floyd of N. Y., Foster of N. H., Gerry of Mass., Gilman of N. H., Goodhue of Mass., Hartley of Pa., Hathorn of N. Y., Heister of Pa., Huntington of Conn., Lawrence of N. Y., Leonard of Mass., Livermore of N. H., P. Muhlenberg of Pa., Partridge of Mass., Van Rensselaer of N. Y., Schureman of N. J., Scott of Pa., Sedgewick of Mass., Seney of Md., Sevier of N. C., Sherman of Conn., Sylvester of N. Y., Sinnickson of N. J., Smith of Md., Smith of S. C., Steele of N. C., Sturges of Conn., Thatcher of Mass., Trumbull of Conn., Vining of Del., Wadsworth of Conn., Wynkoop of Pa.—39.

NAYS.—Messrs. Ashe of N. C., Baldwin of Ga., Bloodworth of N. C., Brown of Va., Burke of S. C., Carroll of Md., Contee of Md., Gale of Md., Grout of Mass., Giles of Va., Jackson of Ga., Lee of Va., Madison of Va., Matthews of Ga., Moore of Va., Parker of Va., Stone of Md., Tucker of S. C., White of Va., Williamson of N. C.—20.

On the 5th of Feb., 1811, Mr. Crawford of Ga., in the Senate of the United States, from a committee consisting of himself, Messrs. Leib of Pa., Lloyd of Md., Pope of Ky., and Anderson of Tenn., reported a bill to amend and continue in force the act entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th of Feb., 1791.

This bill was warmly assailed by Messrs. Anderson of Tenn., Giles of Va., Henry Clay of Ky., and Smith of Md., and was defended by Messrs. Crawford of Ga., Lloyd of Mass., Pope of Ky., Brent of Va., and Taylor of S. C.

Mr. Anderson of Tenn. moved to strike out the first section of the bill, which, if adopted,

would be equivalent to its rejection, when it appeared there was a tie vote as follows :—

YEAS.—Messrs. Anderson of Tenn., Campbell of O., Clay of Ky., Cutts of N. H., Franklin of N. C., Gaillard of S. C., German of N. Y., Giles of Va., Gregg of Pa., Lambert of N. J., Leib of Pa., Matthewson of R. I., Reed of Md., Robinson of Vt., Smith of Md., Whiteside of Tenn., Worthington of O.—17.

NAYS.—Messrs. Bayard of Del., Bradley of Vt., Brent of Va., Chaplin of R. I., Condit of N. J., Crawford of Ga., Dana of Conn., Gilman of N. H., Goodrich of Conn., Hersey of Del., Lloyd of Mass., Pickering of Mass., Pope of Ky., Smith of N. Y., Tait of Ga., Taylor of S. C., Turner of N. C.—17.

The Vice President, Mr. Clinton, gave the casting vote in the affirmative, so the bill was virtually rejected.

In the House of Representatives on the 4th of January, 1811, Mr. Burwell of Virginia, from a select committee, reported a bill to continue in force for the term of ——— years, "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.

This bill was opposed in the house by Messrs. Bassett of Va., Macon of N. C., Bacon of Mass., Seybert of Pa., Porter of N. Y., Desha of Ky., Newton of Va., Wright of Md., Boyd of N. J., Barry of Ky., Johnson of Ky., Crawford of Pa., and Eppes of Va. It was defended by Messrs. Fisk of N. Y., Pickman of Mass., Alston of N. C., Findley of Pa., McKim of Md., Sheffey of Va., Nicholson of N. Y., Talmadge of Conn., and Stanley of N. C.

Mr. Burwell, who reported it from the committee, was opposed to it; but merely reported it, following the instructions of the committee. He moved to strike out the first section of the bill. Mr. Newton of Va. moved to postpone the bill indefinitely, and it was carried in the affirmative by yeas and nays as follows :—

YEAS.—Messrs. L. J. Alston of N. C., Wm. Anderson of Pa., E. Bacon of Mass., Bard of Pa., Barry of Ky., Burwell of Va., Bassett of Va., Bibb of Ga., Boyd of N. J., Brown of Pa., Butler of S. C., Calhoun of S. C., Cheves of S. C., Clay of Va., Cochran of N. C., Crawford of Pa., Cutts of Mass., Dawson of Va., Desha of Ky., Eppes of Va., Franklin of N. C., Gannett of Mass., Gardner of Mass., Gholson of Va., Goodwyn of Va., Gray of Va., Holland of N. C., Johnson of Ky., Jones of Va., Kenan of N. C., Kennedy of N. C., Love of Va., Lyle of Pa., Macon of N. C., McKim of Md., McKinley of Ala., Mitchell of N. Y., Montgomery of Md., Moore of S. C., Moore of Ind., Morrow of Tenn., Mumford of N. Y., Newton of Va., Porter of N. Y., John Rea of Pa., John Rhea of Tenn., Richards of Pa., Ringgold of Md., Roane of Va., Sage of N. Y., Sawyer of N. C., Seaver of Mass., Seybert of Pa., Smilie of Pa., Smith of Va., Smith of Pa., Southard of N. J., Troup of Ga., Turner Jr., Van Horn of Md., Weakley of Tenn., Whitehill of Pa., Winn of S. C., Witherspoon of S. C., Wright of Md.—65.

NAYS.—Messrs. Allen of Mass., Alston of S. C., Bigelow of Mass., Blaisdell of N. H., Breckenridge of Va., Campbell of Md., Chamberlain of N. H., Chamberlain of Mass., Champion of Conn., Chittenden of Vt., Davenport of Conn., Ely of Mass., Emott of N. Y., Findly of Pa., Fisk of N. Y., Gardiner of N. Y., Garland of Va., Goldsborough of Md., Gold of N. Y., Hale of N. H., Haven of N. H., Heister of Pa., Helms of N. J., Hubbard of Vt., Hufty of N. J., Huntington of Conn., Jackson of R. I., Jenkins of Pa., Key of Ind., Knickerbocker of N. Y., Lewis of Va., Livingston of N. Y., Matthews of N. Y., McBryde of N. C., McKee of Ky., Miller of Tenn., Milnor of Pa., Mosely of Conn., Newbold of N. J., Nicholson of N. Y., Pearson of N. C., Pickman of Mass., Pitkin of Conn., Potter of R. I., Quincy of Mass., Randolph of Va., Sammons of N. Y., Scudder of N. J., Shaw of Vt., Sheffey of Va., Smelt of Ga., Smith of Md., Stanford of N. C., Stanley of N. C., Stephenson of Va., Sturges of Conn., Swoope of Va., Taggart of Mass., Talmadge of Conn., Thompson of N. Y., Van Dyke of Del., Van Rensselaer of N. Y., Whealin of Mass., Wilson of N. H.—63.

Act approved April 10, 1816, entitled "An act to incorporate the subscribers to the Bank of the United States." The bill from which this act originated was reported in the House of Representatives on the 8th of January, 1816, by Mr. Calhoun of South Carolina, from a committee. The bill was defended by Mess. Calhoun, Smith of Md., Wright of Md., Tucker of Va., Sharpe of Ky., Clay of Ky., and others, and assailed by Messrs. Ward of Mass., Webster of N. H., Cady of N. Y., Clopton of Va., Stanford of N. C., Hanson of Md., Pickering of Mass., and others. It finally passed the house on the 14th of March, 1816, by yeas and nays as follows :—

YEAS.—Messrs. Adgate of N. Y., Alexander of O., Atherton of N. H., Baer of Va., Betts of N. Y., Boss of R. I., Bradbury of Mass., Brown of Mass., Calhoun of S. C., Cannon of Tenn., Champion of Conn., Chappell of S. C., Clark of N. C., Clark of Ky., Clendennin of O., Comstock of N. Y., Condit of N. J., Conner of Mass., Creighton of O., Crocheson of N. Y., Cuthbert of Ga., Edwards of N. C., Forney of N. C., Forsyth of Ga., Gholson of Va., Griffin of Pa., Grosvenor of N. Y., Hawes of Va., Henderson of Tenn., Huger of S. C., Hulbert of Mass., Hungerford of Va., Ingham of Pa., Irving of N. Y., Jackson of Va., Jewett of Vt., Kerr of Va., King of N. C., Love of N. C., Lowndes of S. C., Lumpkin of Ga., Maclay of Pa., Mason of R. I., McCoy of Va., McKee of Ky., Middleton of S. C., Moore of S. C., Moseley of Conn., Murfree of N. C., Nelson of Mass., Parris of Mass., Pickens of N. C., Pinkney of Md., Piper of Pa., Robertson of La., Sharp of Ky.. Smith of Md.. Smith of Va., Southard of N. J., Taul of Ky.. Taylor of N. Y., Taylor of S. C., Telfair of Ga.. Thomas of Tenn., Throop of N. Y., Townsend of N. Y., Tucker of Va., Ward of N. J., Wendover of N. Y., Wheaton of Mass., Wilde of Ga., Wilkin of N. Y.. Williams of N. C., Willoughby of N. Y., T. Wilson of Pa., W. Wilson of Pa., Woodward of S. C., Wright of Md., Yancey of N. C., Yates of N. Y.—80.

NAYS.—Messrs. Baker of N. J., Barbour of Va., Bassett of Va., Bennett of N. J., Birdall of N. Y., Blount of Tenn., Breckenridge of Va.. Burnside of Pa.. Burwell of Va., Cady of N. Y.. Caldwell of O., Cilley of N. H., Clayton of Del., Clopton of Va., Cooper of Del., Crawford of Pa.. Culpepper of N. C., Darlington of Pa.. Davenport of Conn., Desha of Ky., Gaston of N. C., Gold of N. Y., Goldsborough of Md., Goodwyn of Va.. Hahn of Pa., Hale of N. H., Hall of Ga., Hanson of Md., Hardin of Ky.. Herbert of Md., Hopkinson of Pa., Johnson of Va., Kent of Md., Langdon of Vt.. Law of Conn.. Lewis of Va., Lovett of N. Y., Lyle of Pa., Lyon of Vt., Marsh of Vt., Mayrant of S. C., McLean of Ky., McLean of O., Milner of Pa.. Newton of Va., Noyes of Vt., Ormsby of Ky., Pickering of Mass., Pitkin of Conn., Randolph of Va., Reed of Mass., Root of N. Y., Ross of Pa., Ruggles of Mass., Sergeant of Pa., Savage of N. Y., Sheffey of Va., Smith of Pa., Stanford of N. C., Stearns of Mass., Strong of Mass., Sturges of Conn., Taggart of Mass.. Talmadge of Conn., Vose of N. H., Wallace of Pa., Wade of Mass., Ward of N. Y., Webster of Mass., Whiteside of Pa., Wilcox of N. H.—71.

The bill was supported in the Senate by Messrs. Bibb of Georgia, Barbour of Va., and Taylor of S. C., and opposed by Messrs. Mason of N. H., King of N. Y., and Wells of Del. It was amended in the Senate, and passed that body on the 3d of April, 1816, by yeas and nays, as follows :—

YEAS.—Messrs. Barbour of Va., Barry of Ky., Brown of La., Campbell of Tenn., Chace of Vt., Condit of N. J., Daggett of Conn., Fromentin of La., Harper of Md., Horsey of Del., Howell of R. I., Hunter of R. I., Lacock of Pa., Mason of Va.. Morrow of O., Roberts of Pa.. Tait of Ga., Taylor of S. C., Turner of N. C., Varnum of Mass., Williams of Tenn.—22.

NAYS.—Messrs. Dana of Conn.. Gaillard of S. C., Goldsborough of Md.. Gore of Mass., King of N. Y., Macon of N. C., Mason of N. H., Ruggles of O., Sanford of N. Y., Tichener of Vt., Wells of Del., Wilson of N. J.—12.

The amendments of the Senate to the bill were concurred in by the House, on the 5th of April, 1816, after a long debate, in which Mr. Daniel Webster of N. H., John Randolph of

Va., and Ben Hardin of Ky., opposed the bill, and Messrs. Calhoun of S. C., Grosvenor of N. Y., Hulbert of Mass., and others, defended it.

On the 2d of February, 1831, Mr. Benton of Missouri, asked leave of the Senate to introduce the following resolution :—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the charter of the Bank of the United States ought not to be renewed.

Mr. Benton supported the resolution in an elaborate and able speech.

No Senator replied.

Mr. Webster of Mass. called for the yeas and nays on the motion that leave be granted, when it was decided in the negative, as follows :—

YEAS.—Messrs. Barnard of Pa., Benton of Mo., Bibb of Ky., Brown of N. C., Dickerson of N. J., Dudley of N. Y., Forsyth of Ga., Grundy of Tenn., Hayne of S. C., Iredell of N. C., King of Ala., McKinley of Ala., Poindexter of Miss., Sanford of N. Y., Smith of S. C., Tazewell of Va., Troup of Ga., Tyler of Va., White of Tenn., and Woodbury of N. H. —20.

NAYS.—Messrs. Barton of Mo., Bell of N. H., Burnett of O., Chase of Vt., Clayton of Del., Foot of Conn., Frelinghuysen of N. J., Hendricks of Ind., Holmes of Me., Johnston of La., Knight of R. I., Livingston of La., Marks of Pa., Noble, Robbins of R. I., Robinson of Ill., Ruggles of O., Seymour of Vt., Silsbee of Mass., Smith of Md., Sprague of Me., Webster of Mass., Willey of Conn.—23.

On the 9th of January, 1831, in the Senate (the same day on which a like petition was presented to the House), Mr. Dallas presented the petition of the United States Bank for a renewal of its charter.

The memorial was referred to a committee consisting of Messrs. Dallas of Pa., Ewing of Ohio, Webster of Mass., Hayne of S. C., and Johnston of La.

On the 3d of March, 1831, Mr. Dallas reported a bill to renew the charter of the Bank for the term of fifteen years from its expiration.

Messrs. Dallas, Webster, Clayton, and others, defended the bill. Messrs. Benton, Bibb, White, Hill, and others, opposed it.

On the 11th of June, 1832, the question was taken, and the bill was passed by yeas and nays, as follows :—

YEAS.—Messrs. Bell of N. H., Buckner of Mo., Chambers of Md., Clay of Ky., Clayton of Del., Dallas of Pa., Ewing of O., Foot of Conn., Frelinghuysen of N. J., Hendricks of Ind., Holmes of Me., J. S. Johnston of La., Knight of R. I., Naudain of Del., Poindexter of Miss., Prentiss of Vt., Robbius of R. I., Robinson of Ill., Ruggles of O., Seymour of Vt., Silsbee of Mass., Saml. Smith of Md., Sprague of Me., Tipton of Ind., Tomlinson of Conn., Waggaman of La., Webster of Mass., and Wilkins of Pa.—28.

NAYS.—Messrs. Benton of Mo., Bibb of Ky., Brown of N. C., Dickerson of N. J., Dudley of N. Y., Ellis of Miss., Forsyth of Ga., Grundy of Tenn., Hayne of S. C., Hill of N. H., Kane of Ill., King of Ala., Mangum of N. C., Marcy of N. Y., Miller of S. C., Moore of Ala., Tazewell of Va., Troupe of Ga., Tyler of Va., Hugh L. White of Tenn.—20.

The bill from the Senate to renew the charter of the Bank was passed by the House on the 3d of July, 1832, by yeas and nays, as follows :—

YEAS.—Messrs. Adams of Mass., C. Allen of Ky., H. Allen of Vt., Allison of Pa., Appleton of Mass., Armstrong of Va., Arnold of Tenn., Ashley of Mo., Babcock of N. Y., Banks of Pa., N. Barber of Conn., J. S. Barbour of Va., Barringer of N. C., Barstow of N. Y., J. C. Bates of Mass., Briggs of Mass., Bucher of Pa., Bullard of La., Burd of Pa., Burgess of R. I., Choate of Mass., Collier of N. Y., J. Condit of N. J., S. Condit of N. J., E. Cooke of O., B. Cooke of N. Y., Cooper of N. J., Corwin of O., Coulter of Pa., Craig of Va., Craine of O., Crawford of Pa., Creighton of O., Daniel of Ky., J. Davis of Mass., Dearborn of Mass., Denny of Pa., Dewart of Pa., Doddridge of Va., Drayton of S. C., Ellsworth of Conn., G. Evans of Me., J. Evans of Pa., E. Everett of Mass., H. Everett of Vt., Ford of Pa., Gilmore of Pa., Grennell of Mass., Hodges of Mass., Heister of Pa., Horn of Pa., Hughes of N. J., Huntington of Conn., Ihrie of Pa., Ingersoll of Conn., Irvin of O., Isacks of Tenn., Jenifer of Md., Kendall of Mass., H. King of Pa., Kerr of Md., Letcher of Ky., Mann of Pa., Marshall of Ky., Maxwell of Va., McCoy of Pa., McDuffie of S. C., McKennan of Pa., Mercer of Va., Milligan of Del., Newlin, Pearce of R. I., Pendleton of N. Y., Pilcher of N. Y., Potts of Pa., Randolph of N. J., J. Reed of Mass., Root of N. Y., Russel of O., Semmes of Md., W. B. Shepard of N. C., A. H. Shepperd of N. C., Slade of Vt., Smith of Pa., Southard of N. J., Spence of Md., Stanberry of O., Stephens of Pa., Stewart of Pa., Storrs of Conn., Sutherland of Pa., Taylor of N. Y., P. Thomas of La., Tompkins of Ky., Tracy of N. Y., Vance of O., Verplanck of N. Y., Vinton of O., Washington of Md., Watmough of Pa., E. Whittesley of O., F. Whittesly of N. Y., E. D. White of La., Wickliffe of Ky., Williams of N. C., and Young of Conn.—106.

NAYS.—Messrs. Adair of Ky., Alexander of Va., Anderson of Md., Archer of Va., Bates of Mo., Beardsly of N. Y., Bell of Tenn., Bergen of N. Y., Bethune of N. C., James Blair of S. C., Bouck of N. Y., Bouldin of Va., Branch of N. C., Cambreling of N. Y., Carr of Ind., Chandlier of N. H., Chinn of Va., Claiborne of Va., Clay of Ala., Clayton of Ga., Coke of Va., Conner of N. C., W. R. Davis of S. C., Dayan of N. Y., Doubleday of N. Y., Felder of S. C., Fitzgerald of Tenn., Foster of Ga., Gaither of Ky., Gordon of Va., Griffin of S. C., T. H. Hall of N. C., W. Hall of Tenn., Hammons of N. H., Harper of N. H., Hawes of Ky., Hawkins of N. C., Hoffman of N. Y., Hogan of N. Y., Holland of Md., Howard of Md., Hubbard of N. H., Jarvis of Md., C. Johnson of Va., Kavanaugh of Md., Kennon of O., A. King of Pa., J. King of N. Y., Lamar of Ga., Leavitt of O., Lecompte of Ky., Lewis of Ala., Lyon of Ky., Mardis of Ala., Mason of Va., McCarty of Ind., McIntire of Mo., McKay of N. C., Mitchell of Md., Newman of Ga., Nuckolls of S. C., Patton of Va., Pierson of N. Y., Polk of Tenn., E. C. Reed of N. Y., Rencher of N. C., Roane of Va., Soule of N. Y., Speight, Standifer, F. Thomas of Md., W. Thompson of Ga., J. Thomson of O., Ward of N. Y., Wardell of N. Y., Wayne of Ga., Weeks of N. H., Wheeler of N. Y., C. P. White of N. Y., Wilde of Ga., Worthington of Ind.—84.

On the 10th of July, 1832, President Jackson communicated to the Senate, in which the bill originated, the act to modify and continue the act to incorporate the subscribers to the United States Bank, with his objections to the same. Messrs. Webster of Mass., Holmes of Mass., Ewing of Ohio, Clayton of Del., and Clay of Ky., opposed the veto. Messrs. White of Tenn., and Benton of Missouri, defended it.

The question was then put—"Shall the bill become a law, the President's objections to the contrary notwithstanding?" (a two-third vote being necessary to carry it), and it was decided in the negative.

All the Senators who voted for the passage of the bill originally, voted for it notwithstanding the veto, except Messrs. Bell, Ewing, Knight, Naudain, Smith and Waggaman, who were absent. The negative vote was identical, with the exception that Mr. Dickerson was absent and did not vote on it after the veto.

The removal of the government deposites from the Bank of the United States was consummated on the 22d of September, 1833. Mr. William J. Duane of Pa., the Secretary of the Treasury, having declined to make the removal, President Jackson removed him and appointed Roger B. Taney of Maryland (the present Chief Justice) Secretary of the Trea-

sury, who immediately carried out the wishes of the President.

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At the beginning of the first session of the 23d Congress, shortly after the removal of the deposites, President Jackson nominated H. D. Gilpin, J. T. Sullivan, P. Wager, and H. McElderry as the five directors in the United States Bank to represent the government. These gentlemen were the same who had served during the previous year, and had the year before been confirmed by the Senate. They were supposed to be opposed to the Bank, having made the report upon which the order for the removal of the deposites was mainly justified. Their nomination was rejected by the Senate, by yeas and nays as follows:—

YEAS.—Messrs. Benton of Mo., Black of Miss., Brown of N. C., Forsyth of Ga., Grundy of Tenn., Hendricks of Ind., Hill of N. H., Kane of Ill., King of Ala., Linn of Mo., McKean of Pa., Moore of Ala., Morris of O., Robinson of Ill., Shepley of Me., Tallmadge of N. Y., Tipton of Ind., White of Tenn., Wilkins of Pa., Wright of N. Y.—20.

NAYS.—Messrs. Bell of N. H., Bibb of Ky., Calhoun of S. C., Chambers of Md., Clay of Ky., Ewing of O., Frelinghuysen of N. J., Kent of Md., Knight of R. I., Mangum of N. C., Naudain of Del., Poindexter of Miss., Porter of La., Prentiss of Vt., Preston of S. C., Robbins of R. I., Silsbee of Mass., Smith of Md., Sprague of Me., Swift of Vt., Tomlinson of Conn., Tyler of Va., Waggaman of La., Webster of Mass.—24.

President Jackson addressed a communication to the Senate, with reference to the rejection of these nominations, on which he disclaimed all intention to call in question the act of the body rejecting them, but communicated his views of its consequences if it were not reconsidered.

This message of the President was referred to the Committee on Finance, of which Mr. Tyler was the chairman, who made a report commenting upon the message of the President, adverse to the renominations and recommending their rejection.

The four gentlemen named were accordingly again rejected.

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On the 26th of Dec., 1833, Mr. Clay of Ky. introduced resolutions in the Senate, to the effect, that the President in his late executive proceedings, in relative to the public revenue, had assumed upon himself authority and power not conferred by the Constitution and laws, and in derogation of both; and that the reasons assigned by the Secretary of the Treasury, for the removal of the public deposites from the Bank of the United States, are insufficient and unsatisfactory.

The latter of these resolutions, relative to the conduct of the Secretary, having been referred to the Committee on Finance, was the subject of an elaborate report by Mr. Webster from that Committee, reviewing the report of the Secretary, and recommending that the resolution be adopted.

The resolutions were adopted by the Senate on the 28th of March, 1834.

Mr. Clay on the 28th of May, 1834, introduced resolutions similar to those which had passed the Senate on the 28th of March, giving to them the character of joint resolutions, instead of mere resolutions of the Senate, adding thereto a resolve, "that all deposites of public money, accruing after the 1st of July, 1834, be deposited with the Bank of the United States, in pursuance of the Act of the 10th of April, 1816."

These joint resolutions of the Senate were adopted on the 3d of June, 1834. The first resolution, being one condemnatory of the action of the Secretary of the Treasury, was adopted by a vote of yeas 29, and nays 16.

The second resolution, requiring the public moneys to be deposited in the United States Bank, the 1st of July, 1834, was adopted by yeas and nays as follows:

They gave rise to General Jackson's celebrated protest.

YEAS.—Messrs. Bibb of Ky., Bell of N. H., Black of Mass., Calhoun of S. C., Clay of Ky., Clayton of Del., Ewing of O., Frelinghuysen of N. J., Kent of Md., Knight of R. I., Leigh of Va., McKean of Pa., Mangum of N. C., Naudain of Del., Poindexter of Miss., Porter of La., Prentiss of Vt., Preston of S. C., Robbins of R. I., Silsbee of Mass., Smith of Md., Southard of N. J., Sprague of Me., Swift of Vt., Tomlinson of Conn., Tyler of Va., Waggaman of La., Webster of Mass.—28.

NAYS.—Messrs. Bentou of Mo., Brown of N. C., Forsyth of Ga., Grundy of Tenn., Hill of N. H., Kane of Ill., King of Ala., King of Ga., Linn of Mo., Morris of O., Robinson of Ill., Shepley of Me., Tipton of Ind., White of Tenn., Wilkins of Pa., Wright of N. Y.—16.

The votes on both of the resolutions were identical, with the exception that Mr. Hendricks, of Ind., who voted for the first one, was not present on the vote of which the preceding is a record.

These resolutions, however, were never acted upon by the House.

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In the House of Representatives, April 4, 1834, the question was taken on four resolutions reported by Mr. Polk, from the Committee of Ways and Means.

The first one of these resolutions was to the effect that the Bank of the United States ought not to be rechartered.

The second one was to the effect that the deposites ought not to be restored to the Bank of the United States.

The third one was to the effect that the State Banks ought to be continued as the depositories of the public moneys, and that it is expedient that further provision should be made prescribing the mode of selection, the securities to be taken, and the manner and terms upon which they are to be employed.

The fourth resolution provided for the appointment of a committee to investigate the affairs of the United States Bank, and to report upon its various malpractices, violations of its charter, &c., to report to the House.

The first resolution was adopted, by yeas and nays, as follows:

YEAS.—Messrs. Adams of N. Y., Allen of O., Anthony of Pa., Archer of Va., Beale of Va., Bean of N. H., Beardsly of N. Y., Beaumont of Pa., Bell of Tenn., Blair of Tenn., Bockee of N. Y., Boon of Ind., Bouldin of Va., Brown of N. Y., Bunch of Tenn., Bynum of N. C., Cambreling of N. Y., Campbell, Carmichael of Md., Carr of Ind., Casey of Ill., Chaney of O., Chinn of La., Claiborne of Va., Clark of N. Y., Clay of Ala., Clayton of Ga., Clowney of S. C., Coffee of Ga., Connor of N. C., Cramer of N. Y., Davis of S. C., Davenport of Va., Day of N. Y., Dickerson of N. J., Dickenson of Tenn., Dunlap of Tenn., Felder of S. C., Forrester of Tenn., Foster of

Ga., W. K. Fuller of N. Y., Fulton of Va., Gailbraith of Pa., Gholson of Va., Gillet of N. Y., Gilmer of Ga., Gordon of Va., Grayson of S. C., Griffin of S. C., Joseph Hall of Me., T. H. Hall of N. C., Halsey of N. Y., Hamer of O., Hannegan of Ind., Joseph M. Harper of N. H., Harrison of Pa., Hathaway of N. Y., Hawkins of N. C., Hawes of Ky., Heath of Md., Henderson of Pa., Howell of N. Y., Hubbard of N. H., Huntington of N. Y., Inge of Tenn., Jarvis of Me., Johnson of Ky., Johnson of N. Y., Johnson of Tenn., Jones of Ga., Jones of O., Kavanagh of Me., Kinnard of Ind., Lane of Ind., Lansing of N. Y., Laporte of Pa., Lawrence of N. Y., Lay of N. Y., Lea of Tenn., Lee of N. J., Leavitt of O., Loyall of Va., Lucas of Va., Lyon of Ky., Lytle of O., Mann of N. Y., Mann of Pa., Mardis of Ala., Mason of Va., Mason of Me., McIntire of Me., McKay of N. C., McKinley of Ala., McLean of O., McVean of N. Y., Miller of Pa., Mitchell of N. Y., Mitchell of O., Muhlenberg of Pa., Murphy of Ala., Osgood of Mass., Page of N. Y., Parks of Me., Parker of N. J., Patterson of O., D. J. Pearce of R. I., Peyton of Tenn., Pierce of N. H., Pierson of N. Y., Pinckney of S. C., Plumer of Miss., Polk of Tenn., Rencher of N. C., Schenck of N. J., Schley of Ga., Shinn of N. J., Smith of Me., Speight of N. C., Standifer, of Tenn., Stoddart of Md., Sutherland of Pa., Taylor of N. Y., Taylor of Pa., Thomas of Md., Thompson of O., Turner of Md., Turrill of N. Y., Vanderpoel of N. Y., Wagener of Pa., Ward of N. Y., Wardwell of N. Y., Wayne of Ga., Webster of O., Whallon of N. Y.—134.

NAYS.—Messrs. John Quincy Adams of Mass., John J. Allen of Va., Heman Allen of Vt., Chilton Allan of Ky., Ashley of Mo., Banks of Va., Barber of Conn., Barnitz of Pa., Barringer of N. C., Baylies of Mass., Beaty of Ky., Bell of O., Binney of Pa., Briggs of Mass., Bull of Mo., Burges of R. I., Cage of Miss., Chambers of Pa., Chilton of Ky., Choate of Mass., Clark of Pa., Corwin of O., Coulter of Pa., Crane of O., Crockett of Tenn., Darlington of Pa., Amos Davis of Ky., Deberry of N. C., Deming of Vt., Denny of Pa., Dennis of Md., Dickson of N. Y., Duncan of Ill., Ellsworth of Conn., Evans of Me., Everett of Mass., Everett of Vt., Fillmore of N. Y., Foote of Conn., Fuller of N. Y., Graham of N. C., Grennel of Mass., Hall of Vt., Hard of N. Y., Hardin of Ky., Harper of Pa., Hazeltine of N. Y., Huntington of Conn., Jackson, Johnson of Md., Lincoln, Martindale, Marshall of Ky., McCarty of Ind., McComas of Va., McDuffie of S. C., McKennan of Pa., Mercer of Va., Milligan of Del., Moore of Va., Pope of Ky., Potts of Pa., Reed of Mass., William B. Shepherd of N. C., Augustus H. Shepperd of N. C., William Slade of Vt., Charles Slade of Ill., Sloane of O., Spangler of O., Thomas of La., Tompkins of Ky., Tweedy of Conn., Vance of O., Vinton of O., Watmough of Pa., Edward D. White of La., Whittlesey of N. Y., Elisha Whittlesey of O., Wilde of Ga., Williams, Wilson of Va., Young of Conn.—82.

The remaining resolutions were also adopted.

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On the 11th of Dec., 1833, the Senate, by a vote of 23 to 17, on motion of Mr. Clay, passed a resolution calling on the President for a copy of the paper read by him to his Cabinet on the 18th of Sept., 1833, justifying his intended course in reference to removing the public deposites from the Bank of the United States. Gen. Jackson responded the next day, denying the right of the Senate to make such a call, and declining to comply with its request.

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The committee appointed in pursuance of the 4th resolution of Mr. Polk, adopted on the 4th of April, 1834, consisting of Messrs. Francis Thomas of Md., Edward Everett of Mass., Muhlenberg of Pa., Mason of Va., Ellsworth of Conn., Mann of N. Y., and Lyle of Ohio, reported their inability to make the necessary investigation, on account of the impediments thrown in their way by the Bank, and the refusal of the officers and directors of the bank to produce the books or testify.

The committee moved a resolution to the House to bring the president and directors before the bar of the House for contempt, but the same was never acted upon.

Mr. Taney, the Secretary of the Treasury, who had carried out the instructions of the President, and removed the deposites, was rejected by the Senate, when his nomination as Secretary came up before it for confirmation.

On the 3d of March, 1836, the charter of the Bank of the United States expired. It continued to work, however, under a charter from Pennsylvania, under the title of the Pennsylvania Bank of the United States; the bank under the United States charter having, one day before its expiration, transferred to the bank under the state charter all of its property.

On the 9th of Oct., 1839, even under its state sanction, it ceased to exist, and stopped.

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On the 21st of June, 1841, a United States Bank was attempted to be re-established, under a new name. Mr. Clay introduced a bill in the Senate, from the select committee on the currency, to establish a "Fiscal Bank of the United States." It passed the Senate on the 28th of July, 1841, by a vote of yeas 26, nays 23. Every senator who voted for the repeal of the Independent Treasury law voted for this bill, with the exception of Messrs. Archer, Rives, and Clayton. Messrs. Archer and Rives voted against this bill. Mr. Clayton did not vote at all.

The negative vote was the same as on the repeal of the Independent Treasury bill, [see INDEPENDENT TREASURY] with the addition of Messrs. Archer and Rives, who voted for that, and against this, and Messrs. Buchanan, Linn, and Mouton, who did not vote on the repeal of the Independent Treasury law.

It passed the House on the 6th of August, 1841, by yeas and nays as follows:—

YEAS.—Messrs. Alford of Ga., Allen of Me., Andrews of Ky., Andrews of O., Arnold of Tenn., Aycrigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Barton of Va., Birdseye of N. Y., Black of Pa., Blair of N. Y., Boardman of Conn., Borden of Mass., Botts of Va., Briggs of Mass., Brockway of Conn., Bronson of N. Y., Brown of Tenn., Brown of Pa., Burnell of Mass., Butler of Ky., Calhoun of Mass., W. B. Campbell of Tenn., T. J. Campbell of Tenn., Caruthers of Tenn., Childs of N. Y., J. C. Clark of N. Y., S. N. Clark of N. Y., Cowen of O., Cranston of R. I., Cravens of Ind., Cushing of Mass., Davis of Ky., Dawson of Ga., Deberry of N. C., John Edwards of Pa., Everett of Vt., Fessenden of Me., Fillmore of N. Y., A. L. Foster of N. Y., Gamble of Ga., Gentry of Tenn., Giddings of O., Goggin of Va., Goode of O., Graham of N. C., Green of Ky., Graig of N. Y., Habersham of Ga., Hunt of N. Y., Hall of Vt., Halstead of N. J., Wm. S. Hastings of Mass., Henry of Pa., Howard of Mich., Hudson of Mass., James Irvin of Pa., James of Tenn., Johnson of Md., I. D. Jones of Md., Kennedy of Md., King of Ga, Lane of Ind., Lawrence of Pa., Linn of N. Y., Mason of O., Mathiot of O., Mattocks of Vt., Maxwell of N. J., Maynard of N. Y., Meriwether of Ga., Moore of La., Morgan of N. Y., Morris of O., Morrow of O., Nisbet of Ga., Osborne of Conn., Owsley of Ky., Pearce of Md., Pendleton of O., Pope of Ky., Powell of Va., Proffit of Ind., Ramsey of Pa., Randall of Me., Randall of Md., Randolph of N. J., Rayner of N. C., Rencher of N. C., Ridgway of O., Rodney of Del., Russell of O., Saltonstall of Mass., Sergeant of Pa., Sheppard of N. C., Simonton of Pa., Smith of Conn., Sprigg of Ky., Stanley of N. C., Stokely of Ohio, Stratton of N. J., Stewart of Va., Summers of Va., Taliaferro of Va., Thompson of Ky., Thompson of Ind., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Triplett of N. Y., Trumbull of Conn., Underwood of Ky., Van Rensselaer of N. Y., Wallace of Ind., Warren of Ga., Washington of N. C., White of La., White of Ind., T. W. Williams of Conn., Lewis Williams of N. C., C. H. Williams of Tenn., J. L. Williams of Tenn., Winthrop of Mass., Yorke of N. J., Aug. Young of Vt., John Young of N. Y.—128.

NAYS.—Messrs. Adams of Mass., Arrington of N. C., Atherton of N. H., Banks of Va., Beeson of Pa., Bidlack of Pa., Bowne of N. Y., Boyd of Ky., Browne of Tenn., Brown of Pa., Burke of N. H., S. H. Butler of S. C., Butler of Ky., Caldwell of N. C., Caldwell of S. C., Campbell of S. C., Carey of Va., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va.,

Cravens of Ind., Daniel of N. C., Davis of N. Y., D an of O., Dimmock of Pa., Doan of O., Doig of N. Y., Edwards of Mo., Egbert of N. Y., Ferris of N. Y., J. G. Floyd of N. Y., C. A. Floyd of N. Y., Fornance of Pa., Foster of Ga., Gilmer of Va., Goode of Va., Gordon of N. Y., Gustin of Pa., Harris of Va., Hastings of O., Hays of Va., Holmes of S. C., Hopkins of Va., Houck of N. Y., Houston of Ala., Hubard of Va., Hunter of Va., Ingersoll of Pa., Irwin of Pa., Jack of Pa., Johnson of Tenn., Jones of Va., Keim of Pa., Kennedy of Ind., Lewis of Ala., Littlefield of Me., Lowell of Me., McClellan of N. Y., McClellan of Tenn., McKay of N. C., McKeon of N. Y., Mallory of Va., Marchand of Penn., Marshall of Me., Marshall of Ky., Mason of Md., Matthews of O., Medill of Mass., Miller of Mo., Newhard of Pa., Oliver of N. Y., Parmenter of Mass., Patridge of N. Y., Payne of Ala., Pickens of S. C., Plumer of Penn., Reading of N. H., Rhett of S. C., Riggs of N. Y., Rogers of S. C., Roosevelt of N. Y., Sanford of N. Y., Saunders of N. C., Shaw of N. H., Shields of Ala., Snyder of Pa., Steenrod of Va., Sweeny of O., Turney of Tenn., Van Buren of N. Y., Ward of N. Y., Watterson of Tenn., Weller of O., Westbrook of Penn., James W. Williams of Md., Wise of Va., Wood of N. Y.—97.

President Tyler vetoed this bill. The question was taken, in the Senate, Shall the bill pass notwithstanding the veto of the President, and it was determined in the negative, yeas 24, nays 24.

The bill was revived in the House in another shape, and entitled "A bill to provide for the better collection, &c., by means of a corporation, to be styled the Fiscal Corporation of the United States." It was brought to a vote on the 23d of August, 1841, and was passed, by yeas 125, nays 94.

The vote on this bill was the same as that on the Fiscal Bank bill, with the exception that Messrs. Adams of Mass., and Marshall of Ky., who voted against that, voted for this. Messrs. Cooper, Gates, and Slade, who did not vote on that, voted for this bill. Messrs. Cross, Dawson of La., Eastman, Mallory, Mason, and Sumter, who did not vote on that, voted against this bill. Messrs. Alford, Childs, Cowen, Davis, Giddings, Merriwether, Proffit, Sprigg, and Van Rensselaer, who voted for that, and Messrs. Cravens, Dimmock, Lowell, Marshall of Me., Oliver, and Patridge, who voted against that, were absent and not voting on this bill.

It passed the Senate on the 3d of January, 1841, by yeas and nays as follows:—

YEAS.—Messrs. Archer of Va., Barrow of La., Bates of Mass., Berrien of Ga., Choate of Mass., Clayton of Del., Clay of Ky., Dixon of R. I., Evans of Me., Graham of N. C., Henderson of Miss., Huntington of Conn., Kerr of Md., Mangum of N. C., Merrick of Md., Miller of N. J., Morehead of N. C., Phelps of Vt., Porter of Mich., Prentiss of Vt., Preston of S. C., Simmons of R. I., Smith of Ind., Southard of N. J., Talmadge of N. Y., White of Ind., and Woodbridge of Mich.—27.

NAYS.—Messrs. Allen of O., Benton of Mo., Buchanan of Pa., Calhoun of S. C., Clay of Ala., Cuthbert of Ga., Fulton of Ark., King of Ala., Linn of Mo., McRoberts of Ill., Mouton of La., Nicholson of Tenn., Pierce of N. H., Rives of Va., Sevier of Ark., Smith of Conn., Sturgeon of Pa., Tappan of O., Walker of Miss., Woodbury of N. H., Wright of N. Y., and Young of Ill.—22.

On the 9th of Sept., 1841, President Tyler communicated to the House his message vetoing the same, and on the next day the vote was taken in the House on the question, Shall the bill pass notwithstanding the veto of the President, and it resulted, yeas 103, nays 71. Two-thirds, as required by the Constitution, not having voted in the affirmative, the bill was lost.

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At the second session of the 27th Congress, President Tyler recommended a plan for a fiscal agent, called the Exchequer Board; but it was not acted upon by either House, other than to be reported in favor of, in the Senate, by Mr. Talmadge of N. Y., from a select committee, and by Mr. Cushing, in the House, from a like committee.

Bankrupt Act.

On the 24th of July, 1841, the Bankrupt Bill, introduced by Mr. Henderson of Miss., passed the Senate, by yeas and nays, as follows:—

YEAS.—Messrs. Barrow of La., Bates of Mass., Choate of Mass., Clay of Ky., Clayton of Del., Dixon of R. I., Evans of Me., Henderson of Miss., Huntington of Conn., Kerr and Merrick of Md., Miller of N. J., Morehead of Ky., Monton of La., Phelps of Vt., Porter of Mich., Simmons of R. I., Smith of Ind., Southard of N. J., Talmadge of N. Y., Walker of Miss., White of Tenn., Williams of Me., Woodbridge of Mich., Young of Ill.—26.

NAYS.—Messrs. Allen of O., Archer of Va., Bayard of Del., Benton of Mo., Buchanan of Pa., Calhoun of S. C., Clay of Ala., Cuthbert of Ga., Fulton of Ark., Graham of N. C., King of Ala., Linn of Mo., McRoberts of Ill., Nicholson of Tenn., Pierce of N. H., Prentiss of Vt., Rives of Va., Sevier of Ark., Smith of Conn., Sturgeon of Pa., Tappan of O., Woodbury of N. H., Wright of N. Y.—23.

This bill passed the House on the 18th of Aug., 1841, by yeas and nays as follows:—

YEAS.—Messrs. Adams of Mass., Allen of Me., Andrews of O., Arnold of Tenn., Ayerigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Black of Pa., Blair of N. Y., Boardman of Conn., Borden of Mass., Briggs of Mass., Brockway of Conn., Bronson of N. Y., M. Brown of Tenn., Burnell of Mass., Calhoun of Mass., T. J. Campbell of Tenn., Carruthers of Tenn., Childs of N. Y., Chittenden of N. Y., T. C. Clark of N. Y., S. N. Clarke of N. Y., Cowen of O., Cranston of R. I., Craven of Ind., Cushing of Mass., Davis of Ky., Dawson of Ga., Dawson of La., Deberry of N. C., Edwards of Pa., Everett of Vt., Fessenden of Me., Fillmore of N. Y., A. L. Foster of N. Y., Gamble of Ga., Gates of N. Y., Goode of O., Greig of N. Y., Habersham of Ga., Hall of Vt., Halstead of N. J., Hastings of Mass., Henry of Pa., Howard of Mich., Hudson of Mass., Hunt of N. Y., J. Irvin of Pa., W. W. Irwine of Pa., James of Pa., Johnson of Md., Jones of Md., Kennedy of Md., King of Ga., Lane of Ind., Lawrence of Pa., Linn of N. Y., Mason of O., Mathiot of O., Maxwell of N. J., Maynard of N. Y., Merriwether of Ga., Moore of La., Morgan of N. Y., Morris of O., Morrow of O., Nisbet of Ga., Osborne of Conn., Pearce of Md., Pendleton of O., Powell of Va., B. Randall of Me., A. Randall of Md., Randolph of N. J., Rayner of N. C., Ridgeway of O., Rodney of Del., Roosevelt of N. Y., Russell of O., Saltonstall of Mass., Sergeant of Pa., Simonton of Pa., Slade of Vt., Smith of Conn., Sollers of Md., Stanley of N. C., Stokely of O., Stratton of N. J., Stuart of Ill., Taliaferro of Va., Thompson of Ind., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Van Rensselaer of N. Y., Wallace of Ind., Warren of Ga., E. D. White of La., White of Ind., Williams of Conn., Williams of N. C., C. H. Williams of Tenn., J. L. Williams of Tenn., Winthrop of Mass., Wood of N. Y., Yorke of N. J., Young of Vt., John Young of N. Y.—110.

NAYS.—Messrs. L. W. Andrews of Ky., Arrington of N. C., Atherton of N. H., Banks of Va., Beeson of Pa., Bidlack of Pa., Birdseye of N. Y., Botts of Va., Bowne of N. H., Boyd of Ky., A. V. Brown of Tenn., C. Brown of Pa., J. Brown of Pa., Burke of N. H., Butler of S. C., Butler of Ky., Caldwell of N. C., Caldwell of S. C., Campbell of S. C., W. B. Campbell of Tenn., Carey of Va., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va., Cross of Ark., Daniel of N. C., Davis of N. Y., Dean of O., Doan of O., Doig of N. Y., Eastman of N. H., Edwards of Mo., Egbert of N. Y., Ferris of N. Y., J. G. Floyd of N. Y., C. A. Floyd of N. Y., Fornance of Pa., Foster of Ga., Gentry of Tenn., Gerry of Pa., Gilmer of Va., Goggin of Va., Goode of Va., Gordon of N. Y., Graham of N. C., Gustine of Pa., Harris of Va., Hastings of O., Hays of Va., Holmes of S. C., Hopkins of Va., Houck of N. Y., Houston of Ala., Hubard of Va., Hunter of Va., Ingersoll of Pa., Jack of Pa., Johnson of Tenn., Jones of Va., Keim of Pa., Kennedy of Ind., Lewis of Ala., Littlefield of Me., McClelland of N. Y., McClellan of Tenn., McKay of N. C., Mallory of Va., Marchand of Pa., Marshall of Ky., Matthews of O., Mattocks of Vt., Medill of O., Miler of Mo., Newhard of Pa., Parmenter of Mass., Payne of Ala., Pickens of S. C., Plumer of Pa., Pope of Ky., Proffit of Ind., Ramsey of Pa., Reding of N. H., Reucher of N. C., Rhett of S. C., Riggs of

N. Y., Rogers of S. C., Saunders of N. C., Shaw of N. H., Shepperd of N. C., Shields of Ala., Snyder of Pa., Sprigg of Ky., Steenrod of Va., Sweney of O., Thompson of Ky., Triplett of Ky., Turney of Tenn., Underwood of Ky., Van Buren of N. Y., Ward of N. Y., Watterson of Tenn., Weller of O., Westbrook of Pa., Williams of N. H., Wise of Va.—106.

The bill, as it passed the House, contained an amendment extending the time at which it was to take effect. The amendment was concurred in by the Senate, and the bill became a law by the approval of John Tyler, President.

The repeal of the Bankrupt Act was effected by the very Congress which had passed it. The bill repealing it passed the House on the 17th of January, by a vote of yeas 140, nays 71.

Messrs. Bronson of N. Y., T. J. Campbell of Tenn., Caruthers of Tenn., Davis of Ky., Deberry of N. C., Everett of Vt., Goode of O., Hudson of Mass., Morris of O., Osborne of Conn., Rayner of N. C., Smith of Conn., Stanley of N. C., Stokely of O., Stuart of Ill., Taliaferro of Va., Tillinghast of R. I., Wood of N. Y., and Young of Vt., who voted in the House for the act, voted for its repeal.

The Repeal Bill passed the Senate on the 25th of February, 1843, by a vote of yeas 32, nays 13.

Senators Huntington of Conn., Morehead of Ky., Phelps of Vt., Walker of Miss., Williams of Me., and Young of Ill., who had voted for the act, voted for its repeal.

President Tyler approved the act, and the repeal became a law.

Banks, Nathaniel P., Jr.

ANSWER OF, IN THE HOUSE OF REPRESENTATIVES, TO INTERROGATORIES PROPOUNDED TO HIM IN JANUARY, 1856.

Mr. BANKS. Mr. Clerk, I voted for the resolution presented by the honorable gentleman from Tennessee [Mr. Zollicoffer] yesterday, with pleasure. It embodies a principle which I think sound. As understood by me, when reported at the clerk's desk, it was nothing more nor less than simply this: that any gentleman who votes for a candidate for any office ought to know the opinions of that candidate. I recognise the right of every gentleman in this House who has been voting for Speaker during this protracted contest, to ascertain the opinions of any man for whom he casts his vote. Sir, I should claim it as my right to know the opinions of my candidate to such an extent as should be satisfactory to myself, at least.

But, sir, as a member of the House, I have other rights. I offer myself as a candidate for no office; I solicit no man's suffrage; and I am not, therefore, called upon as a candidate to solve such difficulties as gentlemen supporting other persons may find in the existing condition of public affairs. Those who have honored me by their confidence and votes are themselves responsible for the course they have chosen, and, I doubt not, they are able to meet that responsibility. It is not for me to provide for their defence. I can only say, as Othello said of his wife, they "had eyes, and chose me."

I have convictions—convictions of duty, convictions of principle—upon the great matters in which the country is interested; and, as a member of the House, representing a district in the commonwealth of Massachusetts, I have no hesitation in responding to any of the inquiries propounded by the honorable gentleman from Tennessee to the honorable gentleman from Illinois. I ask the clerk to read the first question.

The clerk read as follows:—

"Am I right in supposing that the gentleman from Illinois regards the Kansas-Nebraska bill as promotive of the formation of free states in the territories of Kansas and Nebraska?"

Mr. BANKS. It will be understood, of course, that the phraseology of this inquiry applies rather to the gentleman from Illinois [Mr. Richardson] than to myself. I answer, distinctly, that I do not regard the Kansas-Nebraska bill as promotive of the formation of free states, inasmuch as it repeals the prohibition of the institution of slavery over the section of country to which that statute applies. I think it does not tend to the formation of free states. That is my answer.

The clerk read as follows:—

"Am I right in supposing he advocates the constitutionality of the Wilmot proviso; that in 1850 he opposed its application to the territories acquired from Mexico, only upon the ground that it was unnecessary, inasmuch as the Mexican local laws in those territories already abolished slavery—which ought to be sufficient for all Free-Soil men; and that he committed himself to the position, that if territorial bills (silent upon the subject of slavery, and leaving the Mexican law to operate) were defeated, he would vote for bills with the Wilmot proviso in them?"

Mr. BANKS. I could give a general answer in the affirmative to that interrogatory. I believe in the constitutionality of that act which is known and generally understood as the Wilmot proviso. I believe that it is within the power of Congress to prohibit the institution of slavery in a territory belonging to the United States. Whether I would advocate the passage of such an act in regard to a territory where it was clearly unnecessary, where by local, pre-existing laws it had been prohibited, or, in other words, whether I would advocate a double inhibition, I have only to say, that, if a doubt existed as to its exclusion by valid municipal law, I should sustain an act which embodied the prohibition known as the Wilmot or Jefferson proviso. In regard to the measures of 1850, I can only say, that, being called upon here or elsewhere, I should have voted for the prohibition in the territories covered by those measures, if I had entertained a doubt as to the exclusion of slavery by existing municipal law. That is my answer.

The clerk read as follows:—

"Am I right in supposing that his theory is, that the Constitution of the United States does not carry slavery to, and protect it in, the territories of the United States?"

Mr. BANKS. I do not believe that the Constitution of the United States carries the institution of slavery to the territories of the United States. My understanding is based on the declaration of Mr. Webster, that even the Con-

stitution of the United States itself does not go to the territories until it is carried there by an act of Congress. Standing on the principle of the English law governing the same interests, I do not believe that the Constitution of the United States carries to any territory of the United States any right to hold slaves there.

In order, sir, that my answer should be full and satisfactory, I ought, perhaps, to put the negative of the proposition of the distinguished gentleman who leads the government party on this floor, and in this crisis. I recognise the right, sir, to protection of property on the part of the South, as well as on the part of the North, in the territories of the United States; and when I speak of property I mean that which is considered property by universal law; I do not mean that which is property only because it is held as such under the laws of a particular state, and which loses its character of property so soon as it extends beyond the limits of that state, except under certain reservations covered by the Constitution of the United States. When I speak of property, I do not refer to that species. I describe that which is recognised as property by universal laws of men, and not that which is property only when it is made such by local laws of limited sections of the country. I have no disposition to disturb its existence—no purpose to diminish or increase it there. I will acknowledge all its rights there, accepting for that purpose the charts established by Southern statesmen; but I deny that it is such property as, independent of local law or Congressional enactment, is protected by the Constitution in the territories of the United States.

I have nothing further to say on this very nice and delicate question. I believe that the Constitution of the United States was intended to do justice to all sections of the country—to the South equally with the North. I am for that to-day; and I adopt the language of my friend [Mr. Richardson], who has always treated me with distinguished courtesy in all discussions on this subject, that we should do justice to the South as well as to the North. In no speech or declaration that has fallen from my lips, so far as I can remember it, have I ever expressed a different sentiment; but, sir, I cannot shut out from my memory the great fact that the Constitution of the United States is an instrument of freedom, contemplated as such by its framers, and interpreted as such by all men of the South and the North until within the last few years. It is a chart of freedom, established to secure the blessings of liberty to ourselves and our posterity, giving liberty to the states to do what they shall think to be proper within their own localities, under such circumstances as to them shall seem to be right and just, but claiming no right and conceding no right to them to carry their own peculiar institutions beyond the limitations conferred by the doctrine of the sovereignty of states.

No, sir! The Constitution of the United States is an instrument, not of immediate, but of ultimate and universal freedom. It was so contemplated by the great men who framed it; and the world has so regarded it. The national flag, that is its symbol, that makes the land over which it floats, in whatever quarter of the globe, so long as it covers an American citizen, American territory, is the banner of ultimate and universal liberty—its white and red folds symbols of revolutionary trials, of the crests of victory, and the blood of sacrifice. May its starry union for ever stand as lustrous and imperishable as the golden fires of God's firmament! [Great applause.] That is my answer to that question.

The clerk read as follows:—

"That in the territory acquired from Mexico and France (including Kansas and Nebraska) the Missouri restriction was necessary to make the territory free, because slavery existed there under France at the time of the acquisition, but that the Kansas and Nebraska bill, which repeals that restriction, but neither legislates slavery into those territories nor excludes it therefrom, in his opinion, leaves those territories without either local or constitutional law protecting slavery; and that therefore the Kansas and Nebraska bill promotes the formation of slave States in Kansas and Nebraska?"

Mr. Banks. I did not see that question, Mr. Clerk, until it was brought to me by a page from the desk. It is but a repetition of the first interrogatory, with the addition of a statement of fact. In regard to that statement, I will say that it is doubted whether the institution of slavery existed in these territories at the time they were acquired. Without going into the question whether France, by the decree of 1794, abolished it there, I will say that, if it were necessary that the Congress of the United States should interdict it in those territories in order to make them free, I think that Congress was right in doing it. If it were necessary, in order to give to the South the right to carry slavery there, that the interdict of 1820 should be removed, I think that the Congress of 1853 was wrong in making that repeal: and I cannot, sir, but say, with the light that has come to me upon this question, that the interdict of 1820 forbade and abolished slavery, if it existed there; that the repeal of that prohibition in 1853, inasmuch as it allowed slavery to go there under certain possible circumstances, was an act not promotive of the formation of free states. That, sir, is my answer to that question.

The following is his response to Mr. Barksdale's interrogatories:—

Mr. Banks. I repeat, Mr. Clerk, the principle on which I answer interrogatories from any quarter, and it is, that I speak as a member of this House for one of the districts of the state of Massachusetts.

In regard to my position as connected with the parties of the country, I wish to make my statement in my own way, inasmuch as it is a matter which particularly concerns myself. I will state the facts, and the gentleman from Mississippi [Mr. Barksdale], and other gentlemen, will draw their own inferences. What they may be, it is not for me to say. When

I was elected to this House as a member from the state of Massachusetts, I was elected on the nomination of the regular Democratic party and of the American party of that district. The American party was very largely in the majority. I avowed my sentiments freely and fully on the questions which are involved in the issue presented by that party, before there was any especial cause for me to do so, and before it had attracted the attention of the country; and as an answer to the fourth interrogatory put to me by the gentleman from Mississippi, after it had been submitted to the gentleman from Illinois, I have only to say that, in the speech which I delivered to this body during the last Congress, I expressed freely and fully all my opinions on the subject. The record is there, and to it I refer the gentlemen for information. Let the record speak. I have adopted the maxim of Junius, that it is an unfortunate waste of time for a man to spend any considerable portion of his life in commentaries on his own works. [Laughter.]

I come now to speak to the interrogatory in reference to the equality of the white and black races.

Mr. BARKSDALE. Take the next one before that.

Mr. BANKS. Please allow me to speak to the interrogatories in my own order.

I have to say, in this matter, that I accept the doctrine of the Declaration of Independence, that all men are created equal. In regard to the superiority of races, I am impressed with the conviction that it is to be determined ultimately by capacity for endurance. So far as I have studied the subject, it seems to me to be the general law that the weaker is absorbed or disappears altogether. Whether the black race of this continent, or any other part of the world, is equal to the white race, can only be determined by the absorption or disappearance of one or the other; and I propose to wait until the respective races can be properly subjected to this philosophical test before I give a decisive answer. [Roars of laughter.]

As the other question is the key to the politics of the country, I will now give it my attention.

"Are you in favor of restoring the Missouri restriction; or do you go for the entire prohibition of slavery in all the territories of the United States?"

The territorial question of this day refers to the territories of Kansas and Nebraska. I leave the territories which are to come hereafter to the hereafter; but I say, at the same time, that I am in favor of the prohibition of slavery in Kansas and Nebraska. Then, in regard to the first clause of the interrogatory —are you in favor of restoring the Missouri restriction?—I have to say that I desire that the prohibition made by Southern men and Southern States—the inhibitions of the institution of slavery in the territories of Kansas and Nebraska—shall be made good to the people of the country. I care not in what manner it shall be done; whether there be a restoration of the technical and arbitrary line, or by some other methods, or appliances, or principles, there shall be made good to the people of the United States the prohibition for which the Southern States contracted and received a consideration. I am for the substantial restoration of the prohibition as it has existed since 1820.

Here are several questions in regard to slavery in the district of Columbia and the modification of the tariff laws as they now exist. I stand here ready and desirous and determined to co-operate with the men of the United States, who are for the substantial restoration of the prohibition of the institution of slavery in the territories of Kansas and Nebraska. I am ready to act with men of any party and of any views for the accomplishment of this great end. I shall ask no man with whom I shall co-operate in this matter what he thinks of the abolition of slavery in the District of Columbia, or what he thinks, or shall do on the tariff question.

In my view of the politics of this country, these questions are not in issue; and, sir, inasmuch as I propose to ask no opinions of those with whom I co-operate, upon such questions apart from the great political issues of this coming year, so, sir, I say, that I have no opinions myself to pronounce. That, Mr. Clerk, is my answer.

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ELECTION OF N. P. BANKS, AS SPEAKER OF THE HOUSE OF REPRESENTATIVES.

On the 2d of Feb. 1856, the plurality rule was proposed by Mr. Smith of Tenn. (Dem.), as follows:—

Resolved, That this House will proceed immediately to the election of a Speaker *viva voce*. If, after the roll shall have been called three times, no member shall have received a majority of all the votes cast, the roll shall again be called, and the member who shall then receive the largest vote, provided it be a majority of a quorum, shall be declared duly elected Speaker of the House of Representatives of the Thirty-fourth Congress.

The vote on this resolution was as follows:—

YEAS.—Messrs. Albright, Allison, Ball, Banks, Barbour, *Barclay*, Henry Bennett, Benson, Billinghurst, Bingham, Bishop, Bliss, Bradshaw, Brenton, Buffinton, Burlingame, James H. Campbell, Chaffee, Bayard, Clarke, Ezra Clark, Clawson, *Clingman*, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Timothy Davis, Day, Dean, De Witt, Dick, Dickson, Dodd, Durfee, Edie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Robert B. Hall, Harlan, *Herbert*, *Hickman*, Holloway, Thomas R. Horton, Howard, *Jewett*, *Kelly*, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Meacham, Killian Miller, Morgan, Morrill, Mott, Murray, Nichols, Norton, Andrew Oliver, Parker, Pearce, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Robinson, Sabin, Sage, Sapp, Sherman, Simmons, *Samuel A. Smith*, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Tyson, Wade, Walbridge, Waldron, C. C. Washburne, E. B. Washburne, Israel Washburn, Watson, Welch, *Wells*, *Williams*, Wood, Woodruff, and Woodworth.—113.

NAYS.—Messrs. *Aiken*, *Allen*, *Barksdale*, *Bell*, *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, *Brooks*, BROOM, *Burnett*, *Cadwalader*, JOHN P. CAMPBELL, Lewis D. Campbell, CARLISLE, *Caruthers*, *Caskie*, *Howell Cobb*, *W. R. W. Cobb*, COX, *Crawford*, *Davidson*, H. WINTER DAVIS, *Denver*, *Dow-*

dell, DUNN, *Edmundson, Elliott, English*, ETHERIDGE, EUSTIS, EVANS, *Faulkner, Florence*, FOSTER, H. M. FULLER, *T. J. D. Fuller, Goode, Greenwood, Augustus Hall*, J. M. HARRIS, *S. W. Harris, T. L. Harris*, HARRISON HOFFMAN, *Houston, Geo. W. Jones, J. Glancy Jones, Keitt*, KENNETT, *Kidwell*, LAKE, *Letcher*, LINDLEY, *Lumpkin*, A. K. MARSHALL, HUMPHREY MARSHALL, *S. S. Marshall, Maxwell, McMullen, McQueen, Smith, Miller, Millson*, MILLWARD, MOORE, *Mordecai, Oliver, Orr*, PAINE, *Peck, Phelps*, PORTER, *Powell*, PURYEAR, *Quitman*, READY, RICAUD, RIVERS, *Ruffin, Rust, Sandidge, Savage*, SCOTT, *Shorter, William Smith*, WILLIAM R. SMITH, SNEED, *Stephens, Stewart*, SWOPE, *Talbott*, TRIPPE, UNDERWOOD, *Vail*, VALK, WALKER, *Warner, Watkins, Wheeler*, WHITNEY, *Winslow, D. B. Wright, J. V. Wright, and* ZOLLICOFFER.—104.

The third ballot resulted in the choice of Mr. Banks. It was as follows:—

FOR MR. BANES.—Messrs. Albright, Allison, Ball, Barbour, Henry Bennett, Benson, Billinghurst, Bingham, Bishop, Bliss, Bradshaw, Brenton, Buffinton, Burlingame, James H. Campbell, Lewis D. Campbell, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Timothy Davis, Day, Dean, De Witt, Dick, Dickson, Dodd, Durfee, Edie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Robert B. Hall, Harlan, Holloway, Thomas R. Horton, Howard, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Meacham, Killian Miller, Morgan, Morrill, Mott, Murray, Nichols, Norton, Andrew Oliver, Parker, Pearce, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Robinson, Sabin, Sage, Sapp, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Tyson,* Wade, Walbridge, Waldron, Cadwalader, C. Washburne, Elihu B. Washburne, Israel Washburn, Watson, Welch, Wood, Woodruff, and Woodworth.—103.

FOR MR. AIKEN.—Messrs. *Allen, Barksdale, Bell, Hendley S. Bennett, Bocock, Bowie, Boyce, Branch, Brooks, Burnett, Cadwalader*, JOHN P. CAMPBELL, *Carlile, Caruthers, Caskie, Clingman, Howell Cobb, Williamson R. W. Cobb*, COX, *Crawford, Davidson, Denver, Dowdell, Edmundson, Elliott, English*, ETHERIDGE, EUSTIS, EVANS, *Faulkner, Florence*, FOSTER, *Thomas J. D. Fuller, Goode, Greenwood, Augustus Hall, J.* MORRISON HARRIS, *Sampson W. Harris, Thomas L. Harris, Herbert*, HOFFMAN, *Houston, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly*, KENNETT, *Kidwell*, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Samuel S. Marshall, Maxwell, McMullin, McQueen, Smith Miller, Millson, Mordecai Oliver, Orr*, PAINE, *Peck, Phelps*, PORTER, *Powell*, PURYEAR, *Quitman*, READE, READY, RICAUD, RIVERS, *Ruffin, Rust, Sandidge, Savage, Shorter, Samuel A. Smith, William Smith*, WILLIAM R. SMITH, SNEED, *Stephens, Stewart*, SWOPE, *Talbott*, TRIPPE, UNDERWOOD, *Vail*, WALKER,* *Warner, Watkins, Wells, Wheeler, Williams, Winslow, Daniel B. Wright, John V. Wright*, and ZOLLICOFFER.—100.

FOR MR. FULLER.—Messrs. BROOM, BAYARD CLARKE,† CULLEN, H. WINTER DAVIS, MILLWARD,† and WHITNEY.—6.

FOR MR. CAMPBELL.—Messrs. DUNN, HARRISON, MOORE, and SCOTT.†—4.

FOR MR. WELLS.—Mr. *Hickman*.—1.

Republicans in roman; National Americans in SMALL CAPS; and Democrats in *italics*.

Messrs. Broom, Bayard Clarke, Henry M. Fuller, Whitney, and Richardson, who voted for Mr. Aiken the day before, did not vote for him on the last ballot. Messrs. Broom, Bayard Clarke, and Whitney voted for Mr. Henry M. Fuller. Mr. Henry M. Fuller was in the hall, and did not vote. It was stated that he had paired off with Mr. Barclay, who was also in the hall. Messrs. Faulkner, Alexander K. Marshall, and Keitt, who were not present the day before, voted for Mr. Aiken then. Mr. Richardson had to resume a pair with Mr. Emrie, which Mr. Faulkner had temporarily taken off his hands.

Bargain and Intrigue.

(See BUCHANAN, JAMES, and WILLIAMS, JAMES).

* Messrs. Tyson and Walker since supported Mr. Buchanan.

† Messrs. Barclay, Clarke, Millward and Scott since supported Col. Fremont.

Bennett, James Gordon.

REPUBLICAN MOVEMENT FOR 1860.

The following editorial "Notice to the political friends of Fremont" appeared in the New York Herald of the 15th instant:—

"NOTICE TO THE POLITICAL FRIENDS OF FREMONT.—The honest and out-spoken political supporters of John C. Fremont are earnestly advised to form, as soon as possible, standing committees and clubs in every town, precinct, district, city, or county of the United States, and thus prepare the way properly to enter the field for the Presidency in 1860. Unless the friends of Fremont begin at once to act in this way, he and his supporters will be cheated by the corrupt politicians who are now seeking the management and control of the Republican masses throughout the country. Now is the time to begin the great movement for 1860 by forming honest centres of union and intelligence against corruption, fraud and incipient revolution.

Bronson, Greene C.

LETTER OF, DATED JULY 15, 1848.

After declining an invitation to attend a political meeting, he says:—

"Slavery cannot exist where there is no positive law to uphold it. It is not necessary that it should be forbidden; it is enough that it is not specially authorized. If the owner of slaves removes with or sends them into any country, state, or territory, where slavery does not exist by law, they will from that moment become free men, and will have as good a right to command the master, as he will have to command them. State laws have no extraterritorial authority; and a law of Virginia which makes a man a slave there, cannot make him a slave in New York, nor beyond the Rocky Mountains.

"Entertaining no doubt upon that question, I can see no occasion for asking Congress to legislate against the extension of slavery into free territory, and, as a question of policy, I think it had better be let alone. If our Southern brethren wish to carry their slaves to Oregon, New Mexico, or California, they will be under the necessity of asking a law to warrant it; and it will then be in time for the free states to resist the measure, as I cannot doubt they would, with unwavering firmness.

"I would not needlessly move this question, as it is one of an exciting nature, which tends to sectional division, and may do us harm as a people. I would leave it to the slaveholding states to decide for themselves, and on their own responsibility, when, if ever, the matter shall be agitated in Congress. It may be, that they will act wisely, and never move at all, especially as it seems pretty generally agreed that neither Oregon, New Mexico, nor California, are well adapted to slave labor. But if our southern brethren should make the question, we shall have no choice but to meet it, and then, whatever consequences may follow, I

trust the people of the free states will give a united voice against allowing slavery on a single foot of soil where it is not now authorized by law.

"I am, very respectfully, your obedient servant,

GREENE C. BRONSON.

"To Messrs. J. Cochran, and others, committee."

Brooks, Preston S.

SYNOPSIS OF SPEECH OF, ON THE 29TH OF AUG. 1856, AT COLUMBIA, S. C.

Mr. Brooks thanked the citizens for the compliment paid him on this occasion, and for the sympathy which his course had received. It was the spirit which actuated him to do the deed, more than the deed itself, which deserved their commendation. It was a deed which was the result of a high sense of duty; and any man who held his honor above reproach would have acted, under similar circumstances, precisely as he did.

An ordinary castigation was nothing to excite a people as had this act of his excited the North. Abolitionists, seeking excuses for their vile slanders, had made it a pretext for more fanaticism. It was curious that the castigation of a Black Republican should beget so extraordinary an excitement. But they had used this act of his—executed under the highest sense of duty—as an instrument to kindle more fires of fanaticism. Their motive was political power; they wished to enjoy the patronage and the emoluments of the government.

Every foot of the way from Washington to this city he had met with kindness from the people of the South; and it gratified him to believe that, were he to travel to the extremest verge of the South, he should meet with the same hearty welcome that he had experienced here and elsewhere.

He would not say there was no honor nor moral courage at the North; he knew there were some men of as true courage at the North as elsewhere. But what he wished to say, was, that the moral tone of mind which would lead a man to become a Black Republican would make him incapable of courage, and would involve a loss of all honor and moral principle whatever.

It was plain that the defeat of the army bill was the act of the Black Republican majority in the House of Representatives. He was almost glad of it; though he had voted for the original bill, he was of opinion it ought to fail. He voted for it from a sense of duty, not liking to do evil that good might follow. The loss of the army appropriation would not injure the South, because all the money nearly was expended at the North.

He rather wished the army appropriation bill would not pass, because it would effect the removal of the United States soldiers from Kansas. We know the Black Republican platform: it is our duty either to counteract them or meet them boldly, face to face, and battle for our rights.

Their principles were, the abolition of slavery in the District of Columbia, the prohibition of the inter-state slave trade, no more slave territory, &c. Will they carry out these principles? the election of Banks as speaker of the House of Representatives, and the defeat of the army bill, teach us that we should meet and prepare to defend ourselves. With right upon our side, we could meet and conquer them.

All of us agreed that if we could not live in equality in the Union, our only course was to dissolve it. He was a co-operation disunionist—the same as he was in 1851. He felt convinced that South Carolina would respond to his position.

When he said lately in the House of Representatives that he had it in his power to raise a revolution, it was no egotistic boast. He felt that he had done as much as any one man to concentrate the feeling of the South; and when he spoke of revolution, he knew that had he stepped forward and smote one of their abolition crew in the house, their enmity to him, would have precipitated them against him, and caused a revolution on that floor.

He now came to a delicate question—the Presidency. The only hope for the South was to support Mr. Buchanan. His opponents were Fremont and Fillmore—the former a soldier who had never won a battle, a politician who had never made a speech; his birth-place, too, was as hard to fix upon satisfactorily as was the identity of his father. Fillmore was a man of unexceptionable moral virtue; but between Fremont and Fillmore he would prefer the former, because the great issue would be precipitated, although the latter was as much an Abolitionist, having voted to abolish slavery in the District of Columbia, against the admission of Texas, and had opposed the administration of Franklin Pierce for his course on the Missouri compromise.

Buchanan, the speaker frankly admitted, was not his first, second, or third choice, but his last. His first choice was Franklin Pierce, because he had manifested a disposition to give the South her constitutional rights. After Pierce he was in favor of Douglas—a true friend, who had perilled his life by his position on the Nebraska bill, and who had the smoke and scars of the battle upon him.

There must be compromise everywhere—in society, in law, and in politics. Buchanan was the standard bearer in the coming contest, and the platform upon which he stood was the right one for the South. If its principles were carried out, the government would be restored to the condition of a constitutional administration. Why should we refuse to take a part in the battle? If we are bound to have civil war, and if we must dissolve the Union, we must do it with a full appreciation of the consequences. He thought there would

be no child's play when the conflict did come.

On the first Tuesday in November next the great question would be decided. For his part, if Fremont, the traitor to his section, should be successful, it was his deliberate opinion that, on the fourth of March next, the people of the South should rise in their might, march to Washington, and seize the archives and the treasury of the government. We should anticipate them, and force them to attack us.

In conclusion, Mr. Brooks said he felt it to be an obligation upon him to devote all the energies of his life to repay the generous sympathy with which he had been met by his fellow citizens of the South and of South Carolina; and that whenever an occasion offered he would be ready to stand up in defence of his State. In the language of a distinguished citizen of our State, he would say that, through good and evil report, for weal or for woe, he would stand by South Carolina.

Buchanan, James.

BARGAIN AND INTRIGUE LETTER OF.

To the Editor of the Lancaster Journal.

The Cincinnati Advertiser was last night placed in my hands by a friend, containing an address from General Jackson to the public, dated on the 18th ultimo, in which he announces me to be the member of Congress to whom he had referred, in his letter to Mr. Beverly of the 5th of June last. The duty which I owe to the public and to myself, now compels me to publish to the world the only conversation which I ever held with General Jackson on the subject of the last presidental election, prior to its termination.

In the month of December, 1824, a short time after the commencement of the session of Congress, I heard, among other rumors then in circulation, that General Jackson had determined, should he be elected President, to continue Mr. Adams in the office of Secretary of State. Although I felt certain he had never intimated such an intention, yet I was sensible that nothing could be better calculated both to cool the ardor of his friends, and to inspire his enemies with confidence, than the belief that he had already selected *his chief competitor* for the highest office within his gift. I thought General Jackson owed it to himself and to the cause, in which his political friends were engaged, to contradict this report; and to declare that he would not appoint to that office the man, however worthy he might be, who stood at the head of the most formidable party of his political enemies. These being my impressions, I addressed a letter to a confidential friend in Pennsylvania, then and still high in office, and exalted in character, and one who had ever been the decided advocate of General Jackson's election, requesting his opinion and advice upon the subject. I received his answer, dated the 27th Dec. 1824, upon the 29th, which is now before me, and which strengthened and confirmed my previous opinion.

I then finally determined, either that I would ask General Jackson myself, or get another of his friends to ask him—whether he had ever declared he would appoint Mr. Adams his Secretary of State. In this manner I hoped a contradiction of the report might be obtained from himself, and that he might probably declare it was not his intention to appoint Mr. Adams.

A short time previous to the receipt of the letter to which I have referred, my friend Mr. Markley and myself got into conversation, as we very often did, both before and after, upon the subject of the presidential election, and concerning the person who would probably be selected by General Jackson to fill the office of Secretary of State. I feel sincerely sorry that I am compelled thus to introduce his name; but I do so with the less reluctance, because it has already, without any agency of mine, found its way into the newspapers, in connexion with this transaction.

Mr. Markley adverted to the rumor which I have mentioned, and said it was calculated to injure the general. He observed that Mr. Clay's friends were warmly attached to him, and that he thought they would endeavor to act in concert at the election. That if they did so, they could either elect Mr. Adams or General Jackson at their pleasure; but that many of them would never agree to vote for the latter, if they knew he had predetermined to prefer another to Mr. Clay, for the first office in his gift. And that some of the friends of Mr. Adams had already been holding out the idea that, in case he were elected, Mr. Clay might probably be offered the situation of Secretary of State.

I told Mr. Markley, that I felt confident General Jackson had never said he would appoint Mr. Adams Secretary of State; because he was not in the habit of conversing upon the subject of the election; and if he were, whatever might be his secret intention, he had more prudence than to make such a declaration. I mentioned to him that I had been thinking, either that I would call upon the General myself, or get some one of his other friends to so, and thus endeavor to obtain from him a contradiction of the report; although I doubted whether he would hold any conversation upon the subject.

Mr. Markley urged me to do so; and observed, if General Jackson had not determined whom he would appoint Secretary of State, and should say that it would not be Mr. Adams, it might be a great advantage to our cause, for us so to declare, upon his own authority; we should then be placed upon the same footing with the Adams men, and might fight them with their own weapons. That the Western members would naturally prefer voting for a Western man, if there were a probability that the claims of Mr. Clay to the second office in the government should be fairly estimated; and that if they thought

proper to vote for General Jackson, they could soon decide the contest in his favor.

A short time after this conversation, on the 30th Dec. 1824 (I am enabled to fix the time not only from my own recollection, but from letters which I wrote on that day, on the day following, and on the 2d Jan. 1825), I called upon General Jackson. After the company had left him, by which I found him surrounded, he asked me to take a walk with him; and whilst we were walking together upon the street, I introduced the subject. I told him I wished to ask him a question in relation to the presidential election; that I knew he was unwilling to converse upon the subject; that therefore if he deemed the question improper, he might refuse to give it an answer. That my only motive in asking it was friendship for him, and I trusted he would excuse me for thus introducing a subject about which I knew he wished to be silent.

His reply was complimentary to myself, and accompanied with a request that I should proceed. I then stated to him there was a report in circulation, that he had determined he would appoint Mr. Adams Secretary of State, in case he were elected President: and that I wished to ascertain from him whether he had ever intimated such an intention. That he must at once perceive how injurious to his election such a report might be. That no doubt, there were several able and ambitious men in the country, among whom I thought Mr. Clay might be included, who were aspiring to that office; and if it were believed he had already determined to appoint *his chief competitor*, it might have a most unhappy effect upon their exertions, and those of their friends. That unless he had so determined, I thought this report should be promptly contradicted under his own authority.

I mentioned, it had already probably done him some injury, and proceeded to relate to him the substance of the conversation which I had held with Mr. Markley. I do not remember whether I mentioned his name, or merely described him as a friend of Mr. Clay.

After I had finished, the general declared he had not the least objection to answer my question. That he thought well of Mr. Adams; but had never said or intimated, that he would, or that he would not, appoint him Secretary of State. That these things were secrets he would keep to himself—he would conceal them from the very hairs of his head. That if he believed his right hand then knew what his left would do upon the subject of appointments to office, he would cut it off and cast it into the fire. That if he should ever be elected President, it would be without solicitation and without intrigue on his part—that he would then go into office perfectly free and untrammelled, and would be left at perfect liberty to fill the offices of government with the men whom at the time he believed to be the ablest and the best in the country.

I told him that his answer to my question was such an one as I had expected to receive, if he answered it at all; and that I had not sought to obtain it for my own satisfaction. I then asked him if I were at liberty to repeat his answer. He said I was perfectly at liberty to do so to any person I thought proper. I need scarcely remark that I afterwards availed myself of the privilege. The conversation upon this topic here ended—and in all our intercourse since, whether personally or in the course of our correspondence, General Jackson never once adverted to the subject, prior to the date of his letter to Mr. Beverly.

I do not recollect that General Jackson told me I might repeat his answer to Mr. Clay and his friends; though I should be sorry to say he did not. The whole conversation being upon the public street, it might have escaped my observation.

A few remarks more, and I trust I shall have done with this disagreeable business for ever.

I called upon General Jackson on the occasion which I have mentioned, solely as his friend, upon my individual responsibility, and not as the agent of Mr. Clay, or any other person. I never have been the political friend of Mr. Clay since he became a candidate for the office of President, as you very well know. Until I saw General Jackson's letter to Mr. Beverly of the 5th ult., and at the same time was informed by letter from the editor of the United States Telegraph, that I was the person to whom he alluded, the conception never once entered my mind, that he deemed me to have been the agent of Mr. Clay, or of his friends, or that I had intended to propose to him terms of any kind from them, or that he could have supposed me to be capable of expressing the "opinion that it was right to fight such intriguers with their own weapons." Such a supposition, had I entertained it, would have rendered me exceedingly unhappy; as there is no man upon earth whose good opinion I more value than that of General Jackson. He could not, I think, have received this impression until after Mr. Clay and his friends had actually elected Mr. Adams President, and Mr. Adams had appointed Mr. Clay Secretary of State. After these events had transpired, it may be readily conjectured in what manner my communication might have led him into the mistake. I deeply deplore that such has been its effect.

I owe it to my own character to make another observation. Had I ever known, or even suspected that General Jackson believed I had been sent to him by Mr. Clay or his friends, I should have immediately corrected his erroneous impression; and thus prevented the necessity for this most unpleasant explanation. When the editor of the United States Telegraph, on the 12th of October last, asked me by letter for information upon the subject, I promptly informed him by the returning mail on the 16th of that month, that I had no authority from Mr. C. or his friends, to propose any terms to General Jackson in relation to their votes, nor did I ever make any such

proposition; and that I trusted I would be as incapable of becoming a messenger, upon such an occasion, as it was known General Jackson would be to receive such a message. I have deemed it necessary to make this statement, in order to remove any misconception which may have been occasioned by the publication, in the Telegraph, of my letter to the editor, dated the 11th ultimo.

With another remark, I shall close this communication. Before I held the conversation with General Jackson, which I have detailed, I called upon Major Eaton, and requested him to ask General Jackson, whether he had ever declared or intimated, that he would appoint Mr. Adams Secretary of State, and expressed a desire that the general should say, if consistent with truth, that he did not intend to appoint him to that office. I believed that such a declaration would have a happy influence upon the election, and I endeavored to convince him that such would be its effect. The conversation between us was not so full as that with General Jackson. The major politely declined to comply with my request, and advised me to propound the question to the general myself, as I possessed a full share of his confidence.

JAMES BUCHANAN.

Lancaster, 8th August, 1827.

—

Extract from Mr. Buchanan's speech on the Independent Treasury, Jan. 22, 1840, which gave rise to the "ten cent" charge:—

"We are also charged by the Senator from Kentucky with a desire to reduce the wages of the poor man's labor. We have often been termed agrarians on our side of the House. It is something new under the sun, to hear the Senator and his friends attribute to us a desire to elevate the wealthy manufacturer, at the expense of the laboring man and the mechanic. From my soul, I respect the laboring man. Labor is the foundation of the wealth of every country; and the free laborers of the North deserve respect, both for their probity and their intelligence. Heaven forbid that I should do them wrong! Of all the countries on the earth, we ought to have the most consideration for the laboring man. From the very nature of our institutions, the wheel of fortune is constantly revolving, and producing such mutations in property, that the wealthy man of to-day may become the poor laborer of to-morrow. Truly, wealth often takes to itself wings and flies away. A large fortune rarely lasts beyond the third generation, even if it endure so long. We must all know instances of individuals obliged to labor for their daily bread, whose grandfathers were men of fortune. The regular process of society would almost seem to consist of the efforts of one class to dissipate the fortunes which they have inherited, whilst another class, by their industry and economy, are regularly rising to wealth. We have all, therefore, a common interest, as it is our common duty, to protect the rights of the laboring man: and if I believed for a moment that this bill would prove injurious to him, it should meet my unqualified opposition.

"Although this bill will not have as great an influence as I could desire, yet, as far as it goes, it will benefit the laboring man as much, and probably more than any other class of society. What is it he ought most to desire? Constant employment, regular wages, and uniform reasonable prices for the necessaries and comforts of life which he requires. Now, sir, what has been his condition under our system of expansions and contractions? He has suffered more by them than any other class of society. The rate of his wages is fixed and known; and they are the last to rise with the increasing expansion and the first to fall when the corresponding revulsion occurs. He still continues to receive his dollar per day, whilst the price of every article which he consumes is rapidly rising. He is at length made to feel that, although he nominally earns as much, or even more than he did formerly, yet, from the increased price of all the necessaries of life, he cannot support his family. Hence the strikes for higher wages, and the uneasy and excited feelings which have at different periods, existed among the laboring classes. But the expansion at length reaches the exploding point, and what does the laboring man now suffer? He is for a season thrown out of employment altogether. Our manufactures are suspended; our public works are stopped; our private enterprises of different kinds are abandoned; and, whilst others are able to weather the storm, he can scarcely procure the means of bare subsistence.

"Again, sir; who, do you suppose, held the greater part of the worthless paper of the one hundred and sixty-five broken banks to which I have referred? Certainly it was not the keen and wary speculator, who snuffs danger from afar. If you were to make the search, you would find more broken bank notes in the cottages of the laboring poor than anywhere else. And these miserable shinplasters, where are they? After the revulsion of 1837, laborers were glad to obtain employment on any terms; and they often received it upon the express condition that they should accept this worthless trash in payment. Sir, an entire suppression of all bank notes of a lower denomination than the value of one week's wages of the laboring man is absolutely necessary for his protection. He ought always to receive his wages in gold and silver. Of all men on the earth, the laborer is most interested in having a sound and stable currency.

"All other circumstances being equal, I agree with the Senator from Kentucky that that country is most prosperous where labor commands the highest wages. I do not, however, mean by the terms 'highest wages,' the greatest nominal amount. During the Revolutionary war, one day's work commanded a hundred dollars of continental paper; but

this would have scarcely purchased a breakfast. The more proper expression would be, to say that that country is most prosperous where labor commands the greatest reward; where one day's labor will procure not the greatest nominal amount of a depreciated currency, but most of the necessaries and comforts of life. If, therefore, you should, in some degree, reduce the nominal price paid for labor, by reducing the amount of your bank issues within reasonable and safe limits, and establishing a metallic basis for your paper circulation, would this injure the laborer? Certainly not; because the price of all the necessaries and comforts of life are reduced in the same proportion, and he will be able to purchase more of them for one dollar in a sound state of the currency, than he could have done, in the days of extravagant expansion, for a dollar and a quarter. So far from injuring, it will greatly benefit the laboring man. It will insure to him constant employment and regular prices, paid in a sound currency, which, of all things, he ought most to desire; and it will save him from being involved in ruin by a recurrence of those periodical expansions and contractions of the currency, which have hitherto convulsed the country.

"This sound state of the currency will have another most happy effect upon the laboring man. He will receive his wages in gold and silver; and this will induce him to lay up, for future use, such a portion of them as he can spare, after satisfying his immediate wants. This he will not do at present, because he knows not whether the trash which he is now compelled to receive as money, will continue to be of any value a week or a month hereafter. A knowledge of this fact tends to banish economy from his dwelling, and induces him to expend all his wages as rapidly as possible, lest they may become worthless on his hands.

"Sir, the laboring classes understand this subject perfectly. It is the hard-handed and firm-fisted men of the country on whom we must rely in the day of danger, who are the most friendly to the passage of this bill. It is they who are the most ardently in favor of infusing into the currency of the country a very large amount of the precious metals."

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Extract from Mr. Buchanan's speech on the Annexation of Texas, delivered in the Senate on the 8th of June, 1844:—

"In arriving at the conclusion to support this treaty (the annexation of Texas) I had to encounter but one serious obstacle, and this was the question of slavery. Whilst I ever maintained, and ever shall maintain, in their full force and vigor, the constitutional rights of the Southern States over their slave property, I yet feel a strong repugnance, by any act of mine, to extend the present limits of the Union over a new slaveholding territory. After mature reflection, however, I overcame these scruples, and now believe that the acquisition of Texas will be the means of limiting, and not enlarging, the dominion of slavery. In the government of the world, Providence generally produces great changes by gradual means. There is nothing rash in the counsel of the Almighty. May not, then, the acquisition of Texas be the means of gradually drawing the slaves far to the south, to a climate more congenial to their nature, and may they not finally pass off into Mexico, and there mingle with a race where no prejudice exists against their color? The Mexican nation is composed of Spaniards, Indians, and negroes, blended together in every variety, who would receive our slaves on terms of perfect social equality. To this condition they never can be admitted in the United States. That the acquisition of Texas would, ere long, convert Maryland, Virginia, Kentucky, and Missouri, and probably others of the more northern slave states into free states, I entertain not a doubt. In fact, public opinion was gradually accomplishing this happy result, when the process was arrested by the mad interference of the Abolitionists. A measure having directly in view the gradual abolition of slavery, came within one vote, if my memory serves me, of passing the House of Delegates of Virginia shortly before the abolition excitement commenced. There was then in that state a powerful, influential and growing party in favor of gradual emancipation, and they were animated to exertion by the brightest hopes of success; but the interference of fanatics from abroad has so effectually turned back the tide of public opinion, that no individual would now venture to offer such a proposition in the Virginia legislature. The efforts of the Abolitionists, whether so intended or not, have long postponed the day of emancipation."

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Mr. Buchanan's Sanford Letter.

Washington, August 21, 1848.

T. Sanford, Esq.—Dear Sir: I have just received yours of the 12th instant, in which you submit to me the following paragraph, and ask whether it contains an accurate version of the conversation between us, concerning my Berks county letter, on the occasion to which you refer:

"Happening to meet Mr. Buchanan at the President's levee on Friday evening, I called his attention to this letter, and asked him if he intended to be understood as claiming that the population of a territory, in an unorganized capacity, had the right to control the question of slavery in such territory. He declared that no such idea had ever been maintained by him; that the construction put upon his language by Mr. Yancey was a perversion of its plain and obvious meaning; that in his opinion the inhabitants of a territory, as such, had no political right [although they possessed all the private rights of American citizens]; that they had no power whatever over the subject of slavery; and they

could neither interdict nor establish it, except when assembled in convention to form a state constitution. He further authorized and requested me to make any public use of these declarations that I might think proper, to correct any impression which Mr. Yancey's construction of his language in the Berks letter might have made."

With the addition which I have inserted between brackets, this statement is substantially, almost literally, correct, according to my recollection."

In my letter to Berks county of 25th August, I had said, "Under the Missouri compromise slavery was for ever prohibited north of the parallel of 36 deg. 30 min., and south of this parallel the question was left to be decided by the people. What people? Undoubtedly the people of the territory assembled in convention to form a state constitution, and ask admission into the Union, and not [first] adventurers or 'first comers' who might happen to arrive in the territory, assembled in [primary] meeting." If a doubt on this subject could possibly exist, it is removed by the next succeeding sentence of my letter. I proceed to state that "Congress, in the admission of Texas, adopted the same rule," &c. And what was this rule? The joint resolution for annexing Texas to the United States, approved March 1, 1845, answers the question in the following words: "And such states as may be formed out of that portion of said territory lying south of 36 deg. 30 min. north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each state asking admission may desire." Such was the description of the people to whom I referred in my Berks county letter.

Any other construction of the letter would render it essentially inconsistent with itself. Having urged the adoption of the Missouri compromise, the inference is irresistible that Congress, in my opinion, possesses the power to legislate upon the subject of slavery in the territories. What an absurdity would it then be, if, whilst asserting this sovereign power in Congress, which power from its nature must be exclusive, I should in the very same breath also claim this identical power "for the population of a territory in an unorganized capacity."

In conclusion, I desire to reiterate and reaffirm every sentiment contained in my Berks county letter. I cling to the Missouri compromise with greater tenacity than ever, and yet firmly believe that it will be adopted by Congress.

Yours, very respectfully,

JAMES BUCHANAN.

T. Sandford, Esq.

MR. FULLER'S CHARGE AGAINST MR. BUCHANAN.

Mr. Fuller of Pa., in the House of Representatives, during the first session of the 34th Congress, said, that in 1819 Mr. Buchanan acted as the chairman of a committee at a meeting held at Lancaster, Pennsylvania, in which certain resolutions were adopted denouncing the Missouri Compromise. Those resolutions are as follows:—

"Resolved, That the Representatives in Congress from this district be, and they are hereby, most earnestly requested to use their utmost endeavors, as members of the National Legislature, to prevent the existence of slavery in any of the territories or states which may be erected by Congress.

"Resolved, That, in the opinion of this meeting, the members of Congress who, at the last session, sustained the cause of justice, humanity, and patriotism, in opposing the introduction of slavery into the states then endeavored to be formed out of the Missouri territory, are entitled to the warmest thanks of every friend of humanity."

The Hon. J. Glancy Jones replied to the charge of Mr. Fuller, a few days afterwards, as follows:—

"Now, sir, I am enabled to state, on unquestioned authority, that the declaration, that James Buchanan was chairman of the committee which framed those resolutions, is unfounded and untrue. I undertake here, in my place, to say to the House and the country, that Mr. Buchanan did not report the resolutions referred to; that he was not the chairman of the committee by which they were reported; and that he never saw them until they appeared in print. But, suppose he had reported them; suppose he had been chairman of the committee which reported them—I appeal to the South to answer whether this fact should stand against him with the long experience of his life before the country?

"But, Mr. Speaker, this accusation belongs to the class of idle reports invented, and now circulated, to damage him in the estimation of the American people. Sir, all these accusations, whether asserted anonymously or publicly, are triumphantly answered by the record of his public life."

INAUGURAL ADDRESS OF MR. BUCHANAN.

Fellow-citizens—I appear before you this day to take the solemn oath "that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

In entering upon this great office, I must humbly invoke the God of our fathers for wisdom and firmness to execute its high and responsible duties in such a manner as to restore harmony and ancient friendship among the people of the several states, and to preserve our free institutions throughout many generations. Convinced that I owe my election to the inherent love for the Constitution

and the Union, which still animates the hearts of the American people, let me earnestly ask their powerful support in sustaining all just measures calculated to perpetuate these, the richest political blessings, which Heaven has ever bestowed upon any nation. Having determined not to become a candidate for reelection, I shall have no motive to influence my conduct in administering the government except the desire ably and faithfully to serve my country, and to live in the grateful memory of my countrymen.

We have recently passed through a Presidential contest in which the passions of our fellow-citizens were excited to the highest degree by questions of deep and vital importance; but when the people proclaimed their will the tempest at once subsided, and all was calm. The voice of the majority, speaking in the manner prescribed by the Constitution, was heard, and instant submission followed. Our own country could alone have exhibited so grand and striking a spectacle of the capacity of man for self-government.

What a happy conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the territories! Congress is neither "to legislate slavery into any territory or state, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." As a natural consequence, Congress has also prescribed that when the territory of Kansas shall be admitted as a state, it "shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

A difference of opinion has arisen in regard to the point of time when the people of a territory shall decide this question for themselves.

This is, happily, a matter of but little practical importance. Besides, it is a judicial question which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that under the Nebraska-Kansas act the appropriate period will be when the number of actual residents in the territory shall justify the formation of a constitution with a view to its admission as a state into the Union. But, be this as it may, it is the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved. That being accomplished, nothing can be fairer than to leave the people of a territory free from all foreign interference to decide their own destiny for themselves, subject only to the Constitution of the United States.

The whole territorial question being thus settled upon the principle of popular sovereignty—a principle as ancient as free government itself—everything of a practical nature has been decided. No other question remains for adjustment; because all agree that under the Constitution slavery in the states is beyond the reach of any human power except that of the respective states themselves wherein it exists. May we not, then, hope that the long agitation on this subject is approaching its end, and that the geographical parties to which it has given birth, so much dreaded by the Father of his Country, will speedily become extinct? Most happy will it be for the country when the public mind shall be diverted from this question to others of more pressing and practical importance. Throughout the whole progress of this agitation, which has scarcely known an intermission for more than twenty years, while it has been productive of no positive good to any human being, it has been the prolific source of great evils to the master, to the slave, and to the whole country. It has alienated and estranged the people of the sister states from each other, and has even seriously endangered the very existence of the Union. Nor has the danger yet entirely ceased. Under our system there is a remedy for all mere political evils in the sound sense and sober judgment of the people. Time is a great corrective. Political subjects which, but a few years ago, excited and exasperated the public mind, have passed away, and are now nearly forgotten. But this question of domestic slavery is of far graver importance than any mere political question, because, should the agitation continue, it may eventually endanger the personal safety of a large portion of our countrymen where the institution exists. In that event, no form of government, however admirable in itself, and however productive of material benefits, can compensate for the loss of peace and domestic security around the family altar. Let every Union-loving man, therefore, exert his best influence to suppress this agitation, which, since the recent legislation of Congress, is without any legitimate object.

It is an evil omen of the times that men have undertaken to calculate the mere material value of the Union. Reasoned estimates have been presented of the pecuniary profits and local advantages which would result to different states and sections from its dissolution, and of the comparative injuries which such an event would inflict on other states and sections. Even descending to this low and narrow view of the mighty question, all such calculations are at fault. The bare reference to a single consideration will be conclusive on this point. We at present enjoy a free trade throughout our extensive and expanding country such as the world has never witnessed. This trade is conducted on railroads and canals,

on noble rivers and arms of the sea, which bind together the north and the south, the east and the west of our confederacy. Annihilate this trade, arrest its free progress by the geographical lines of jealous and hostile states, and you destroy the prosperity and onward march of the whole and every part, and involve all in one common ruin. But such considerations, important as they are in themselves, sink into insignificance when we reflect on the terrific evils which would result from disunion to every portion of the confederacy—to the north not more than to the south; to the east not more than to the west. These I shall not attempt to portray, because I feel an humble confidence that the kind Providence which inspired our fathers with wisdom to frame the most perfect form of government and union ever devised by man will not suffer it to perish until it shall have been peacefully instrumental, by its example, in the extension of civil and religious liberty throughout the world.

Next in importance to the maintenance of the Constitution and the Union, is the duty of preserving the government free from the taint, or even the suspicion of corruption. Public virtue is the vital spirit of republics; and history proves that when this has decayed, and the love of money has usurped its place, although the forms of free government may remain for a season, the substance has departed for ever.

Our present financial condition is without a parallel in history. No nation has ever before been embarrassed from too large a surplus in its treasury. This almost necessarily gives birth to extravagant legislation. It produces wild schemes of expenditure, and begets a race of speculators and jobbers, whose ingenuity is exerted in contriving and promoting expedients to obtain public money. The purity of official agents, whether rightfully or wrongfully, is suspected, and the character of the government suffers in the estimation of the people. This is in itself a very great evil.

The natural mode of relief from this embarrassment is to appropriate the surplus in the treasury to great national objects for which a clear warrant can be found in the Constitution. Among these I might mention the extinguishment of the public debt; a reasonable increase of the navy, which is at present inadequate to the protection of our vast tonnage afloat, now greater than that of any other nation, as well as to the defence of our extended seacoast.

It is beyond all question the true principle that no more revenue ought to be collected from the people than the amount necessary to defray the expenses of a wise, economical, and efficient administration of the government. To reach this point it was necessary to resort to a modification of the tariff; and this has, I trust, been accomplished in such a manner as to do as little injury as may have been practicable to our domestic manufactures, especially those necessary for the defence of the country. Any discrimination against a particular branch, for the purpose of benefiting favored corporations, individuals, or interests, would have been unjust to the rest of the community, and inconsistent with that spirit of fairness and equality which ought to govern in the adjustment of a revenue tariff.

But the squandering of the public money sinks into comparative insignificance as a temptation to corruption when compared with the squandering of the public lands. No nation in the tide of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, whilst it may be wise to grant portions of them for the improvement of the remainder, yet we should never forget that it is our cardinal policy to reserve these lands as much as may be for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new states and territories, by furnishing them a hardy and independent race of honest and industrious citizens, but shall secure homes for our children and our children's children, as well as for those exiles from foreign shores who may seek in this country to improve their condition and to enjoy the blessings of civil and religious liberty. Such emigrants have done much to promote the growth and prosperity of the country. They have proved faithful both in peace and in war. After becoming citizens they are entitled, under the Constitution and laws, to be placed on a perfect equality with native-born citizens, and in this character they should ever be kindly recognised.

The Federal Constitution is a grant from the states to Congress of certain specific powers; and the question whether this grant should be liberally or strictly construed has more or less divided political parties from the beginning. Without entering into the argument, I desire to state, at the commencement of my administration, that long experience and observation have convinced me that a strict construction of the powers of the Government is the only true, as well as the only safe, theory of the Constitution. Whenever, in our past history, doubtful powers have been exercised by Congress, these have never failed to produce injurious and unhappy consequences. Many such instances might be adduced if this were the proper occasion. Neither is it necessary for the public service to strain the language of the Constitution; because all the great and useful powers required for a successful administration of the government, both in peace and in war, have been granted, either in express terms or by the plainest implication.

Whilst deeply convinced of these truths, I yet consider it clear that, under the war-making power, Congress may appropriate money towards the construction of a military road, when this is absolutely necessary for the defence of any state or territory of the Union against foreign invasion. Under the Constitution Congress has power "to declare war," "to raise and support armies," "to provide and maintain a navy," and to call forth

the militia to "repel invasions." Thus endowed, in an ample manner, with the war-making power, the corresponding duty is required that "the United States shall protect each of them (the states) against invasion." Now, how is it possible to afford this protection to California and our Pacific possessions, except by means of a military road through the territories of the United States, over which men and munitions of war may be speedily transported from the Atlantic States to meet and to repel the invader? In the event of a war with a naval power much stronger than our own, we should then have no other available access to the Pacific coast; because such a power would instantly close the route across the Isthmus of Central America. It is impossible to conceive that, whilst the Constitution has expressly required Congress to defend all the states, it should yet deny to them, by any fair construction, the only possible means by which one of these states can be defended. Besides, the government, ever since its origin, has been in the constant practice of constructing military roads. It might also be wise to consider whether the love for the Union which now animates our fellow-citizens on the Pacific coast may not be impaired by our neglect or refusal to provide for them, in their remote and isolated condition, the only means by which the power of the states, on this side of the Rocky Mountains, can reach them in sufficient time to "protect" them "against invasion." I forbear for the present from expressing an opinion as to the wisest and most economical mode in which the government can lend its aid in accomplishing this great and necessary work. I believe that many of the difficulties in the way which now appear formidable will, in a great degree, vanish as soon as the nearest and best route shall have been satisfactorily ascertained.

It may be proper that, on this occasion, I should make some brief remarks in regard to our rights and duties as a member of the great family of nations. In our intercourse with them there are some plain principles, approved by our own experience, from which we should never depart. We ought to cultivate peace, commerce, and friendship with all nations, and this not merely as the best means of promoting our own material interests, but in a spirit of Christian benevolence towards our fellow men, wherever their lot may be cast. Our diplomacy should be direct and frank, neither seeking to obtain more nor accepting less than is our due. We ought to cherish a sacred regard for the independence of all nations, and never attempt to interfere in the domestic concerns of any, unless this shall be imperatively required by the great law of self-preservation. To avoid entangling alliances has been a maxim of our policy ever since the days of Washington, and its wisdom no one will attempt to dispute. In short, we ought to do justice, in a kindly spirit, to all nations, and require justice from them in return.

It is our glory that, whilst other nations have extended their dominions by the sword, we have never acquired any territory except by fair purchase, or, as in the case of Texas, by the voluntary determination of a brave, kindred, and independent people to blend their destinies with our own. Even our acquisitions from Mexico form no exception. Unwilling to take advantage of the fortune of war against a sister republic, we purchased these possessions, under the treaty of peace, for a sum which was considered at the time a fair equivalent. Our past history forbids that we shall in the future acquire territory unless this be sanctioned by the laws of justice and honor. Acting on this principle, no nation will have a right to interfere or to complain if, in the progress of events, we shall still further extend our possessions. Hitherto, in all our acquisitions, the people, under the protection of the American flag, have enjoyed civil and religious liberty, as well as equal and just laws, and have been contented, prosperous, and happy. Their trade with the rest of the world has rapidly increased; and thus every commercial nation has shared largely in their successful progress.

I shall now proceed to take the oath prescribed by the Constitution, whilst humbly invoking the blessing of Divine Providence on this great people.

Buffalo and Utica Conventions of 1848.

The Utica Convention met on the 28th of June, 1848, the Hon. Sam. Young, president, Gilbert Dean, Esq., of Dutchess Co., N. Y., secretary. The credentials of the Barnburner delegation were returned. Messrs. Martin Grover, Preston King, B. F. Butler, and John Van Buren spoke. D. D. Field, Esq., read a letter from Martin Van Buren, taking ground against the action of the Baltimore Convention.

Simeon B. Jewett, Esq., of Monroe Co., moved the unanimous nomination of Martin Van Buren by acclamation for President, which was carried with cheering. Henry Dodge of Wisconsin, was nominated for Vice President. Speeches were then made by Messrs. Rathbun, Nye, and Young. The resolutions adopted, assumed it to be the right and duty of Congress to expel slavery from the territories, and declared "domestic slavery a great moral, social, and political evil," and a "relic of barbarism."

The address reported by Mr. Butler was a strong Free-Soil one.

Senator Dodge wrote an immediate letter, declining the candidacy of Vice President. In order to fill this vacancy on their ticket, and extend the Free-Soil movement in other states, a "Convention of Free States" was called to meet at Buffalo on the 9th of August, 1848.

The Buffalo Convention met, all the non slaveholding states being represented, that is, having citizens upon the ground. Charles

Francis Adams of Mass. was its presiding officer. A committee of fifty-five, B. F. Butler, chairman, was appointed on resolutions. E. D. Culver and John W. Nye of N. Y., and J. R. Giddings of Ohio, addressed the convention. The famous Buffalo Platform was reported on the second day, as follows:—

"Whereas, We have assembled in convention, as a union of freemen, for the sake of freedom, forgetting all past political differences in a common resolve to maintain the rights of free labor against the aggressions of the slave power, and to secure free soil for a free people; and

"Whereas, The political conventions recently assembled at Baltimore and Philadelphia, the one stifling the voice of a great constituency entitled to be heard in its deliberations, and the other abandoning its distinctive principles for mere availability, have dissolved the national party organization heretofore existing, by nominating for the chief magistracy of the United States, under slaveholding dictation, candidates, neither of whom can be supported by the opponents of slavery extension without a sacrifice of consistency, duty, and self-respect; and

"Whereas, These nominations, so made, furnish the occasion and demonstrate the necessity of the union of the people under the banner of free Democracy, in a solemn and formal declaration of their independence of the slave power, and of their fixed determination to rescue the federal government from its control:

"Resolved, Therefore, that we, the people here assembled, remembering the example of our fathers in the days of the first Declaration of Independence, putting our trust in God for the triumph of our cause, and invoking his guidance in our endeavors to advance it, do now plant ourselves upon the national platform of freedom, in opposition to the sectional platform of slavery.

"Resolved, That slavery in the several states of this Union, which recognise its existence, depends upon state laws alone, which cannot be repealed or modified by the federal government, and for which laws that government is not responsible. We, therefore, propose no interference by Congress with slavery within the limits of any state.

"Resolved, That the proviso of Jefferson, to prohibit the existence of slavery after 1800, in all the territories of the United States, southern and northern; the votes of six states and sixteen delegates, in Congress of 1784, for the proviso, to three states and seven delegates against it; the actual exclusion of slavery from the Northwestern Territory, by the ordinance of 1787, unanimously adopted by the states in Congress, and the entire history of that period, clearly show that it was the settled policy of the nation, not to extend, nationalize, or encourage, but to limit, localize, and discourage slavery; and to this policy, which should never have been departed from, the government ought to return.

"Resolved, That our fathers ordained the Constitution of the United States, in order, among other great national objects, to establish justice, promote the general welfare, and secure the blessings of liberty; but expressly denied to the federal government, which they created, all constitutional power to deprive any person of life, liberty, or property, without due legal process.

"Resolved, That, in the judgment of this convention, Congress has no more power to make a slave than to make a king; no more power to institute or establish slavery than to institute or establish a monarchy; no such power can be found among those specifically conferred by the Constitution, or derived by just implication from them.

"Resolved, That it is the duty of the federal government to relieve itself from all responsibility for the existence or continuance of slavery, wherever that government possesses constitutional authority to legislate on that subject, and is thus responsible for its existence.

"Resolved, That the true, and, in the judgment of this convention, the only safe means of preventing the extension of slavery into territory now free, is to prohibit its existence in all such territory by an act of Congress.

"Resolved, That we accept the issue which the slave power has forced upon us; and, to their demand for more slave states and more slave territories, our calm but final answer is —no more slave states and no slave territory. Let the soil of our extensive dominions be ever kept free for the hardy pioneers of our own land, and the oppressed and banished of other lands, seeking homes of comfort and fields of enterprise in the new world.

"Resolved, That the bill lately reported by the committee of eight in the Senate of the United States was no compromise, but an absolute surrender of the rights of the non-slaveholders of all the states; and while we rejoice to know that a measure which, while opening the door for the introduction of slavery into territories now free, would also have opened the door to litigation and strife among the future inhabitants thereof, to the ruin of their peace and prosperity, was defeated in the House of Representatives, its passage in hot haste, by a majority embracing several Senators who voted in open violation of the known will of their constituents, should warn the people to see to it, that their representatives be not suffered to betray them. There must be no more compromises with slavery; if made, they must be repealed.

"Resolved, That we demand freedom and established institutions for our brethren in Oregon, now exposed to hardships, perils, and massacre, by the reckless hostility of the slave power to the establishment of free government for free territories; and not only for them, but for our new brethren in California and New Mexico. And

"Whereas, It is due, not only to this occasion, but to the whole people of the United

States, that we should also declare ourselves on certain other questions of national policy; therefore,

"Resolved, That we demand cheap postage for the people; a retrenchment of the expenses and patronage of the federal government; the abolition of all unnecessary offices and salaries; and the election by the people of all civil officers in the service of the government, so far as the same may be practicable.

"Resolved, That river and harbor improvements, whenever demanded by the safety or convenience of commerce with foreign nations, or among the several states, are objects of national concern; and that it is the duty of Congress, in the exercise of its constitutional power, to provide therefor.

"Resolved, That the free grant to actual settlers, in consideration of the expenses they incur in making settlements in the wilderness, which are usually fully equal to their actual cost, and of the public benefits resulting therefrom, of reasonable portions of the public lands under suitable limitations, is a wise and just measure of public policy, which will promote, in various ways, the interests of all the states of this Union; and we, therefore, recommend it to the favorable judgment of the American people.

"Resolved, that the obligations of honor and patriotism require the earliest practicable payment of the national debt; and we are, therefore, in favor of such a tariff of duties as will raise revenue adequate to defray the necessary expenses of the federal government, and to pay annual instalments of our debt and the interest thereon.

"Resolved, That we inscribe on our banner 'free soil, free speech, free labor, and free men;' and under it will fight on and fight ever, until a triumphant victory shall reward our exertions."

A committee of conference, Salmon P. Chase of O., chairman, was appointed. Mr. Butler produced in this committee a letter from Martin Van Buren, which was satisfactory; and the nomination of Van Buren for President was unanimously reported to the convention by Joshua Leavitt of Mass. Charles Francis Adams was nominated for Vice President.

Calhoun, John C.

FORT HILL ADDRESS OF—JULY 26, 1831.

THE question of the relation which the states and general government bear to each other, is not one of recent origin. From the commencement of our system, it has divided public sentiment. Even in the convention, while the Constitution was struggling into existence, there were two parties, as to what this relation should be, whose different sentiments constituted no small impediment in forming that instrument. After the general government went into operation, experience soon proved that the question had not terminated with the labors of the convention. The great struggle that preceded the political revolution of 1801, which brought Mr. Jefferson into power, turned essentially on it; and the doctrines and arguments on both sides were embodied and ably sustained; on the one, in the Virginia and Kentucky resolutions and the report to the Virginia legislature; and on the other, in the replies of the legislature of Massachusetts and some of the other states. These resolutions and this report, with the decision of the Supreme Court of Pennsylvania about the same time (particularly in the case of Cobbett, delivered by Chief Justice McKean, and concurred in by the whole bench), contain what I believe to be the true doctrine on this important subject. I refer to them in order to avoid the necessity of presenting my views, with the reasons in support of them in detail.

As my object is simply to state my opinions, I might pause with this reference to documents that so fully and ably state all the points immediately connected with this deeply important subject; but as there are many who may not have the opportunity or leisure to refer to them, and, as it is possible, however clear they may be, that different persons may place different interpretations on their meaning, I will, in order that my sentiments may be fully known, and to avoid all ambiguity, proceed to state, summarily, the doctrines which I conceive they embrace.

The great and leading principle is, that the general government emanated from the people of the several states, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community; that the Constitution of the United States is in fact a compact, to which each state is a party, in the character already described; and that the several states, or parties, have a right to judge of its infractions, and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort, to use the language of the Virginia resolutions, "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them." This right of interposition thus solemnly asserted by the state of Virginia, be it called what it may—state right, veto, nullification, or by any other name—I conceive to be the fundamental principle of our system, resting on facts, historically as certain as our revolution itself, and deductions as simple and demonstrative as that of any political or moral truth whatever; and I firmly believe that on its recognition depends the stability and safety of our political institutions.

I am not ignorant that those opposed to the doctrine have always, now and formerly, regarded it in a very different light, as anarchical and revolutionary. Could I believe such in fact to be its tendency, to me it would be no recommendation. I yield to none, I trust, in a deep and sincere attachment to our political

institutions, and the union of these states. I never breathed an opposite sentiment; but, on the contrary, I have ever considered them the great instruments of preserving our liberty, and promoting the happiness of ourselves and our posterity; and next to these, I have ever held them most dear. Nearly half my life has passed in the service of the Union, and whatever public reputation I have acquired, is indissolubly identified with it. To be too national has, indeed, been considered, by many, even of my friends, to be my greatest political fault. With these strong feelings of attachment, I have examined, with the utmost care, the bearing of the doctrine in question; and so far from anarchical or revolutionary, I solemnly believe it to be the only solid foundation of our system, and of the Union itself, and that the opposite doctrine, which denies to the states the right of protecting their reserved powers, and which would vest in the general government (it matters not through what department) the right of determining exclusively and finally the powers delegated to it, is incompatible with the sovereignty of the states, and of the Constitution itself, considered as the basis of a Federal Union. As strong as this language is, it is not stronger than that used by the illustrious Jefferson, who said, to give to the general government the final and exclusive right to judge of its powers, is to make "its discretion and not the Constitution the measure of its powers;" and that "in all cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of the operation, as of the mode and measure of redress." Language cannot be more explicit; nor can higher authority be adduced.

That different opinions are entertained on this subject, I consider but as an additional evidence of the great diversity of the human intellect. Had not able, experienced, and patriotic individuals, for whom I have the highest respect, taken different views, I would have thought the right too clear to admit of doubt; but I am taught by this, as well as by many similar instances, to treat with deference opinions differing from my own. The error may possibly be with me; but, if so, I can only say, that after the most mature and conscientious examination, I have not been able to detect it. But with all proper deference, I must think that theirs is the error, who deny what seems to be an essential attribute of the conceded sovereignty of the states; and who attribute to the general government a right utterly incompatible with what all acknowledge to be its limited and restricted character; an error originating principally, as I must think, in not duly reflecting on the nature of our institutions, and on what constitutes the only rational object of all political constitutions.

It has been well said by one of the most sagacious men of antiquity, that the object of a constitution is to restrain the government, as that of laws is to restrain individuals. The remark is correct, nor is it less true where the government is vested in a majority, than where it is in a single or a few individuals; in a republic, than a monarchy or aristocracy. No one can have a higher respect for the maxim that the majority ought to govern than I have, taken in its proper sense, subject to the restrictions imposed by the Constitution, and confined to subjects in which every portion of the community have similar interests; but it is a great error to suppose, as many do, that the right of a majority to govern is a natural and not a conventional right; and, therefore, absolute and unlimited. By nature every individual has the right to govern himself; and governments, whether founded on majorities or minorities, must derive their right from the assent, expressed or implied, of the governed, and be subject to such limitations as they may impose. Where the interests are the same, that is, where the laws that may benefit one will benefit all, or the reverse, it is just and proper to place them under the control of the majority; but where they are dissimilar, so that the law that may benefit one portion may be ruinous to another, it would be, on the contrary, unjust and absurd to subject them to its will: and such I conceive to be the theory on which our Constitution rests.

That such dissimilarity of interests may exist it is impossible to doubt. They are to be found in every community, in a greater or less degree, however small or homogeneous, and they constitute, everywhere, the great difficulty of forming and preserving free institutions. To guard against the unequal action of the laws, when applied to dissimilar and opposing interests, is in fact what mainly renders a constitution indispensable; to overlook which in reasoning on our Constitution, would be to omit the principal element by which to determine its character. Were there no contrariety of interests, nothing would be more simple and easy than to form and preserve free institutions. The right of suffrage alone would be a sufficient guarantee. It is the conflict of opposing interests which renders it the most difficult work of man.

Where the diversity of interests exists in separate and distinct classes of the community, as is the case in England, and was formerly the case in Sparta, Rome, and most of the free states of antiquity, the rational constitutional provision is, that each should be represented in the government as a separate estate, with a distinct voice, and a negative on the acts of its co-estates, in order to check their encroachments. In England the constitution has assumed expressly this form, while in the governments of Sparta and Rome the same thing was effected, under different but not much less efficacious forms. The perfection of their organization, in this particular, was that which gave to the constitutions of these renowned states all of their celebrity, which secured their liberty for so many centuries, and raised them to so great a height

of power and prosperity. Indeed, a constitutional provision giving to the great and separate interests of the community the right of self-protection, must appear to those who will duly reflect on the subject, not less essential to the preservation of liberty than the right of suffrage itself. They in fact have a common object, to effect which the one is as necessary as the other—to secure responsibility; that is, that those who make and execute the laws should be accountable to those on whom the laws in reality operate; the only solid and durable foundation of liberty. If without the right of suffrage our rulers would oppress us, so without the right of self-protection, the major would equally oppress the minor interests of the community. The absence of the former would make the governed the slaves of the rulers, and of the latter the feebler interests the victim of the stronger.

Happily for us we have no artificial and separate classes of society. We have wisely exploded all such distinctions; but we are not, on that account, exempt from all contrariety of interests, as the present distracted and dangerous condition of our country unfortunately but too clearly proves. With us they are almost exclusively geographical, resulting mainly from difference of climate, soil, situation, industry, and production, but are not, therefore, less necessary to be protected by an adequate constitutional provision than where the distinct interests exist in separate classes. The necessity is, in truth, greater, as such separate and dissimilar, geographical interests are more liable to come into conflict, and more dangerous when in that state than those of any other description; so much so, that ours is the first instance on record where they have not formed in an extensive territory separate and independent communities, or subjected the whole to despotic sway. That such may not be our unhappy fate also, must be the sincere prayer of every lover of his country.

So numerous and diversified are the interests of our country, that they could not be fairly represented in a single government, organized so as to give to each great and leading interest a separate and distinct voice, as in governments to which I have referred. A plan was adopted better suited to our situation, but perfectly novel in its character. The powers of the government were divided, not as heretofore, in reference to classes, but geographically. One general government was formed for the whole, to which was delegated all of the powers supposed to be necessary to regulate the interests common to all of the states, leaving others subject to the separate control of the states, being from their local and peculiar character such that they could not be subject to the will of the majority of the whole Union, without the certain hazard of injustice and oppression. It was thus that the interests of the whole were subjected, as they ought to be, to the will of the whole, while the peculiar and local interests were left under the control of the states separately, to whose custody only they could be safely confided. This distribution of power, settled solemnly by a constitutional compact, to which all of the states are parties, constitutes the peculiar character and excellence of our political system. It is truly and emphatically American, without example or parallel.

To realize its perfection, we must view the general government and the states as a whole, each in its proper sphere, sovereign and independent; each perfectly adapted to their respective objects; the states acting separately, representing and protecting the local and peculiar interests; acting jointly, through one general government, with the weight respectively assigned to each by the Constitution, representing and protecting the interest of the whole, and thus perfecting, by an admirable but simple arrangement, the great principle of representation and responsibility, without which no government can be free or just. To preserve this sacred distribution as originally settled, by coercing each to move in its prescribed orb, is the great and difficult problem, on the solution of which the duration of our Constitution, of our Union, and, in all probability our liberty, depends. How is this to be effected?

The question is new when applied to our peculiar political organization, where the separate and conflicting interests of society are represented by distinct but connected governments; but is in reality an old question under a new form, long since perfectly solved. Whenever separate and dissimilar interests have been separately represented in any government; whenever the sovereign power has been divided in its exercise, the experience and wisdom of ages have devised but one mode by which such political organization can be preserved; the mode adopted in England, and by all governments, ancient or modern, blessed with constitutions deserving to be called free; to give to each co-estate the right to judge of its powers, with a negative or veto on the acts of the others, in order to protect against encroachments the interests it particularly represents; a principle which all of our constitutions recognise in the distribution of power among their respective departments, as essential to maintain the independence of each, but which, to all who will duly reflect on the subject, must appear far more essential, for the same object, in that great and fundamental distribution of powers between the states and general government. So essential is the principle, that to withhold the right from either, where the sovereign power is divided, is, in fact, to annul the division itself, and to consolidate in the one left in the exclusive possession of the right, all of the powers of the government; for it is not possible to distinguish practically between a government having all power, and one having the right to take what powers it pleases. Nor does it in the least vary the principle, whether the dis-

tribution of power be between co-estates, as in England, or between distinctly organized but connected governments, as with us. The reason is the same in both cases, while the necessity is greater in our case, as the danger of conflict is greater where the interests of a society are divided geographically than in any other, as has already been shown.

These truths do seem to me to be incontrovertible; and I am at a loss to understand how any one, who has maturely reflected on the nature of our institutions, or who has read history or studied the principles of free government to any purpose, can call them in question. The explanation must, it appears to me, be sought in the fact, that in every free state, there are those who look more to the necessity of maintaining power, than guarding against its abuses. I do not intend reproach, but simply to state a fact apparently necessary to explain the contrariety of opinions, among the intelligent, where the abstract consideration of the subject would seem scarcely to admit of doubt. If such be the true cause, I must think the fear of weakening the government too much in this case to be in a great measure unfounded, or at least that the danger is much less from that than the opposite side. I do not deny that a power of so high a nature may be abused by a state, but when I reflect that the states unanimously called the general government into existence with all of its powers, which they freely surrendered on their part, under the conviction that their common peace, safety, and prosperity required it; that they are bound together by a common origin, and the recollection of common suffering and common triumph in the great and splendid achievement of their independence; and the strongest feelings of our nature, and among them, the love of national power and distinction, are on the side of the Union; it does seem to me, that the fear which would strip the states of their sovereignty, and degrade them, in fact, to mere dependent corporations, lest they should abuse a right indispensable to the peaceable protection of those interests which they reserved under their own peculiar guardianship when they created the general government, is unnatural and unreasonable. If those who voluntarily created the system, cannot be trusted to preserve it, what power can?

So far from extreme danger, I hold that there never was a free state, in which this great conservative principle, indispensable in all, was ever so safely lodged. In others, when the co-estates, representing the dissimilar and conflicting interests of the community, came into contact, the only alternative was compromise, submission, or force. Not so in ours. Should the general government and a state come into conflict, we have a higher remedy; the power which called the general government into existence, which gave it of all its authority, and can enlarge, contract, or abolish its powers at its pleasure, may be invoked. The states themselves may be appealed to, three-fourths of which, in fact, form a power, whose decrees are the constitution itself, and whose voice can silence all discontent. The utmost extent then of the power is, that a state acting in its sovereign capacity, as one of the parties to the constitutional compact, may compel the government, created by that compact, to submit a question touching its infraction to the parties who created it; to avoid the supposed dangers of which, it is proposed to resort to the novel, the hazardous, and, I must add, fatal project of giving to the general government the sole and final right of interpreting the Constitution, thereby reversing the whole system, making that instrument the creature of its will, instead of a rule of action impressed on it at its creation, and annihilating in fact the authority which imposed it, and from which the government itself derives its existence.

That such would be the result, were the right in question vested in the legislative or executive branch of the government, is conceded by all. No one has been so hardy as to assert that Congress or the President ought to have the right, or to deny that, if vested finally and exclusively in either, the consequences which I have stated would not necessarily follow; but its advocates have been reconciled to the doctrine, on the supposition that there is one department of the general government, which, from its peculiar organization, affords an independent tribunal through which the government may exercise the high authority which is the subject of consideration, with perfect safety to all.

I yield, I trust, to few in my attachment to the judiciary department. I am fully sensible of its importance, and would maintain it to the fullest extent in its constitutional powers and independence; but it is impossible for me to believe that it was ever intended by the Constitution, that it should exercise the power in question, or that it is competent to do so, and, if it were, that it would be a safe depository of the power.

Its powers are judicial and not political, and are expressly confined by the Constitution "to all cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under its authority;" and which I have high authority in asserting, excludes political questions, and comprehends those only where there are parties amenable to the process of the court.* Nor is its incompetency less clear, than its want of constitutional authority. There may be many and the most dangerous infractions on the part of Congress, of which, it is conceded by all, the court, as a judicial tribunal, cannot from its nature take cognisance. The tariff itself is a strong case in point; and the reason applies equally to all others, where Congress perverts a power from an object intended to one not intended.

* I refer to the authority of Chief Justice Marshall in the case of Jonathan Robbins. I have not been able to refer to the speech, and speak from memory.

the most insidious and dangerous of all the infractions; and which may be extended to all of its powers, more especially to the taxing and appropriating. But supposing it competent to take cognisance of all infractions of every description, the insuperable objection still remains, that it would not be a safe tribunal to exercise the power in question.

It is an universal and fundamental political principle, that the power to protect, can safely be confided only to those interested in protecting, or their responsible agents—a maxim not less true in private than in public affairs. The danger in our system is, that the general government, which represents the interests of the whole, may encroach on the states, which represent the peculiar and local interests, or that the latter may encroach on the former.

In examining this point, we ought not to forget that the government, through all of its departments, judicial as well as others, is administered by delegated and responsible agents; and that the power which really controls ultimately all the movements, is not in the agents, but those who elect or appoint them. To understand then its real character, and what would be the action of the system in any supposable case, we must raise our view from the mere agents, to this high controlling power which finally impels every movement of the machine. By doing so, we shall find all under the control of the will of a majority, compounded of the majority of the states, taken as corporate bodies, and the majority of the people of the states estimated in federal numbers. These united constitute the real and final power, which impels and directs the movements of the general government. The majority of the states elect the majority of the Senate; of the people of the states, that of the House of Representatives; the two united, the President; and the President and a majority of the Senate appoint the judges, a majority of whom and a majority of the Senate and the House with the President, really exercise all of the powers of the government with the exception of the cases where the Constitution requires a greater number than a majority. The judges are, in fact, as truly the judicial representatives of this united majority, as the majority of Congress itself, or the President, is its legislative or executive representative; and to confide the power to the judiciary to determine finally and conclusively what powers are delegated, and what reserved, would be in reality to confide it to the majority, whose agents they are, and by whom they can be controlled in various ways; and, of course, to subject (against the fundamental principle of our system, and all sound political reasoning) the reserved powers of the states, with all of the local and peculiar interests they were intended to protect, to the will of the very majority against which the protection was intended. Nor will the tenure by which the judges hold their office, however valuable the provision in many other respects, materially vary the case. Its highest possible effect would be to retard, and not finally to resist, the will of a dominant majority.

But it is useless to multiply arguments. Were it possible that reason could settle a question where the passions and interests of men are concerned, this point would have been long since settled for ever, by the state of Virginia. The report of her legislature, to which I have already referred, has really, in my opinion, placed it beyond controversy. Speaking in reference to this subject, it says, "It has been objected" (to the right of a state to interpose for the protection of her reserved rights), "that the judicial authority is to be regarded as the sole expositor of the Constitution; on this subject it might be observed, first, that there may be instances of usurped powers which the forms of the Constitution could never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decision of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all of the forms of the Constitution may prove ineffectual against infraction dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers not delegated, may not only be usurped and executed by the other departments, but that the judicial department may also exercise or sanction dangerous powers, beyond the grant of the Constitution, and consequently that the ultimate right of the parties to the Constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another—by the judiciary, as well as by the executive or legislative."

Against these conclusive arguments, as they seem to me, it is objected, that if one of the parties has the right to judge of infractions of the Constitution, so has the other, and that consequently in cases of contested powers between a state and the general government, each would have a right to maintain its opinion, as is the case when sovereign powers differ in the construction of treaties or compacts, and that of course it would come to be a mere question of force. The error is in the assumption that the general government is a party to the constitutional compact. The states, as has been shown, formed the compact, acting as sovereign and independent communities. The general government is but its creature; and though in reality a government with all the rights and authority which belong to any other government, within the orb of its powers, it is, nevertheless, a government emanating from a compact between sovereigns, and partaking, in its nature and object, of the character of a joint commission,

appointed to superintend and administer the interests in which all are jointly concerned, but having, beyond its proper sphere, no more power than if it did not exist. To deny this would be to deny the most incontestible facts, and the clearest conclusions; while to acknowledge its truth, is to destroy utterly the objection that the appeal would be to force, in the case supposed. For if each party has a right to judge, then, under our system of government, the final cognisance of a question of contested power would be in the states, and not in the general government. It would be the duty of the latter, as in all similar cases of a contest between one or more of the principals and a joint commission or agency, to refer the contest to the principals themselves. Such are the plain dictates of reason and analogy both. On no sound principle can the agents have a right to final cognisance, as against the principals, much less to use force against them, to maintain their construction of their powers. Such a right would be monstrous; and has never, heretofore, been claimed in similar cases.

That the doctrine is applicable to the case of a contested power between the states and the general government, we have the authority not only of reason and analogy, but of the distinguished statesman already referred to. Mr. Jefferson, at a late period of his life, after long experience and mature reflection, says, "With respect to our state and federal governments, I do not think their relations are correctly understood by foreigners. They suppose the former subordinate to the latter. This is not the case. They are co-ordinate departments of one simple and integral whole. But you may ask if the two departments should claim each the same subject of power, where is the umpire to decide between them? In cases of little urgency or importance, the prudence of both parties will keep them aloof from the questionable ground; but if it can neither be avoided nor compromised, a convention of the states must be called to ascribe the doubtful power to that department which they may think best."—It is thus that our Constitution, by authorizing amendments, and by prescribing the authority and mode of making them, has by a simple contrivance, with its characteristic wisdom, provided a power which, in the last resort, supersedes effectually the necessity and even the pretext for force; a power to which none can fairly object; with which the interests of all are safe; which can definitely close all controversies in the only effectual mode, by freeing the compact of every defect and uncertainty, by an amendment of the instrument itself. It is impossible for human wisdom, in a system like ours, to devise another mode which shall be safe and effectual, and at the same time consistent with what are the relations and acknowledged powers of the two great departments of our government. It gives a beauty and security peculiar to our system, which, if duly appreciated, will transmit its blessings to the remotest generations; but, if not, our splendid anticipations of the future will prove but an empty dream. Stripped of all its covering, and the naked question is, whether ours is a federal or a consolidated government; a constitutional or absolute one; a government resting ultimately on the solid basis of the sovereignty of the states, or on the unrestrained will of a majority; a form of government, as in all other unlimited ones, in which injustice and violence, and force, must finally prevail. Let it never be forgotten, that where the majority rules, the minority is the subject; and that if we should absurdly attribute to the former the exclusive right of construing the Constitution, there would be in fact between the sovereign and subject, under such a government, no constitution; or at least nothing deserving the name, or serving the legitimate object of so sacred an instrument.

How the states are to exercise this high power of interposition which constitutes so essential a portion of their reserved rights that it cannot be delegated without an entire surrender of their sovereignty, and converting our system from a federal into a consolidated government, is a question that the states only are competent to determine. The arguments which prove that they possess the power, equally prove that they are, in the language of Jefferson, "the rightful judges of the mode and measure of redress." But the spirit of forbearance, as well as the nature of the right itself, forbids a recourse to it, except in cases of dangerous infractions of the Constitution; and then only in the last resort, when all reasonable hope of relief from the ordinary action of the government has failed; when, if the right to interpose did not exist, the alternative would be submission and oppression on one side, or resistance by force on the other. That our system should afford, in such extreme cases, an intermediate point between these dire alternatives, by which the government may be brought to a pause, and thereby an interval obtained to compromise differences, or, if impracticable, be compelled to submit the question to a constitutional adjustment, through an appeal to the states themselves, is an evidence of its high wisdom; an element not, as is supposed by some, of weakness, but of strength; not of anarchy or revolution, but of peace and safety. Its general recognition would of itself, in a great measure, if not altogether, supersede the necessity of its exercise, by impressing on the movements of the government that moderation and justice so essential to harmony and peace, in a country of such vast extent and diversity of interests as ours; and would, if controversy should come, turn the resentment of the aggrieved from the system to those who had abused its powers (a point all important), and cause them to seek redress, not in revolution or overthrow, but in reformation. It is, in fact, properly understood, a substitute where the alternative would be force, tending to prevent, and if that fails, to correct peaceably the aberrations to which

all political systems are liable, and which, if permitted to accumulate, without correction, must finally end in a general catastrophe.

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On the 27th of Dec., 1837, Mr. Calhoun submitted to the Senate the following celebrated series of resolutions:—

1. Resolved, That in the adoption of the Federal Constitution, the states adopting the same, acted severally as free, independent, and sovereign states, and that each for itself, by its own voluntary assent, entered the Union with a view to its increased security against all dangers, domestic as well as foreign, and the more perfect and secure enjoyment of its advantages, natural, political, and social.

2. Resolved, That in delegating a portion of their powers to be exercised by the federal government, the states retained, severally, the exclusive and sole right over their own domestic institutions and police, and are alone responsible for them, and that any intermeddling of any one or more states, or a combination of their citizens, with the domestic institutions and police of the others, on any ground, or under any pretext whatever, political, moral, or religious, with a view to their alteration or subversion, is an assumption of superiority not warranted by the Constitution, insulting to the states interfered with, tending to endanger their domestic peace and tranquillity, subversive to the objects for which the Constitution was formed, and, by necessary consequence, tending to weaken and destroy the Union itself.

3. Resolved, That this government was instituted and adopted by the several states of this Union, as a common agent, in order to carry into effect the power which they had delegated by the Constitution for their mutual security and prosperity, and that in fulfilment of this high and sacred trust, this government is bound so to exercise its powers as to give, as far as may be practicable, increased stability and security to the domestic institutions of the states that compose the Union, and that it is the solemn duty of the government to resist all attempts, by one portion of the Union, to use it as an instrument to attack the domestic institutions of another, or to weaken or destroy such institutions.

4. Resolved, That domestic slavery, as it exists in the Southern and Western states of this Union, composes an important part of their domestic institutions, inherited from their ancestors, and existing at the adoption of the Constitution, by which it is recognised as constituting an essential element in the distribution of its powers among the states, and that no change of opinion or feeling, on the part of the other states of the Union in relation to it can justify them, or their citizens, in open and systematic attacks thereon, with the view to its overthrow, and that all such attacks are in manifest violation of the mutual and solemn pledge to protect and defend each other given by the states respectively, on entering into the constitutional compact, which formed the Union, and as such is a manifest breach of faith, and a violation of the most solemn obligations.

(As proposed by Mr. Calhoun.)

5. Resolved, That the intermeddling of any state, or states, or their citizens, to abolish slavery in this District, or in any of the territories, on the ground, or under the pretext, that it is immoral or sinful, or the passage of any act or measure of Congress with that view, would be a direct and dangerous attack on the institutions of all the slaveholding states.

(As amended on motion of Mr. Clay of Ky.)

5. Resolved, That when the District of Columbia was ceded by the states of Virginia and Maryland to the United States, domestic slavery existed in both of those states, including the ceded territory; and that as it still continues in both of them, it could not be abolished within the District without a violation of that good faith which was implied in the cession, and in the acceptance of the territory, nor, unless compensation were made for the slaves, without a manifest infringement of an amendment of the Constitution of the United States; nor without exciting a degree of just alarm and apprehension in the states recognising slavery, far transcending, in mischievous tendency, any possible benefit which would be accomplished by the abolition.

And, resolved, that any attempt of Congress to abolish slavery in any territory of the United States in which it exists, would create serious alarm and just apprehension in the states sustaining that domestic institution, would be a violation of good faith towards the inhabitants of such territory who have been permitted to settle with and hold slaves, because the people of such territory have not asked for the abolition of slavery therein, and because that, when any such territory shall be admitted into the union as a state, the people thereof will be entitled to decide that question for themselves.

Mr. Morris of Ohio moved to strike out the words "moral and religious" in the first resolution, which motion was rejected by

Yeas.—Messrs. Bayard, Buchanan, Clayton, Davis, McKean, Morris, Prentiss, Robbins, Ruggles, Smith of Ind., Southard, Swift, Tipton. and Webster.—14.

Nays.—Messrs. Allen, Black, Brown, Calhoun, Clay of Ala., Clay of Ky., Cuthbert. Fulton, Hubbard, King, Knight, Linn, Lumpkin, Lyon, Nicholas, Niles, Norvell, Pierce, Preston, Rives, Roane, Robinson, Sevier, Smith of Conn., Strange, Walker, Wall, White, Williams, Wright, and Young.—31.

The first resolution was finally adopted by yeas and nays as follows:—

Yeas.—Messrs. Allen of O., Black of Miss., Brown of N. C., Buchanan of Pa., Calhoun of S. C., Clay of Ala., Clay of Ky., Cuthbert of Ga., Fulton of Ark., Hubbard of N. H., King of Ala., Linn of Mo., Lumpkin of Ga., Lyon of Mich., McKean of Pa., Nicholas of La., Niles of Conn., Norvell of Mich., Pierce of N. H., Preston of S. C., Rives and Roane of Va., Robinson of Ill., Ruggles of Me., Sevier of Ark., Smith of Conn., Strange of N. C., Walker of Miss., White of Ind., Williams of Me., Wright of N. Y., and Young of Ill.—31.

Nays.—Messrs. Bayard of Del., Clayton of Del., Davis of Mass., Knight of R. I., Morris of O., Prentiss of Vt., Robbins of R. I., Smith of Ind., Southard of N. J., Swift of Vt., Tipton of Ind., Wall of N. J., and Webster of Mass.—13.

All the senators who voted for the first resolution voted for the second, except Messrs. McKean, Robinson and Ruggles. Messrs. Clayton and Spence, who did not vote for the first resolution, voted for the second.

The negative vote on the second resolution was as follows:—

Messrs. Davis, Morris, Prentiss, Smith of Ind., Southard, Swift, Tipton, Wall, and Webster.—9.

The vote on the adoption of the third resolution was as follows:—

YEAS.—Messrs. Allen, Benton, Black, Brown, Buchanan, Calhoun, Clay of Ala., Cuthbert, Fulton, Hubbard, King, Linn, Lumpkin, Lyon, Merrick, Nicholas, Niles, Norvell, Pierce, Preston, Rives, Roane, Robinson, Sevier, Smith of Conn., Strange, Walker, White, Williams, Wright, and Young.—31.

NAYS.—Messrs. Bayard, Clayton, Davis, McKean, Morris, Prentiss, Ruggles, Smith of Ind., Swift, Tipton, and Webster. —11.

The affirmative vote on the fourth resolution was the same as on the third, with the exception of Messrs. Linn and Merrick, who did not vote on this, and with the addition of Messrs. Bayard, Clay of Ky., Clayton, Crittenden, and Grundy.

The negative vote was as follows:

Messrs. McKean, Morris, Prentiss, Smith of Ind., and Swift.—5.

The affirmative vote on the final adoption of the fifth resolution, as amended by Mr. Clay, was the same as that on the fourth resolution, with the addition of Messrs. Talmadge and Tipton.

The negative vote was as follows:—

Messrs. Davis, Knight, McKean, Morris, Prentiss, Smith of Ind., Swift, and Webster.—8.

The vote in favor of the last resolution drawn up by Clay, was the same as that in favor of the fifth, with the exception of Messrs. Clayton and Talmadge, and the addition of Mr. Merrick.

NAYS.—Messrs. Clayton, Davis, Knight, McKean, Prentiss, Robbins, Smith of Ind., Swift, and Webster.—9.

California.

ADMISSION OF. See COMPROMISE MEASURES.

Carlisle John S., of Va.

LAND DIVISION PROPOSITION OF.

ON the 14th of January, 1857, Mr. Carlisle of Va. introduced the following bill in the House of Representatives, to equalize the grants of land to the several states:—

Be it enacted, &c., That there be, and is hereby, granted to each of the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Kentucky, and Georgia, public lands at the rate of two hundred and fifty thousand acres for each Senator and Representative to which said states are respectively entitled.

Sec. 2. That land warrants shall be issued to each of said states to the amount in all to which they are respectively entitled under the preceding section; and said states are severally authorized to sell said land warrants, and apply the proceeds thereof to the support of schools, and in aid of the construction and completion of railroads or canals.

Sec. 3. That said land warrants shall be for not less than eighty, nor more than one hundred and sixty acres each, and shall be valid in the hands of the purchasers and holders thereof, and may be located by any such owner or holder upon any of the surveyed public lands which shall be at the time for sale, and subject to private entry; and the title to the land so located under said warrants shall be perfected to the owners or holders thereof in the same manner as under other land warrants issued by the United States.

The following amendment was reported by the Committee on Public Lands of the House of Representatives:—

A bill to confer equal benefits upon all the states from the public lands and the proceeds thereof.

Be it enacted, &c., That, in order to equalize the benefits conferred upon the several states of this Union from the public lands and the proceeds thereof, the sum of fifteen millions of dollars, out of the treasury of the United States, shall be deposited with the states in which there are no public lands belonging to the United States, on the terms hereinafter specified, in proportion to the representation of said states in Congress, in case said states shall severally authorize their treasurers or other proper officer to receive the same on deposit on the terms aforesaid; and if any state shall refuse to receive its share, the amount shall be added to the sum to be deposited with the states agreeing to receive the same, in the proportion to their representation in Congress.

Sec. 2. That said states receiving said deposit shall, by their several treasurers or other proper officer duly authorized by them respectively, execute and deliver to the Secretary of the Treasury of the United States, certificates of deposit for the sums severally received, signed by said treasurers or other proper officers of said states respectively, and for the same, in such form as such secretary may prescribe, expressing the usual legal obligation by said states respectively to repay said deposit, and pledging the faith of said states respectively to the repayment of the amount by them respectively received at the time and in the manner prescribed in this act.

Sec. 3. That said secretary shall not call for said deposit from said states unless the amount of money in the treasury of the United States shall be reduced below five millions of dollars, and then only in such manner and for such amounts as Congress may by law direct. The said sum of fifteen millions of dollars to be paid out of the treasury of the United States, and deposited with said states, one half part thereof within one year after the

passage of this act, and the remainder thereof within one year thereafter, or as soon after the term of one year for the one half part, and two years for the other half part, as may be. And the said states receiving said deposit are severally authorized to invest and use the same to aid in constructing railroads, or for the support of schools, or for such other public purpose as the legislatures of said states may severally direct.

Sec. 4. That in case said deposit shall not be called for or repaid, the same shall be regarded and taken by the states receiving the same as an equivalent for the grants of land made to the other states for schools, railroads, or other internal improvements, and for all lands received by said other states as swamp lands.

Sec. 5. That the state of Texas, having retained all her public lands, shall not be entitled to receive anything under this act. And every other state to which grants of lands for schools and for railroads have been made shall be, and are hereby, excepted from the operation of this act.

Caruthers, Samuel, of Missouri.

LETTER OF.

To my Constituents: During my short Congressional career, I have never before had occasion to especially address you by letter. I have hitherto been content to rest upon the reasons for my action, declared on the floor of the House, or stand silently upon the record I had made by my votes.

The reasons for doing so now arise from the breaking down of the old wall which divided parties—the new elements which have been mingled into our national politics—the alarming *isms* now distinctly formed in the country—the peril that threatens the very existence of our institutions, and that solemn duty which rests upon every representative who would deal fairly with his people, to declare, frankly, his present positions and his future intentions. I should be unworthy of the high trusts you have confided to my keeping; unworthy of the kindness and confidence you have so generously lavished upon me; unworthy of my native state; unworthy of the regard of good men, if I should shrink from the performance of this duty now.

We have had a most exciting and protracted struggle in the organization of the House. I have voted uniformly for the Democratic nominees for the Speakership. For this I am charged with the betrayal of the Whig party, and with an abandonment of the principles upon which I was elected. And who is it that makes these charges? Is it the old-line Whigs? I have not heard of an old-line Whig, either in my district or elsewhere, who does not indorse my course. These charges are made by the Know Nothing press of my state, and by anonymous Know Nothing scribblers, the latter of whom, never having had an honest motive themselves, have no conception of the thing in others. They charge me with betraying the Whig party? They who decoyed it into their councils and assassinated it in the dark—they who come forth from their conclaves with their hands dripping with its blood—they who met at Philadelphia in convention, and vauntingly proclaimed its death—with a pharisaical affectation of party, declare that they are not "responsible for its obnoxious acts and violated pledges;" that it has "elevated sectional hostility into a positive element of political power, and brought our institutions into peril." Yes, while I stand a mourner at the grave of the Whig party, they are rejoicing at its death and calumniating its life! Yet these men have the unblushing hardihood to twit me with abandonment of that once noble party! Was ever impudence more gigantic and more absurd?

But it is sometimes softly and gently whispered that the American party is the Whig party in disguise. If this is so, they have solemnly declared a lie in their conventions, and it is a cheat and a fraud upon the Democrats in the order. So they have either abandoned their party, and have no right to abuse me, or are engaged in a fraud which makes their abuse a compliment. I tell these gentlemen that they have slain my first love, and left me a political widower; and I have a perfect right to marry another party if I see proper!

I am charged with having abandoned the principles upon which I was elected. Does not every man in my district know that the Kansas-Nebraska question was the controlling issue in my last canvass? Does not every man know that it was my position on this issue that gave me my large majority in a Democratic district? Does not every man know that I obtained as many Democratic votes as I did Whig votes? Does not every man know that I declared my principles, in a speech delivered in the House of Representatives, on the 7th of April, 1854? To stop the mouths of my accusers I will give an extract from that speech. I said then, speaking of the Kansas-Nebraska bill, that--

"I will not pause long to dwell upon its party effect; for, in my judgment, the questions involved override all party considerations. It is true, this bill is presented to us as an administration measure. It is true that I am here as a Whig; but I am not here to give this administration a factious opposition. I am not here to oppose any measure brought forward by it, merely because it is brought forward by it. I am here, uncommitted to a blind opposition or a blind support, to follow to the end the dictates of my own judgment and conscience, and the will of those who sent me.

"In this instance I believe the administration has taken high national ground; that it has planted itself upon a great American principle—the principle of self-government; a principle involved in none of our party issues; a principle dearer than any party considerations; a principle upon which all sound, national men of all parties may meet and stand, as upon ground alike cherished and alike dear. It was this principle ingrafted in the compromises of 1850, that commended them so warmly to the American heart; it was this principle which was ratified by both parties in their conventions at Baltimore, and it is for this principle I speak to-day.

"Sir, this is no war between the administration and its opponents—no war between Whigs and Democrats as such; but, disguise it as you may, it is a war between free-soilism on the one hand, and the right of the people to self-government on the other."

Upon these declarations I went into the canvass. I was elected then, declaring that the

principles of the Kansas-Nebraska bill "were dearer than any party considerations"—"a principle upon which all good men of all parties might meet and stand, as upon ground alike cherished and alike dear;" that they "overrode all party considerations." Being thus elected, when I came to cast my first vote for Speaker, I found that neither the "South Americans," nor the Black Republicans, had laid down any platform—they were fighting shy, running with a margin. The Democrats had a platform, and it was this:—

"Resolved, That the Democratic members of the House of Representatives, though in a temporary minority in this body, deem this a fit occasion to tender to their fellow-citizens of the whole Union their heart-felt congratulations on the triumph in the recent elections in several of the Northern, Eastern, and Western, as well as Southern States, of the principles of the Kansas-Nebraska bill, and the doctrines of civil and religious liberty, which have been so violently assailed by a secret political order known as the Know Nothing party. And, though in a minority, we hold it to be our highest duty to preserve our organization, and continue our efforts in the maintenance and defence of those principles, and the constitutional rights of every section and every class of citizens, against their opponents of every description, whether the so-called Republicans, Know-Nothings, or *Fusionists;* and to this end we look with confidence to the support and approbation of all good and true men—friends of the Constitution and Union throughout the country."

It will be seen that there are only two planks in this platform. The one, in favor of the principles of the Kansas-Nebraska bill—the very principles upon which I was re-elected—and the other against the proscriptiveness of Know Nothingism. Bear in mind the fact, that, when I was elected, there were no Know Nothings in my district—that I was not one. And now, may I not ask, if there is a single honest and intelligent man in my district who believes that I have "abandoned the principles upon which I was elected?" Or if, in view of these facts, there is any one, but an intentional calumniator, who will ever again assert it?

Again: It is said that I should have voted for Henry M. Fuller for Speaker—that he was a good enough pro-slavery man (for Kennett, Lindley, and Porter, voted for him); and, therefore, "some wise political teachers" argue that he is sound enough for me! It is a sufficient answer to this argument, if argument it may be called, that Kennett, Lindley, and Porter, act upon their own judgments, under their own responsibilities. I act upon my judgment, under my responsibility.

In a speech delivered by me, on the 9th day of January last, in the House, I took up the record of this Mr. Fuller. I showed that he had voted for Mr. Pennington, who had favored a motion to suspend the rules of the House, to allow Mr. Elliott to introduce a bill to repeal the fugitive slave law, and who had voted for both Mr. Campbell of Ohio, and Mr. Banks of Mass., for Speaker of the present Congress. I called attention to the fact that he had, in reply to a question put by Mr. Sage of N. Y., said that, "if the Missouri compromise can be restored, I would most certainly be in favor of its restoration; but, in view of the difficulties which surround that question, and must defeat your efforts, I say that I am opposed to the agitation of that question."

It was upon this declaration he stood when I made that speech. I give you the extract in his own words, to show that I did him no injustice. On the 17th day of Jan. he had occasion to define his position again; and, in the mean time, his "back-bone" having been strengthened by the influence of some of his southern supporters, he was worked up to the point of declaring that "Congress has no constitutional power either to legislate slavery into, or exclude it from, a territory."

On one day, during the present session, he tells us "if the Missouri compromise line can be restored, he would most certainly be in favor of its restoration; and on another day, during the same session, he tells us that the whole thing is unconstitutional!—that Congress has "no power to exclude slavery!" Still, if he could, he would restore this unconstitutional restriction! I leave it to his admirers and supporters to reconcile and harmonize these declarations; I freely admit my incapacity.

But he gets further down South than I go—for he is a fast traveller when he does start. He says, "neither has the Territorial Legislature, in my judgment, any right to legislate upon that subject, except so far as may be necessary to protect the citizens of the territory in the enjoyment of their property." This is the extreme ground of the fire-eaters. I believe that, under the powers conferred by the organic act of Kansas and Nebraska, "to regulate their own domestic concerns," they may either establish or prohibit slavery, just as they think proper.

Again: he says in his last speech, in answer to the interrogatory, whether he believed the Wilmot proviso constitutional?—

"I was not a member of the Congress of 1850, and have never been called on to either affirm or deny the constitutionality of the Wilmot proviso." * * * "My political existence commenced since that flood; and having never taken any public position, I am willing, in all frankness and candor, to do so now."

I will show you that his memory is as oblivious as his sudden conversion is marvelous. This same Henry M. Fuller, on the 18th of August, 1849, wrote a letter to B. F. Saxton—a letter from which the following are extracts:

"You state in your letter, that the Free-Soilers will hold a convention at Hyde-Parke, on the 30th inst. There is a pretty strong probability that I will be in the field for Canal Commissioner, and it would certainly aid my prospects very materially to receive a nomination from your party."*

* It is due to Mr. Fuller to publish the following, which he alleges to be a true copy of the letter of which the above purports to be an extract:—

"Wilkesbarre, August 18, 1849.

"My Dear Sir:—Your favor of 15th instant was duly received, and the matter of Mr. Hackley shall have immediate attention. I will write you fully in a few days. Let us have a little private talk on the subject of our State election. You state that a Freesoil convention will meet at Hyde Park on the 30th instant, and that you will attend as a delegate. The Whig convention met at Harrisburg day before yesterday. We have received no intelligence yet, but will this evening or in the morning. My friends here are confident of my nomination. I have really very little feeling on the subject. The office is not to my liking—still, if nominated, I shall desire an election. If your friends should persist in maintaining a distinct organization, and

He had not then this holy horror of a "wild hunt after office" denounced by his brethren in Philadelphia. Oh, no! It would "very materially aid his prospects" to get a nomination from a regular free-soil convention; and as it would aid those prospects, he wanted it; and had good reasons to give why he should have it. Hear him:

"I am in favor of free soil, free speech, free labor, and free men; being a Wilmot Proviso man up to the hub, and utterly opposed to the extension of slavery."

He was up to the hub in free-soil when he wanted a free-soil nomination; and I have never heard of his prizing out until he wanted the votes of sound national men for the speakership. He goes on:

"The matter will require prudent management, and I know of no man who can accomplish it better than yourself. It would be bad policy to attempt it without a certainty of success. Consult with our mutual friends, Hackley and Johnson, and write me soon.

"Yours truly, HENRY M. FULLER."

Thus it appears, that on the 18th day of Aug., 1849, he was a "Wilmot proviso man up to the hub," and on the 17th day of Jan., 1856, he declares "that he never took any public position on the subject of slavery"—that his "political existence commenced since that flood!" I will comment no further on this letter!

Mr. Fuller became a candidate for canal commissioner, and, while a candidate, made speeches; among others one in Allegheny city, reported in the Pittsburgh Gazette, then a Whig paper, and then supporting Mr. Fuller. In that speech, published at the time, and uncontradicted, Mr. Fuller says:

"Let the people of the South talk as they please, slavery was a dark and damning stain upon their escutcheon." * * "Let us say to the proud waves of slavery, as they beat against the barriers of freedom, 'Thus far shalt thou go, and no further.' Let us give our lands free, in every sense of the word, to our citizens, and to the poor and oppressed of other nations." * * * "As lords of freedom, we had a duty to perform to the South. Let us do it with a proper regard to our friends there, but let us insist on the earliest practical abolition of slavery."*

Ay, "the earliest practical abolition of slavery." Look at it! For "free soil;" "opposed to the extension of slavery;" in favor of its "earliest practical abolition;" intriguing for the nomination of a Free-Soil convention; and in addition to all this, when the final vote for Speaker came—the last vote—the vote which "tried the souls of men," the vote which was to determine whether Banks, the political Abolitionist, the Black Republican, the Northern Know Nothing, the "Union-sliding," the "absorption" Banks, should be elected Speaker of the American House of Representatives, or that accomplished gentleman and sound, national, and conservative man, Governor William Aiken; he, under the flimsy and miserable pretext of having paired of with a man who was present, being present himself, dodged, and did not vote at all!

And now with his record fairly before you, elected upon the principles on which I was elected, I submit it to your candor, if I would not have exposed myself to the just scorn and contempt of every good man of my district, of any party, if I had voted for Henry M. Fuller? I voted for William A. Richardson of Illinois. I knew him. I had served with him in the last Congress. I knew him to be the very soul of honor. A man whose "word was as good as his bond;" a man whose large heart could take all the Union into its affections; a man who was all seamed with scars received in battles for the rights of the South; a man who had been passed around by the Abolitionists (within black lines), in what they call their "roll of infamy," because of his gallant bearing in those battles; a man who has stood unmoved while mad fanaticism poured its vials of wrath upon his head; a man who breasted the storm in "its wildest ragings" after the passage of the Kansas-Nebraska bill; the man who bid them a proud and bold defiance; the statesman who was our champion and leader through all the great struggle upon that bill; the statesman who had counselled his friends in the North to "stand and brave the fire without flinching;" the man who, full

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make a separate nomination, as has been suggested, it will do injury. You say you are friendly, and desire to aid my election. I believe you are so, and would suggest therefore that you prevail upon your friends to make no nomination. How this is to be accomplished you will best understand—perhaps by resolution; consult with our mutual friends, Farnham and Hackley—they are both substantial, sensible men, and competent to advise in the matter. On the subject of Freesoil, I believe our people here and everywhere are in favor of free labor and free men. I certainly am opposed to extending slavery, and desire whatever can rightly be done to restrain or ameliorate it should be done.

"It is an exciting question, calculated to produce much inflammation and extreme opinions. I would avoid undue excitement, but at the same time insist upon the rights and interests of my *section*, doing no injustice to any other. But enough of this—ours is a state canvass, and this question can hardly be considered an issue. If I should be nominated by the Harrisburg convention, my chief desire in securing the election will be, to obtain a popular endorsement of the measure I advocated in the legislature last winter, and about which we had so much trouble—the completion of the North Branch Canal; its completion, in my judgment, will not only be of large benefit to us here, but very materially increase the State revenue. It is destined to do a large business. Its merits are not understood. I shall stump the state, probably, and talk to the people on that subject.

"Let me hear from you soon.

"Yours, respectfully, "H. M. FULLER."

* Mr. Fuller, in his speech of May 10, 1856, thus alludes to the above extract:

"I come now to the next charge in the bill of indictment against me, which is, that on the 29th day of September, 1849, I made a speech in Allegheny City, in which I declared that it was the duty of Northern men "to insist on the earliest practical abolition of slavery." I deny the utterance of any such sentiment. The facts are these: I was then a candidate for canal commissioner, and did address a meeting in that city at the time stated. I remember it well. It was at night, in the market-house. There was a large crowd and much shouting. Some lovers of mischief sprung a sudden cry of "fire," which disturbed and came near breaking up the meeting. The good people, with that instinctive preservation of self and property natural to us all, began to separate; the alarm, however, proved to be a false one, order was restored, and I proceeded to the end of my speech. There were no reporters present, nor any accommodation for them, so far as I saw. The following day, I remember to have seen what purported to have been a report of my speech, but in language and sentiment so much stronger than any I had uttered, that I really did not recognise it as my own production: and remarked, as I well remember, this fact to the publisher of one of the journals in which the report appeared. He informed me that it had been written out from memory, and not from notes taken at the meeting. If I know myself, I have never entertained or expressed any sentiment in favor of Northern interference to secure the abolition of slavery, and feel quite certain that I could not have uttered the sentiment attributed to me."

of courage and patriotism, dares to do whatever his large heart approves and his comprehensive mind suggests; and a man, too, who is of the West, western—who is of us and with us. I would not, I should not, I could not, I did not hesitate for a moment which to choose—this man, or Henry M. Fuller. Was I not right?

I had seen Judge Douglas of Illinois, after anxious deliberation, introduce that bill, and stake his political life upon the justice of its principles. I had seen the administration commit its fortunes to it; I had seen the great body of the national Whigs in the Senate, in the House, in the country, come up to its support; I had seen the Democracy adopt it as an article in their creed of faith; I had seen the people of my district, as almost one man, endorse the principles of that bill; and was I to desert the gallant ship, with her tried and trusted crew, as she ploughed her majestic way, unmoved by the storm and unshaken by the billows, to go out in a miserable yawl, under the command of such a "straggler" of a captain; such a "latter-day saint" as this Henry M. Fuller?

But, it is said that Mr. Fuller is a Know Nothing, and therefore I should have given him my vote. The contest for the Speakership developed the fact that there are now three parties in the country. The Northern Know Nothing and Abolition party, fused under the name of Black Republican, the (so-called) "National American," and the Democratic party. This Know Nothing party was born amidst the factitious excitement manufactured by Abolitionists and disunionists out of the passage of the Kansas-Nebraska bill. It sprung at once, "like Minerva from the brain of Jove," full armed, and entered the political arena. In the morning of its existence, it was full of promise. It declared that it would say to the angry waves, "peace—be still!" that it was the only broad, national, conservative party; that its great, paramount mission was to save the Union, which was imperilled by agitation. Relying upon these promises, confiding in these assurances, many good men everywhere—many in my district—went into this organization. I went twice (and but twice) into their councils. I "saw Sam." It took two visits to see him all over. I made them; I saw enough, and determined to never look on his face again!

In dealing frankly with you, it is due that I should make this acknowledgment. I would not have the vote of an Anti-Know Nothing in my district without his knowledge that I had been in their councils; nor would I have the vote of a Know Nothing without his knowing that I am not of his order. I may prove wanting in ability to serve; I shall never prove wanting in candor towards you. It has been the habit of my life to defend my course against all odds when I believe it is right, and to acknowledge my errors when I believe I have done wrong. I freely admit to you, that I ought never to have gone into a secret political society of any kind whatever; that they are wrong in principle, against the very genius of our institutions, dangerous in practice, and should be avoided by all men, of all parties. I objected then, and object now, to the whole machinery of its organization; I objected then, and I object now, to an indiscriminate proscription of naturalized citizens from office; I objected then, and object now, to anything that even looks like making a religious test. A Protestant by birth, a Protestant by education, by prejudice, by reason, by faith; a Protestant in all (I regret to say except the practice), was a Catholic organization formed, to brand me as unworthy of public trust because of my religious opinions, I would call upon every honest Catholic in the land to aid me in striking it down. As I would "have them do unto me, I will do unto them."

The Catholic and Protestant have fought side by side on those battle-fields where our liberties were won; and when "pestilence has stalked at noon-day" through our cities, leaving a track of desolation and death, we have seen the Protestant and Catholic ministry again laboring side by side to stay its awful ravages; to administer balm to the sick, consolation to the dying, and decent interment to the dead! If we kneel not at the same altars, under the same forms, we worship the same God; we are pointed to the same accountability for sin, and to the same Heaven as a reward for piety! Why should not we leave controverted points of theology to the ministry of the churches? Why should not we laymen go on—as we should go on—in brotherly love and confidence? As I have opposed the dragging of politics up into the pulpit, I oppose drawing religion down into politics. All thinking men agree that the only real danger to our institutions arises from making the subject of slavery a sectional question. May I not respectfully ask the Protestant ministry of the South to pause and reflect, that if they bring the doings of churches into political discussion, they might injure Protestantism? May not the Catholic turn upon you with the fact, that of three thousand preachers who denounced the judgments of God upon our devoted heads who voted for the Kansas-Nebraska bill, there was not upon the paper the name of a single Catholic minister? May he not show that none of his clergymen are in the Halls of Congress, while we have twenty odd preachers? May he not show that he has never refused to take the "holy communion" with a slaveholder; that his church in the North are not stirring the waters of sectional strife; that they never do, and never have, interfered with the delicate question of slavery? and by showing these things, drawing these contrasts, may they not commend their church to the South, and weaken yours? These are questions for you to consider. It is but just to a large and respectable Protestant denomination—I allude to the regular old Baptists—to say that they have never, anywhere, at any time, under any circumstances, either North or South, interfered in political affairs.

Why should Protestants agitate this subject? Why should they endeavor to build up a political party upon a subject on which they can have no political action? You are forbidden to act by the Constitution of the United States. The Constitution says, that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." Take this case: Suppose a President, having sworn in Know Nothing councils that he will appoint no Roman Catholic to office, is elected. He takes an oath to support the Constitution of the United States. That Constitution says, that "no religious test shall ever be required as a qualification to any office or public trust under the United States." Suppose, then, a man is presented for office: does he not have to inquire, under his first oath, if the man is a Catholic? If he is, then he must refuse him on that account. If he does so refuse him, he violates his last oath, because he then swore he would make "no religious test." Is comment necessary?

But I have been asked if I would vote for a man who owes temporal allegiance to a foreign power? I answer, no. I would not vote for any man, of any religion, for any office, who is bound by such an allegiance.

As to a spiritual allegiance, my understanding is that we all owe that allegiance to a Power whose Throne is outside of the United States—to God, in Heaven!

But in all these views, perhaps, no Catholic or Protestant disagrees with me, and I will not elaborate them further.

I stated to you, that the great reason for my having ever gone into a council was, I was assured that the preservation of the Union was the "rock on which they built their church"—that men who joined in the North, as well as the South, made a "burnt offering" of their prejudices, and joined with hands locked in hands in a living chain around the Constitution, in a common brotherhood, and in a common defence. I was told, too, that I could withdraw if I was not pleased.

I ask every Know Nothing who reads this, if such was not his understanding of the objects of the American order? Then I ask them to lay aside their partialities and prejudices, and, thinkingly, as patriots, to look back at its history.

It met in convention at Philadelphia in June last—it laid down a platform—it put forth the celebrated twelfth section. Here it is:—

"Resolved, That the American party, having risen upon the ruins, and in spite of the opposition, of the Whig and Democratic parties, cannot be held in any manner responsible for the obnoxious acts or violated pledges of either; that the systematic agitation of the slavery question by those parties has elevated sectional hostility into a positive element of political power, and brought our institutions into peril; it has, therefore, become the imperative duty of the American party to interpose for the purpose of giving peace to the country and perpetuity to the Union; that, as experience has shown it impossible to reconcile opinions so extreme as those that separate the disputants, and as there can be no dishonor in submitting to the laws, the National Council has deemed it the best guarantee of common justice and future peace to abide by and maintain the existing laws upon the subject of slavery as a final and conclusive settlement of that subject in spirit and in substance.

"And regarding it the highest duty to avow their opinions upon a subject so important in distinct and unequivocal terms, it is hereby declared, as the sense of this National Council, that Congress possesses no power, under the Constitution, to legislate upon the subject of slavery in the states where it does or may exist, or to exclude any state from admission into the Union, because its constitution does or does not recognise the institution of slavery as a part of its social system; and expressly pretermitting any expression of opinion upon the power of Congress to establish or prohibit slavery in any territory, it is the sense of the National Council that Congress ought not to legislate upon the subject of slavery within the territories of the United States, and that any interference by Congress with slavery as it exists in the District of Columbia, would be a violation of the spirit and intention of the compact by which the state of Maryland ceded the District to the United States, and a breach of the national faith."

There is a platform on the subject of slavery (with the exception of a little pretermitting) sound—one upon which the South could stand. They were conservative and just; but what did the northern and the largest portion of this so eminently national party do? They repudiated this section; they spit upon it: They met together in their state councils, and there these conservative Union-savers were not satisfied with a simple repudiation of this twelfth section, but go on to announce doctrines as the doctrines of the party, which, if carried out, lead, in the strong language of Mr. Clay (when speaking of refusing to admit a state because of a constitution tolerating slavery), "to a dissolution of the Union through a bloody and perilous road."

I give you a resolution passed by a Know Nothing convention at Cincinnati in November last, composed of delegates from seven of the Northern and Northwestern States. They declare—

"That the repeal of the Missouri Compromise was an infraction of the plighted faith of the nation, and that it should be restored; and if efforts to that end should fail. Congress should refuse to admit into the Union any state tolerating slavery which shall be formed out of any portion of the territory from which that institution was excluded by that compromise."

Yes, they will not admit Kansas if she applies for admission as a slave state; thus, according to the language of Mr. Clay, and thus, as every intelligent man knows, leading to the "dissolution of the Union by a bloody road." You see by this resolution how the Know Nothings in the Northwestern States stand. I will show you how they stand in the Middle States. In the legislature of Pennsylvania, the Know Nothings and the Black Republicans, true to their instincts and actions, fused, and they declared, on the 12th day of January, 1856, in the following form, to wit:

"Resolved, That we are opposed to the admission of any more slave states into this Union; therefore,

"Resolved, That Kansas and Nebraska should only be admitted into the sisterhood as free states."

"Opposed to the admission of any more slave states into this Union:" the rankest and the most damnable Free-Soilism, as well as the most direct road to dissolution!

In New York—in the Empire State—the state which owes its greatness to the commerce of the Union as it is—in that state so bound to us and so dependent upon us by commercial

ties, the Know Nothings met there in state convention, at Binghamton, and they, too, join in the swelling chorus of abolitionism, and resolve as follows :—

"Resolved, That the National Administration, by its general course of official conduct, together with an attempt to destroy the repose, harmony, and fraternal relations of the country in the repeal of the Missouri Compromise, and the encouragement of aggressions upon the government of the territorial inhabitants of Kansas, deserves and should receive, the united condemnation of the American people, and that the institution of slavery should receive no extension from such repeal."

The meaning of which is, that Kansas, if applying as a slave state, should be rejected. This is the platform upon which they went into their last fight! This is the platform upon which they gained their victory? A victory which has been so much rejoiced over! A victory which would lead to a dissolution of the Union! Thus stand the Know Nothings of New York! Let us go to the Northeastern —the New England states. Maine, Connecticut, New Hampshire, Massachusetts, all declare that—

"Whereas the aggressive policy which has been uniformly pursued by the slave power, from the commencement of our national existence down to the abrogation of the Missouri compact, evinces a determination 'to crush out' the spirit as well as the forms of liberty from among us, and to subject the free states to a relentless despotism; and whereas the success of the Southern delegates to the National Council recently held in Philadelphia, in making abject and uncomplaining submission to pro-slavery legislation a fundamental article in the creed of the National American party, renders it imperative on us to express our views upon the great question of the country and the age: Therefore, we declare

"That the great barrier to slavery, ruthlessly broken by the repeal of the Missouri prohibition, ought to be speedily restored; and that, in any event, no state erected from any part of the territory covered by that compromise ought ever to be admitted into the Union as a slave state."

Though I have them at hand, I will not weary and disgust you with any more of these Northern Know Nothing platforms. I have taken the northwest, the centre, and the northeast. I have shown you, so that no honest man will ever deny it who reads these platforms, that they have gone, utterly gone, into practical abolitionism; that no representative—no man who values the rights of the South—can act with them.

Do you want more proof? I refer you to the record of the present Congress. I assert to you that three-fourths of the men who elected Banks were Know Nothings. I assert to you that not a single northern member of that party voted for Governor Aiken for Speaker! That after all their "loud-mouthed" professions of nationality, Fuller dodged; his precious little band of six threw away their votes upon their immortal leader, and thus allowed Banks, who was only elected by three votes—who would sink the Union—who would "absorb with the negroes"—who has not yet determined whether he is better than a negro or not—yes, these northern Know Nothings threw away their votes, and allowed this man Banks to be elected Speaker!

Will any man of common decency—will any man in Missouri, of ordinary self-respect, ever again abuse me for not having acted with the northern Fuller party?

Instead of getting national Know Nothings from the North for our national man (Governor Aiken), we really lost two "South Americans"—Mr. Cullen, of Delaware, and Mr. Henry Winter Davis, from Maryland! So you will see that, instead of the tendencies of the American order being to liberalize the North, its practical operation is to free-soilize the South!

Do you want more proof? I will give it. The Know Nothing convention, held at Philadelphia on the 22d of February, 1856, (the birthday of Washington—what a desecration!) repudiate and abolish this twelfth section, on a separate and distinct vote, and by an overwhelming majority; and in its stead place a plank which means all things to all men, and of which a member of the convention, from Indiana, and a supporter of it (Mr. Sheets), said in that convention—

"He would assure the South that the twelfth section must be got rid of. He was willing to accept a compromise, but the section must be got rid of: he was willing to accept the Washington platform; for, if there was anything in it, it was so covered up with verbiage that a President would be elected before the people would find out what it was all about. [Tumultuous laughter.]"

Yes, this infamous sentiment, instead of being received with patriotic indignation, was received with "tumultuous laughter!" and the "Washington platform," presented by one Parson French S. Evans—the defeated Black Republican candidate for Sergeant-at-Arms of the present House—was adopted by that convention!

Do you want more proof? I think every intelligent, honest man in my district, who is not an aspirant for office, will exclaim—"Hold, enough!" But for the benefit of the Know Nothing aspirants for my place in the district, I will give two more facts. That the northern portion of that convention telegraph to the Black Republican Pittsburgh convention, sitting at the same time, that the—

"American party is no longer united. Raise the Republican banner. Let there be no further extension of slavery. The Americans are with you."

And the still further significant fact, that after the express repudiation of the twelfth section, they denounce in their platform the repeal of the Missouri compromise line.

And now—I do not ask the aspirants for my place—I do not ask those who want to go as Know Nothings to the legislature—those who want to be sheriffs, county judges, squires, or constables, &c.—but I ask the true men of my district—the real people, where I have always found my friends—the men who have no object but the good of their country at heart, to do as I have done—abandon this organization!—if it has not failed—utterly, completely, entirely failed, as a sound, national, conservative party?—if every intelligent man does not know that it has so failed? and if every honest man will not acknowledge the fact?

As to the great catch-words, "Americans shall rule America!"—I am in favor of Amer-

icans ruling America. They do, they always have, and they always will rule America.

But who are Americans? Your laws declare that, when a man has been here five years—when he will, under oath, renounce all allegiance to any foreign prince, potentate, or power—when he will prove that he is of good moral character—attached to the institutions of the United States—he may be declared an American, and your law makes him a citizen. It is a fraud upon him, if you do not give him all the rights of citizenship!

Think of it! The poor old Pope of Rome, unable even to defend his life—to protect himself—has his throne supported and upheld by French bayonets! We have twelve native to one foreign vote in the United States! Why should we fear the Pope? And cannot twelve Americans manage one Irishman? In the Congress of the United States there is but one foreigner! In the last legislature of our state—elected, as the members were, before the Know Nothing flood—there was but one; and he was a leading—I might say, without being invidious, the leading member of the Senate! I allude to Colonel C. Zeigler, who came, or was brought to this country when an infant eighteen months old! He is one of the first intellects of our state, or any state. He has been my political friend—my personal friend—my supporter in every aspiration. I submit it to you, if there is not something radically wrong in an organization which would prohibit me from voting for him, merely because he was born outside of the United States, though brought here when a mere child! I have used his name without his authority. I know he will pardon me, when he sees that I have only used it to illustrate more strongly to our people, than I could by a hundred arguments, the absurdity of this indiscriminate proscription of foreign-born men from office.

If the despotisms of the Old World should ever attempt to destroy our government by sending their population here, I will not, as your representative, pause to talk or argue about our naturalization laws. I shall speak and vote for prohibiting any foreigner from treading his foot upon our soil! I shall strike at the root—not waste my time and energies in lopping off the branches.

I have always understood that three grand leading ideas run through our institutions, giving them all of their vitality, their beauty, and their power. First, that the people are capable of self-government. This is the doctrine of the Kansas-Nebraska bill. Second, that we had made an asylum to which the oppressed of every land might come as a refuge; that here they might worship as equals at the altar of our liberty; that here they might lift up their hearts to their God, according to the dictates of their consciences, and there should be none to molest them. Third, that there should be no aristocracy of birth. I have regarded, and do regard, these as the peculiar pride and boast of my country. I regard them as the three grand and massive pillars upon which the whole magnificent structure of our government rests. I will not, by any action of mine, deface or mar these pillars.

I have been often asked if I am not in favor of reorganizing the Whig party? I answer that, in the present condition of parties and the country, in my judgment, such an effort can do no good, and might do great harm.

I say to you, that we have no sound material North out of which to reconstruct that party. Look back at the past. Every Whig Representative from the North, in 1849, voted for the Wilmot proviso. But three of them out of seventy-three voted for the fugitive slave law—that law which does but common justice to the South, and which is commanded by the Constitution itself! Not one Whig north of Mason and Dixon's line voted for the Kansas-Nebraska bill of 1854! On all these measures a majority of the Northern Democrats voted with the South. Have we, then, not reached that point, in the North, presupposed by Mr. Clay when he said, "If the Whig party ever becomes merged into a contemptible Abolition party, I will abandon it in disgust?" and should not we, his old followers, take his implied counsel and his proposed example, when he says, "I will act with that party, whatever its name may be, that stands by the Constitution and the Union?" To endeavor now to reorganize the Whig party, would be but to divide and distract the sound national men of the South.

Where have we an ally in the North, outside of the Democratic organization? These allies have been true to us in the past. With a patriotic devotion to the union of the states, and a patriotic regard to the constitutional rights of the South, they have bared their bosoms to the ragings of the storm—they have stood unmoved, while malignity and fanaticism have poured their fiery torrents upon them. I take them to my heart as political brothers, and wear and cherish them there.

How stands the Democratic party? I have given you the resolution of the present members of Congress.

Listen to Ohio! Steeped as she has been in Free-Soilism; in state convention assembled, with the boldness of right—with the candor of manhood, they declare, on the 8th day of January last, as follows:—

"1. Resolved, That slavery (being the creature of positive law, cannot exist without it) is a domestic institution, and that Congress has neither the power to legislate it into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

"2. Resolved, That the right of the people of each particular state and territory to establish their own constitution or form of government, to choose and regulate their own domestic institutions of every kind, and to legislate for themselves, is a fundamental principle of all free government; and that it is the self-same right to secure which our ancestors waged the war of the Revolution—a right lying at the very foundation of all our free institutions, recognised in the Declaration of Independence, and established by the Constitution of the United States; and we hereby endorse and reaffirm this now disputed principle."

Contrast this with the resolves of the Know Nothing convention at Cincinnati.

Listen to Indiana, as she, too, speaks in her Democratic state convention. She says:

"Resolved, That we approve the principles of the compromise measures of 1850, and their application, as embodied in the Kansas-Nebraska bill, and will faithfully maintain them."

Hear the Democracy of New York, as they, too, in convention declare:

"Resolved, That the determination of Congress, avowed in the Kansas-Nebraska bill, to reject from the national councils the subject of slavery in the territories, and to leave the people thereof free to regulate their domestic institutions in their own way, subject only to the Constitution of the United States, is one that accords with the sentiments of the Democracy of the state, and with the traditional course of legislation by Congress, which, under Democratic auspices, has gradually, in successive territorial bills, extended the domain of popular rights and limited the range of Congressional action; and that we believe this disposition of the question will result most auspiciously to the peace of Union and the cause of good government."

All, everywhere, from Maine to Texas, speak the same language, declare the same principles, and rally under the same flag! Is not this party national? Contrast these resolves with the fact, that the Know Nothing party, but two years old, has managed, even in that short time, to be in favor of secrecy against secrecy, in favor of test oaths against test oaths—in some states for the Catholic test, in others against the Catholic test—on one side of the Union for the twelfth section, on the other side against the twelfth section; and in their late convention, at one time the Southern chivalry bolt, at another the Northern Free-Soilers bolt,—and tell me if you can support such a party, even though Millard Fillmore is its candidate for the presidency!

As to the Black Republican party, it now has the Speaker of the House of Representatives. Encouraged by past successes, it has become insolently bold, and grasps with an eager hand for the reins of government. If it succeeds, if it elects a president, and gets possession of both Houses of Congress, it will carry out its *infamous* circle of measures: the repeal of the fugitive slave law, the abolishment of slavery in the District of Columbia, interdict the inter-slave trade between the states, restore the Missouri restriction, and refuse to admit any more slave states! Who is it that does not know the Union would not survive an hour? Our danger is not from the Pope, not from foreigners, but is from the Abolitionists. What, then, is our first solemn, patriotic duty? It is that we should band together as one man. It is that we should each bring his former prejudices and lay them down upon the altar of our country—that we should leave the past to "bury its own dead," and look to and fight alone for the preservation of the Constitution and the Union!

I have seen the Democracy come down from the North and up from the South, and gathering in solid column around the Constitution, declare that the rights of the South, the just equality of the states, the capacity of man for self-government, are their bonds of brotherhood; that they will protect that Constitution against all the assaults of all the *isms* in the land. While they continue to occupy this proud position, I am with them and of them! Under God, I believe that the Democratic is the only political organization with which we can beat back this Abolition horde from the capitol. While I thus believe, I shall continue to act with them; and when the fight is done, when the victory is achieved, when our gallant old ship is again afloat in the sunshine and upon quiet seas, I shall turn round to my Democratic brethren, and, if I have any unadjusted quarrels, I will settle them then.

And now, fellow-citizens, I submit if I have not redeemed my pledge, that I would set myself fairly, fully, frankly before you. I trust that my position will meet with your approval. If it should not, I have only to say that it has been taken after due deliberation—taken under a solemn sense of duty to you and the country. My opinions are my honest convictions, and if disapproved, I can retire from office. I cannot yield those convictions. I throw myself upon a generosity and kindness which took me by the hand when all obscure and unknown, and lifted me up to a seat in the Congress of the United States, and which, when slandered and abused in my last canvass, during my absence, sustained me with an emphatic endorsement. I submit it fearlessly, confidently to you, whether I shall return to my home under the frown of your condemnation, or whether I will again be greeted with that plaudit ever so dear to a public man, "Well done, thou good and faithful servant!"

In any event, I am truly yours,

SAMUEL CARUTHERS.

House of Representatives,
Washington, February 28, 1856.

Clarke, Bayard, of N. Y.

EXTRACT FROM SPEECH OF, DELIVERED IN HOUSE OF REPRESENTATIVES, JULY 24, 1856.

It has been a popular idea, not only in our own country, but in Europe also, among those who appreciate and admire our institutions, that this republic was designed by Providence to extend the area of human freedom. But this, according to the interpretation of the slavery-propagandists, is an entire mistake, a false reading of the commission given us by the Power which planted and which sustains us here. These new interpreters of our duty have discovered that the republic, established by our fathers at such a cost of treasure and of blood, was established for the purpose of extending the area of human bondage. There appears to me something so impious in this assumption, that it might make good men weep, were not the manner in which it has been practically illustrated so well calculated to excite resentful and indignant emotions in the meekest bosom. They began it as a trick; it has already turned to a tragedy; but we, sir, will endeavor to wind it up with a poetic and historic justice to the principal actors in the drama.

I speak as a member of the great American party—a party which has accomplished what no other party ever did.

Within a few short months, not years, after its establishment, it traversed this whole Union, and defeated its enemies at the ballot-box, so silently, so certainly, so overwhelmingly, that faction stood aghast at such a revelation of undreamed of power.

No matter what combinations were arrayed in opposition—no matter what intrigues were entered into to arrest its progress—no matter what anathemas were hurled against its friends—the result was still the same. With the Constitution in one hand and the Protestant principle in the other, it went forth to arouse our slumbering nationality, and in the name of civil and religious liberty, conquering and to conquer. It has rebuked the spirit of nullification so rampant at the South, and of political sycophancy at the North, so potent as an instrument of demagogueism; whether it seeks to barter our civil rights to propitiate the slave-power, or our religious rights to purchase the alliance of a despotic hierarchy, which never serves another except to attain its own ends, and is no less the foe of republicanism than of religious liberty.

I propose to offer a few remarks upon the principles, progress, and purposes of this American party, as I understand them.

I presume, sir, no apology can be necessary, in this chamber, for saying, I am an American. I have none to offer, for it is my pride and boast. I was born here, as were my ancestors for several generations before me. Nor shall I offer an apology for that other boast which I shall make, however presumptuous it may seem. I am also a Protestant, receiving my faith from God's holy word, instead of resorting for it to the traditions of priestcraft and Popery, which would hide that fountain of pure inspiration from the people. And being both an American and a Protestant, my devotion to freedom, civil and religious, in every pure form, will not, perhaps, be regarded as a matter for wonder; nor will my resistance to pragmatical dogmas, whether issuing from the Vatican or from the plantation, be regarded with astonishment. In the presence of those great memories which cluster round the names of Washington and LaFayette, whose portraits look down upon us in this hall, as their spirits may be presumed to do from above, I am again proud to proclaim myself an American! They fought for American liberty; and I trust that I, too, am willing to labor, and, if it need be, to die in the same holy cause.

The American party, sir, sprang from the exigencies of the times. Foreignism and demagogueism, in unholy alliance, were fast corrupting all the channels of government; making innovations upon our established policy, and striking at the very foundation of our most sacred institutions. I need scarcely tell you, sir, what was our experience in New York, the great Empire State of the Union. There the tenure of property was sought to be changed; the principles of the statute of *mortmain*, enacted more than three hundred years ago, by our English ancestors, to curb the inordinate power and aggressive policy of priestcraft, were to be violated, and the whole vast property of the Roman Catholic Church, in that state, was to be invested in the bishop of the diocese and his successor in office for ever, as a corporation sole! It needs no commentary to exhibit the enormity of this project, while its boldness must challenge the amazement of the most apathetic.

The Jesuit mind, ever alive to schemes for the temporal aggrandizement of Rome, had seized eagerly the occasion to obtain a strong foothold in America, and so well had it played the balance of power, which through the foreign Catholic vote it undoubtedly held, and so corrupt had party politics grown, that this infamous act was well nigh becoming a law of the state. Nor was this the beginning of aggression. The history of the Catholic priests' war upon the Bible, in our public schools, is well known, and affords a striking instance of the daring and determined character of that priesthood. Nor yet was this all; political societies of foreigners were multiplying all over the land, with the avowed object of controlling local, state, and even general elections, and of thus impressing upon our legislation a policy foreign to our institutions, and detrimental to the continued peace and prosperity of the nation. Bound by no ties of affection and traditionary veneration for the government, acknowledging no principle, save that of self-interest, or the scarcely broader interest of clanship, ready for the shambles whenever the purchase-money was counted down, they exhibited, indeed, a frightful element of political corruption. Scarcely appreciating, if at all, the change from despotism to republicanism, without any true apprehension of the responsibilities of citizenship, their best idea of law, the absence of restraint, they exhibited a natural inclination to disregard all regulations which curtailed any coveted privilege. They had been flattered by base demagogues to believe that they were better citizens than the natives themselves, citizens by choice and not by the accident of birth; and hence it is not to be wondered at, that they paid little regard to the sanctity of the ballot box and perpetrated the most gross and daring frauds. And at this time where were the American people—the children of the soil? Absorbed in selfish party schemes, they had no time to spare even for the contemplation, much less for the reformation, of these crying abuses. Nay, the very evil which threatened to shake the foundations of our government was, upon occasions, to them a boon; and often in the closely contested election, the mercenary foreign cohort was brought over to decide the issue. Unmindful of the teachings of history, they never seemed to contemplate the danger which threatened at last to whelm their factions beneath the despotic rule of these unnatural allies.

Well, sir, such was the melancholy state of affairs, at least within the purview of my political horizon. Catholic priests and foreigners held the balance of power, and demagogues pandered shamelessly to their demands. The word "American," had almost become a term of contempt, and the insolence of the foreigner would have been unendurable, but that a little native spirit and a little native muscle, which was apt to contract and expand suddenly on occasions, were yet left. This condition of affairs was indeed one over which patriotism might justly mourn; but it was also one for patriotism to reform; and this idea of the necessity for reform seems to have occurred spontaneously, and almost simultaneous, over the whole Union. In New York, the order of "United Americans," though but few in numbers, put forth their energies, and by the force of strong remonstrance and eloquent denunciation, defeated the bishop's property bill. Very soon the arrogant tones of the foreign and Catholic organs drove men together to consult and act. They met at such times and in such places as their judgment approved—say at night and in secrecy, if you please—I scorn puerile denunciation; their numbers increased, their plans were matured, and soon the nation, from Maine to California, was startled by a series of unlooked for political results, which developed the strange fact that there was an American people.

Such, sir, was the birth of the American party—its progress, so far, is before us; but I protest that its history shall not be written until calm deliberation shall have restored harmony to its councils, and effected once more order and unity in its purposes and action—till opportunity shall have been afforded to develope and perfect its policy. I have said, sir, that I am a Protestant; I love the word, for it is significant of all that contributes to the elevation, the progress, and the freedom of our race. Martin Luther, from whose cell burst the fires of the Reformation which have filled the world with light, was a Protestant; John Hampden, the compeer of Milton, as illustrious as he for his bold advocacy of the rights of man, was also a Protestant—not only against the despotic sway of the Roman hierarchy, but against kingly misrule no less. Indeed, as Luther illustrated the religious, so Hampden illustrated the political phase of Protestantism, for the latter is an inevitable sequence of the former. The liberty of conscience, the rights of individuality, which Protestantism affirms, antagonize no less with civil than they do with ecclesiastical despotism. No demonstration of history has been wrought out more clearly than this, that where the conscience is enslaved by the priest, the civil rights of the subject are abridged by the despot; and, on the other hand, where the conscience is free in matters of religion, political freedom prevails. In other words, Protestantism results in civil enfranchisement; Jesuitism, on the contrary, affiliates with, and tends to political despotism. As in the empires of the old world Jesuitism allies itself with kingcraft, so in the new it strikes hands with slavery. In either case the law of affinity vindicates its authority—the alliance is natural. That is but a bastard Protestantism which fraternizes with any form of despotism, civil or ecclesiastical. Some have wondered that a certain class of our naturalized citizens should be found sustaining the Cincinnati platform, and the Presidential candidate who has merged his individuality in that platform, while another class sustain the platform of freedom in opposition to the aggressions of slavery. But to me there is no mystery in all this. It only illustrates the natural affinity of Jesuitism with slavery. That part of our foreign-born population who support Mr. Buchanan are, with rare exceptions, the subjects of the Roman hierarchy, and consequently friendly to the despotic *principle*, of which slavery is a logical necessity. On the contrary, the foreign-born voters who oppose the extension of slavery, with the platform and candidate of the Cincinnati convention, are generally a more intelligent class of citizens, owing no allegiance to Rome, and disdaining all alliance with the slave power, which degrades labor and despises the laborer. The former are Catholics; the latter Protestants. Of course there are exceptions in both cases, but this classification will be found generally correct, and the explanation of the fact will also be found in the natural affinity of one despotic system with another. Said I not rightly that Protestantism is significant of all that contributes to the elevation, the progress, and freedom of our race? As a Protestant I can do no less, then, than oppose the aggressions of the slave-power; and when I find Jesuitism allying itself with that power, and striving to secure the success of its platform and its candidate, I cannot fail to remark, that consistency demands from all who love the Protestant principle, opposition to the usurpations of slavery, no less than relentless hostility to the aggressions of Popery. They are twin demons; and, God helping me, I am resolved, within the limits of constitutional action, to give no quarter to either.

Clayton Compromise.

Mr. CLAYTON, in a speech in the Senate, on the 1st of March, 1854, thus gave a history of the measure which bore his name.

In 1848, shortly after the acquisition of California and New Mexico, * * * a debate raged in the Senate until the 12th July, * * * when I came forward and proposed to my brother Senators to arrest the debate, and to appoint a committee of eight members—four from the North, and four from the South; two Whigs from the North, two Democrats from the North; two Democrats from the South, and two Whigs from the South—to take into consideration the measures then proposed for the organization of territorial governments in Oregon, California, and New Mexico. The motion was adopted, and the

debate in the Senate was arrested. On the next day the Senate proceeded to appoint the committee by ballot. They did me the honor to select me as its chairman, and also elected as members of the committee with me, Mr. Calhoun; the Senator from Indiana (Mr. Bright); Mr. Clark of Rhode Island; the present President of the Senate (Mr. Atchison); my friend from Vermont (Mr. Phelps); Mr. Dickinson of New York, and Mr. Underwood of Kentucky.

The committee immediately entered actively upon the discharge of its duty. Both northern and southern men expressed a desire for the success of this effort to settle the controversy, and no more angry words passed until the committee reported.

Now, sir, I am compelled, in justice to both sections of the Union, to relate in your presence, you having been a member of the committee, and knowing the truth of the facts which I am about to state, what occurred in that committee. As soon as we assembled, a proposition was made by a member from the South to extend the Missouri compromise line to the Pacific. You, sir, remember it well. The vote upon it stood four northern members against it, and four southern members for it. The proposition was renewed in every form in which we could conceive it would be proper; but our northern friends rejected it as often as it was proposed. We discussed it; we entreated them to adopt it. We did not pretend that it was a constitutional measure, but it had been held by many as a compact between the North and the South, and in such an emergency as that then existing, it had been justified by the people as a measure of peace. We argued the question to show our northern friends the justice, not the constitutionality, of extending such a line to the Pacific. I remember well that I obtained a statement from the Land Office which showed the effect of it; and I thought it ought to satisfy northern gentlemen. From that statement it appeared that if the line were extended to the Pacific, the free labor of the North would have the exclusive occupation of one million six hundred thousand square miles of land in the territories outside of the states, and the South but two hundred and sixty-two thousand, in which, observe, slavery could only be tolerated in case the people residing there should allow it. The debates which followed the report of the committee fully sustain all these statements of mine. Among other things I said in a speech, delivered in the Senate, after the report, on the 3d of August, 1848, which will be found on page 1207 of the Appendix to the Congressional Globe for that session:—

"I am bound to state, and I will now do it *in the presence of all the members of the committee*, northern as well as southern, that in that committee the South proposed the Missouri compromise in spirit and effect; that all the territory north of 36° 30′ should be free, and all south of it open to slavery, if the people there should will it."

Again, I stated at the same time:—

"The proposal of the South to run the line of 36° 30′ to the Pacific would have made one million six hundred thousand square miles of the territory, lying beyond the states, on both sides the Rocky Mountains, free from slavery for ever, and would have left for African slavery south of 36° 30′, parts of California and New Mexico, containing only about two hundred and seventy thousand square miles of the most worthless part of the whole country—in other words less than one-sixth in area, and less than one-twentieth in value of all the territory acquired by the common blood and treasure. The gentlemen of the committee from the North having voted down this proposal made by a southern member, there was indeed, as the gentleman from South Carolina [Mr. Calhoun] has described it, a solemn pause in that committee. All hope of amicable settlement for the moment vanished, and unnatural contention seemed likely to prevail among us. It was then proposed to try the last resort—the court established by the Constitution to settle all judicial questions—to rest the present hopes of settlement on this as the ark of our safety. Two-thirds of the committee joyously concurred in the proposition."

We came into the Senate with three-fourths of the committee decidedly in favor of this last proposition, and one-fourth hesitating, but not fixed against us at the time when we made the report. Now, sir, I desire to call the attention of the Senate for a few moments to the history of what occurred in the Senate after the report was made.

Mr. Atchison, the President, (in the chair,) here rose, and said: If the Senate will permit me, I will here state that the Senator from Delaware has, according to the best of my recollection, substantially stated what did take place while that committee was in session.

Mr. Clayton. In obedience to the decision of the committee, I drafted the Compromise Bill of 1848; and by reference to page 477 of the Journal for that year, it will be seen that, as chairman, I reported it as a bill "to establish the territorial governments of Oregon, California, and New Mexico; which was read, and passed to the second reading." The opinions of the Senate on the subject of the restriction of slavery in the territories, as collected from their votes while this bill was pending, may be now briefly stated.

By reference to page 490 of the same Journal, it will be found that a motion was made to strike out all the sections of the bill providing territorial governments for California and New Mexico. A protracted debate ensued, and on that motion the yeas were:

"Messrs. Baldwin, Bradbury, Clarke, Corwin, Davis of Mass., Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Miller, Niles, Upham, Walker."

The nays were:

"Messrs. Allen, Atchison, Atherton, Badger, Bell, Benton, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Miss., Dickinson, Douglas, Downs, Foote, Hannegan, Houston, Johnson of Md., Johnson of La., Johnson of Ga., King, Lewis, Mangum, Mason, Metcalf, Pearce, Phelps, Sebastian, Spruance, Sturgeon, Turney, Underwood, Westcott, Yulee."

From page 500 of the Journal of the Senate for that year it appears that on the 26th of July, Mr. Clarke moved to amend the bill by adding at the end of the sixth section in relation to the territory of Oregon, where slavery had been prohibited by the provisional government, these words:

"*Provided, however*, That no law repealing the act of the provisional government of said territory prohibiting slavery or involuntary servitude therein, shall be valid, until the same shall be approved by Congress."

On this amendment, which was a proposi-

tion to restrict slavery by act of Congress in territory acquired, and then belonging to the United States, the yeas were:—

"Messrs. Allen, Baldwin, Bentou, Bradbury, Clarke, Corwin, Davis of Mass., Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Miller, Niles, Upham, Walker."

The nays were:—

"Messrs. Atchison, Atherton, Badger, Bell, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Miss., Dickinson, Douglas, Downs, Foot, Hannegan, Houston, Hunter, Johnson of Md., Johnson of Ga., King, Lewis, Mason, Metcalfe. Phelps, Rusk, Sebastian, Sturgeon, Turney, Underwood, Westcott, Yulee."

On the same day Mr. Davis of Mass. moved to strike out the twelfth section relating to Oregon, and to insert in lieu thereof the following:—

"Sec. 12. *And be it further enacted*, That so much of the sixth section of the ordinance of the 13th of July, 1787, as is contained in the following words, to wit: 'There shall be neither slavery nor involuntary servitude in the said territory other than in the punishment of crimes whereof the parties shall have been duly convicted,' shall be and remain in force within the territory of Oregon."

This was a direct issue on the principle of restriction, and is commonly designated as the Wilmot proviso. This amendment was voted down by a vote of yeas 21, nays 33. The yeas were:—

"Messrs. Allen, Atherton, Baldwin, Bradbury, Clarke, Corwin, Davis of Mass., Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Miller, Niles, Spruance, Upham, Walker."

The nays were:—

"Messrs. Atchison, Badger, Bell, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Miss., Dickinson, Douglas. Downs, Foote, Hannegan, Houston, Hunter, Johnson of Md., Johnson of La., Johnson of Ga., King, Lewis, Mangum, Mason, Metcalfe, Rusk, Sebastian, Sturgeon, Turney, Underwood, Westcott, Yulee."

On the same day—the 26th of July, 1848—when we had that memorable session of twenty-two hours, the yeas and nays were taken on the question, "Shall this bill be engrossed and read a third time?" and "It was determined in the affirmative—nays 33, nays 22." The yeas were:—

"Messrs. *Atchison*, Atherton, Benton, Berrien, Borland, Breese, *Bright*, *Butler*, Calhoun, *Clayton*, Davis of Miss., Dickinson, *Douglas*, Downs, Foote, Hannegan, *Houston*, *Hunter*, Johnson of Md., Johnson of La., Johnson of Ga., King, Lewis, Mangum, *Mason*, *Phelps*, *Rusk*, *Sebastian*, Spruance, Sturgeon, Turney, Westcott, Yulee."

The nays were:—

"Messrs. Allen, Badger, Baldwin, Bell. Bradbury, Clarke, Corwin, Davis of Mass., Dayton. Dix, Dodge. Felch, Fitzgerald, Greene, Hale, Hamlin, Metcalfe, Miller, Niles, Underwood, Upham, Walker."

"The Senate adjourned at fifty-three minutes after seven o'clock, on the morning of Thursday, July 27th," having been in session twenty-two hours.—*See page* 503 *of the Journal.*

Well, sir, what were the principles contained in that bill? There are now on the floor of the Senate, if I count them right, eleven members who voted for it. The bill made provision for the organization of territories in Oregon, California, and New Mexico. In New Mexico—I call the attention of the Senate to that, as the organization of Utah was on the same principle—provision was made for the territorial government by directing the appointment of a Governor, and Secretary, and three Judges, who, besides performing the appropriate duties incident to their own offices, were to constitute a Legislative Council for that territory. The twenty-sixth section of the bill provided that this Legislative Council should have power to legislate upon all subjects consistent with the Constitution and laws of the United States, but no power to prohibit or establish African slavery by law. An appeal was provided from all decisions of the territorial judges in cases of writs of habeas corpus, or other cases where the issue of personal freedom should be presented to the court.

This was indeed a non-intervention bill. By these means the parties in a controversy relating to personal freedom were necessarily driven into the courts. I shall, by-and-by, compare this measure with those which followed it, professing to be bills for non-intervention, and shall endeavor to show its superiority over them; but for the present I must proceed with the history of the struggle between the North and the South on the subject of slavery in the territories.

Why was it that the committee and members of the Senate agreed to compromise upon a principle like that? Northern gentlemen had been contending in debate, before the committee reported, that the South had no right to take slaves within the limits of California and New Mexico. They claimed that by the decree of Guerrero, the Dictator, and the constitution of Mexico, slavery did not exist in those territories at the time of their annexation. They therefore denied the right asserted by the South to hold slaves in those territories, and insisted that the whole of them should be dedicated to free labor. The South contended that by the inevitable extension of the Constitution of the United States to those territories, the southern slaveholder had the right to hold his slaves in them, and denied that any Mexican law prohibiting him from doing so could remain in force after their acquisition. Thus one of those very geographical questions so much deprecated by Washington in his Farewell Address had arisen; and I felt called upon on the 12th of July, 1848, to redeem the pledge which I had previously given to compromise that question, if I could, "on terms equally fair and honorable for the North and South." Hence it was, I repeat, that I moved for the appointment of the committee.

The South agreed with extraordinary unanimity to submit the validity of their claim to the Supreme Court. Many Northern gentlemen agreed to the same thing; but there was, by no means, the same unanimity in regard to it at the North which existed at the South. Still there was, as I have shown from the vote, an overwhelming majority of the Senate in favor of the bill of 1848, which carried out this principle. The bill having passed the Senate, was sent to the House of Representatives. It is not necessary for me to state its

fate there. It was defeated by an indirect vote of 110 to 97, laying it on the table; and by looking at the Journal, you will ascertain that three-fourths, perhaps five-sixths, of those who opposed the bill, and destroyed it by laying it on the table, consisted of Northern gentlemen.

In the House on the 28th of July, 1848, Mr. Stephens of Geo., moved to lay the bill on the table, which was carried by the following vote:—

YEAS.—Messrs. Abbott of Mass., Adams of Ky., Ashmun of Mass., Belcher of Me., Bingham of Mich., Blanchard of Pa., Boydon of N. C., Buckner of Ky., Butler of Pa., Canby of O., Clapp of Me., Collamer of Vt., Collins of N. Y., Conger of N. Y., Cranston of R. I., Crowell of O., Crozier of Tenn., Darling of Wis., Dickey of Pa., Dixon of Conn., Donnell of N. C., Duer of N. Y., Duncan of O., Dunn of Ind., Eckert of Pa., Edwards of O., Embree of Ind., Evans of O.. Faran of O., Farelly of Pa., Fisher of O., Freedly of Pa., Fries of O., Giddings of O., Gott of N. Y., Gregory of N. J., Grinnell of Mass., Hale of Mass., Hall of N. Y., Hammon of Me., Hampton of N. J., Hampton of Pa., Henley of Ind., Henry of Vt., Holmes of N. Y., Hubbard of Conn., Hudson of Mass., Jos. R. Ingersoll of Pa., Irvin of Pa., Jenkins of N. Y., Kellogg of N. Y., King of Mass., Lahm of O., Wm. T. Lawrence of N. Y., Sidney Lawrence of N.Y., Lincoln of Ill., Lord of N. Y., Lynde of Wis., Maclay of N. Y., McClelland of Mich., McIlvaine of Pa., Mann of Mass., Marsh of Vt., Marvin of N. Y., Morris of O., Mullin of N. Y., Nelson of N. Y., Nes of Pa., Newell of N. J., Nicoll of N. Y., Palfrey of Mass., Peaslee of N. H., Peck of Vt., Pendleton of Va., Petric of N. Y., Pollock of Pa., Putnam of N. Y., Reynolds of N. Y., Rockwell of Mass., Rockwell of Conn., Rose of N.Y., Rumsey of N.Y., St. John of N.Y., Schenck of O., Sherrell of N. Y., Silvester of N. Y., Slingerland of N.Y., Smart of Me., Smith of Ind., Smith of Ill., Smith of Conn., Starkweather of N. Y., Stephens of Ga., Stewart of Pa., Stuart of Mich., Strohm of Pa., Strong of Pa., Tallmadge of N. Y., Taylor of O., Thompson of Pa., Thompson of Ind., Thompson of Ky., Thompson of Ia., Thurston of R. I., Tuck of N. H., Van Dyke of N. J., Vinton of O., Warren of N. Y., Wentworth of Ill., White of N. Y., Wiley of Me., Wilmot of Pa.—112.

NAYS.—Messrs. Atkinson of Va., Barringer of N. C., Barrow of Tenn., Bayly of Va., Beale of Va., Bedinger of Va., Birdsall of N. Y., Bocock of Va., Botts of Va., Bowdon of Ala., Bowlin of Mo., Boyd of Ky., Brodhead of Pa., Brown of Va., Burt of S. C., Cabell of Fla., Cathcart of Ind., Chapman of Md., Franklin Clark of Me., Clarke of Ky., Clingman of N. C., Cobb of Ga., Cobb of Ala., Cocke of Tenn., Crisfield of Md., Daniel of N. C., Dickinson of O., Evans of Md., Featherston of Miss., Ficklin of Ill., Flournoy of Va., French of Ky., Fulton of Va., Gayle of Ala., Gentry of Tenn., Goggin of Va., Green of Mo., Hall of Mo., Haralson of Ga., Harmonson of La., Harris of Ala., Hill of Tenn., Hilliard of Ala., Holmes of S. C., Houstou of Ala., Houston of Del., Inge of Ala., Charles J. Ingersoll of Pa., Iverson of Ga., Jameson of Mo., Johnson of Tenn., Johnson of Ark., Jones of Tenn., Jones of Ga., Kaufman of Tex., Kennon of O., King of Ga., La Sere of La., Ligon of Md., Lumpkin of Md., McClernand of Ill., McDowell of Va., McKay of N.C., McLane of Md., Job Mann of Pa., Meade of Va., Miller of O., Morehead of Ky., Outlaw of N. C., Pettit of Ind., Peyton of Ky., Pillsbury of Tex., Prestou of Va., Rhett of S. C., Richardson of Ill., Richey of O., Robinson of Ind., Rockhill of Ind., Sawyer of O., Sheppard of N. C., Simpson of S. C., Sims of S. C., Stanton of Tenn., Thibodeaux of La., Thomas of Tenn., Thompson of Miss., Thompson of Va., Tompkins of Miss., Toombs of Ga., Turner of Ill., Venable of N. C., Wallace of S C., Wick of Ind., Williams of Me., Woodward of S. C.—97.

Cobb, Howell.

UPON THE RELATIONS OF A GOVERNMENT EMPLOYEE TO HIS PUBLIC DUTIES.

March 30, 1857.

Dear Sir: I reply to your letter at once, that you may not misinterpret my silence into an approval of your suggestions. I do not think that a citizen loses his political identity or independence by accepting office under the government. He does, however, commit himself to the service of the country, to the utmost extent required for a faithful discharge of the duties of his position. His political associates ought not to expect of him any service to his party at the expense of his duty to the government. Holding, as you do, an office of great pecuniary responsibility, and one requiring your constant personal attention, I cannot sanction the propriety of your absence from your post for the purpose of an active engagement in the approaching election of your state.

No one regards with more interest than I do the success of the national Democratic party at this important period in our history. But that success must not be purchased at the expense of the public interest, which might be the case if those holding high and important offices should absent themselves from their posts to conduct the canvass. Regarding your letter in the light of an application for leave of absence, I have withheld my approval for the foregoing reasons.

Very respectfully, H. COBB,
Secretary of the Treasury.

Compromises of 1850.

EARLY in February, 1850,* Mr. Clay presented to the Senate a series of resolutions, which, after premising the desirableness for the peace, concord, and harmony of the Union, and a settlement of all questions relating to slavery, proposed the following compromise:—

1. That California with suitable boundaries, ought, upon her application, to be admitted as one of the states of the Union, without the imposition of any restriction by Congress, in respect to the exclusion or introduction of slavery within those boundaries.

2. That, as slavery does not exist by law, and is not likely to be introduced into any territory acquired by the United States from the republic of Mexico, it is inexpedient for Congress to provide by law, either for its introduction or exclusion from any part of said territory; and that appropriate territorial governments ought to be established by Congress in all the said territory not assigned as within the boundaries of the proposed state of California, without the adoption of any restriction or condition on the subject of slavery.

3. That the western boundary of the state of Texas ought to be fixed on the Rio del Norte. Commencing one marine league from its mouth, and running up that river to the southern line of New Mexico; thence with that line eastwardly, and so continuing in the same direction to the line as established between the United States and Spain, excluding any portion of New Mexico, whether lying on the east or west of that river.

4. That it be proposed to the state of Texas, that the United States will provide for the payment of that portion of the legitimate and bona fide public debt of that state, contracted

* The first part of this history is taken from a pamphlet published by Redfield & Co. of New York.

prior to its annexation to the United States, and for which the duties on foreign imports were pledged by the said state to its creditors, not exceeding the sum of $——, in consideration of the said duties so pledged having been no longer applicable to that object after the said annexation, but having thenceforward become payable to the United States; and upon the condition also, that the said state of Texas shall, by some solemn and authentic act of her legislature or of a convention, relinquish to the United States any claim which it has to any part of New Mexico.

5. That it is inexpedient to abolish slavery in the District of Columbia, whilst that institution continues to exist in the state of Maryland, without the consent of that state, without the consent of the people of the District, and without just compensation to the owners within the District.

6. That it is expedient to prohibit within the District, the slave trade, in slaves brought into it from states or places beyond the District, either to be sold therein as merchandise, or to be transported to other markets without the District of Columbia.

7. That some effectual provision ought to be made by law, according to the requirements of the Constitution, for the restitution and delivery of persons bound to service or labor in any state who may escape into any other state or territory in the Union.

8. That Congress has no power to obstruct or prohibit the trade of slaves between the slaveholding states; but that the admission or exclusion of slaves, brought from one into another of them, depends exclusively upon their own particular laws.

On the 5th of February, the debate on these resolutions commenced with a powerful speech from Mr. Clay, and was continued by Messrs. Webster, Cass, Seward, Walker, Douglas, Baldwin, Berrien, Butler, Calhoun, Badger, Mason, Hunter, and others.

On the 13th of February, General Taylor, President, transmitted to Congress a message, apprising that body of the organization of the state of California, with an application through her Senators and Representatives, for admission into the Union. It was under a motion to refer this message to the Committee on Territories, that Mr. Calhoun, at that time prostrate with his last illness, prepared a speech which was read to the Senate on the 4th of March, by Mr. Mason of Virginia.

Some days after, viz., the 7th of March, while the same motion was pending, Mr. Webster addressed the Senate, at great length.

Mr. Webster was followed by Mr. Seward, on the 11th, in a speech favoring the immediate admission of California.

On the 12th of March, Mr. Foote, of Mississippi, moved that a series of resolutions presented by Mr. Bell, of Tennessee, be referred to a committee of thirteen, six from the North, six from the South, and one to be by them chosen.

Gen. Cass spoke at great length upon this motion, reviewing the whole series of subjects in controversy.

On the 8th of April, Col. Benton took part in the debate, strenuously opposing the plan of commingling so many important and various matters in one bill.

Mr. Clay replied to Mr. Benton with great earnestness.

Mr. Foote's resolution was amended so as to embrace Mr. Clay's resolutions, and passed on the 18th of April:—

YEAS.—Messrs. Atchison, Badger, Bell, Borland, Bright, Butler, Cass, Clay, Clemens, Davis of Miss., Dickinson, Dodge of Ia., Downs, Foote, Hunter, King, Jones, Mangum, Mason, Morton, Pearce, Rusk, Sebastian, Soule, Spruance, Sturgeon, Turney, Underwood, Whitcomb, Yulee.—30.

NAYS.—Baldwin, Benton, Bradbury, Chase, Clarke, Corwin, Davis of Mass., Dayton, Dodge of Wis., Douglas, Felch, Greene, Hale, Hamlin, Miller, Norris, Phelps, Seward, Shields, Smith, Walker, Webster.—22.

On the following day, the compromise committee of thirteen was elected by ballot, viz.: Clay, Cass, Dickinson, Bright, Webster, Phelps, Cooper, King, Mason, Downs, Mangum, Bell, and Berrien: seven from slave states—six from free states.

On the 8th of May, 1850, Mr. Clay presented a report from the committee, which embraced substantially the following provisions:—

1. The admission of any new state or states, formed out of Texas, to be postponed until they shall hereafter present themselves to be received into the Union, when it will be the duty of Congress fairly and faithfully to execute the compact with Texas by admitting such new state or states.

2. The admission forthwith of California into the Union, with the boundaries which she has proposed.

3. The establishment of territorial governments, without the Wilmot proviso, for New Mexico and Utah, embracing all the territory recently acquired by the United States from Mexico, not contained in the boundaries of California.

4. The combination of these last two mentioned measures in the same bill.

5. The establishment of the western and northern boundary of Texas, and the exclusion from her jurisdiction of all New Mexico, with the grant to Texas of a pecuniary equivalent. And the section for that purpose to be incorporated in the bill admitting California, and establishing territorial governments for Utah and New Mexico.

6. More effectual enactments of law, to secure the prompt delivery of persons bound to service or labor in one state, under the laws thereof, escaping into another state.

7. Abstaining from abolishing slavery: but, under a heavy penalty, prohibiting the slave trade in the District of Columbia.

Mr. Mason, Mr. Berrien, Mr. Clemens, Mr. Yulee, and others opposed the report, at first, while Messrs. Bright, Downs, Cass, Dickinson, and others sustained it. During the debate which followed, it was vigorously opposed by Messrs. Benton, Seward, Davis, Smith, Dayton, Hale, and others, and powerfully supported by Clay, Cass, Dickinson, Webster,

Mangum, Foote, Douglas, and others. On the last day of July, it had become, by a series of amendments, divested of all its original features, except the portion relating to Utah, so that Mr. Benton created considerable merriment by comparing the Senate to the woman described by Homer, who every night unravelled what she had wove during the day.

Separate bills, however, were subsequently passed, in a disconnected shape, embodying all the main features of the compromise.

Eight months having thus been passed, principally in the discussion of these bills, the two Houses were at last brought to a vote on each bill by itself.

The Utah territorial bill passed the Senate August 10, 1850, by a voto of yeas 32, nays 18.

The Texas boundary bill passed the Senate August 10, 1850, by a vote of yeas 30, nays 20.

The bill for the admission of California passed the Senate, Aug. 13, 1850, by a vote of 34 to 18.

The New Mexico territorial bill passed the Senate, Aug. 14, 1850, by a vote of 27 to 10.

The fugitive slave bill passed the Senate on the 23d of Aug., 1850, by a vote of 27 to 12.

The bill abolishing the slave trade in the District of Columbia passed the Senate, Sept. 14, 1850, by a vote of 33 to 19.

The following table shows the vote in the Senate on each bill:—

MEMBERS' NAMES.	Texas Boundary Bill.	Admission of California.	New Mexico Territorial Bill.	Fugitive Slave Law.	Utah Territorial Bill.	Abolition of Slave Trade in Dist. Col.
Atchison of Mo.	nay	nay	yea	yea	yea	nay
Badger of N. C.	yea		yea	yea	yea	nay
Baldwin of Conn.	nay	yea		nay	nay	yea
Barnwell of S. C.	nay	nay		yea		nay
Bell of Tenn.	yea	yea		yea	nay	
Benton of Mo.	nay	yea	yea		yea	yea
Berrien of Ga.	yea	nay	yea	yea	yea	nay
Borland of Arks.						
Bradbury of Me.	yea	yea	yea	nay	yea	
Bright of Ind.	yea	yea	yea		yea	yea
Butler of S. C.	nay	nay		yea	yea	nay
Cass of Mich.	yea	yea	yea		yea	yea
CHASE of Ohio	nay	yea	nay	nay	nay	yea
Clarke of R. I.	yea				nay	yea
Clay of Ky.						yea
Clemens of Ala.	yea	nay				
Cooper of Pa.	yea	yea	yea	nay		yea
Davis of Miss.	nay	nay		yea	yea	nay
Davis of Mass.	yea	yea	nay	nay	nay	yea
Dawson of Ga.	yea	nay	yea		yea	nay
Dayton of N. J.				nay	nay	yea
Dickinson of N. Y.	yea	yea			yea	yea
Dodge of Iowa	yea	yea	yea	yea	yea	yea
Dodge of Wis.	nay	yea	nay	nay	nay	yea
Douglas of Ill.	yea	yea	yea		yea	yea
Downs of La.			yea	yea	yea	nay
Ewing of Ohio	nay	yea			nay	yea
Felch of Mich.	yea	yea	yea		yea	yea
Foote of Miss.	yea	nay		yea		
Greene of R. I.	yea	yea	nay	nay	nay	yea
HALE of N. H.	nay	yea			nay	yea
Hamlin of Me.		yea	nay		nay	yea
Houston of Texas	yea	yea	yea	yea	yea	
Hunter of Va.	nay	nay	yea	yea	yea	nay
Jones of Iowa		yea		yea	yea	yea
King of Ala.	yea	nay	yea	yea	yea	nay
Mangum of N. C.			yea	yea		nay
Mason of Va.	nay	nay	yea	yea	yea	nay
Miller of N. J.		yea	nay		nay	
Morton of Fla.	nay	nay			yea	nay
Norris of N. H.	yea	yea	yea		yea	yea
Pearce of Md.	yea			yea	nay	
Phelps of Vt.	yea	yea	nay			
Pratt of Md.		nay	yea		yea	nay
Rusk of Texas	yea	nay	yea	yea		
Sebastian of Ark.		nay	yea	yea	yea	nay
Seward of N. Y.	nay	yea			nay	yea
Shields of Ill.	yea	yea	yea		yea	yea
Smith of Conn.	yea	yea		nay	nay	yea
Soule of La.	nay	nay		yea	yea	nay
Spruance of Del.	yea	yea		yea	yea	yea
Sturgeon of Pa.	yea	yea	yea	yea	yea	yea
Turney of Tenn.	nay	nay		yea	yea	nay
Underwood of Ky.	nay	yea	yea	yea	yea	yea
Upham of Vt.	nay	yea	nay	nay	nay	
Wales of Del.	yea	yea	yea	yea	yea	yea
Walker of Wis.	nay	yea	nay	nay	nay	yea
Winthrop of Mass.	yea	yea	nay	nay	nay	yea
Whitcombe of Ind.	yea	yea	yea			yea
Yulee of Fla.	nay	nay		yea	yea	nay
Yeas	30	34	27	27	32	31*
Nays	20	18	10	12	18	19

Whigs in roman, Democrats in *italic*, Free Soilers in SMALL CAPS.

In the House, on motion of Mr. Boyd of Ky., the New Mexico territorial bill was added to the Texan boundary bill, and thus united they passed together on the 6th of Sept. 1850.

The bill admitting California passed the House on the 7th of Sept., 1850.

The Utah bill passed the House on the same day.

The fugitive slave bill passed the House on the 12th of Sept., 1850.

The bill abolishing the slave trade in the District of Columbia passed the 17th of Sept., 1850.

The following table shows the vote in the House on each bill:—

* In addition to the above, Messrs. Fremont and Gwin, the two new senators from California, voted yea, making the vote yeas 33; nays 19.

MEMBERS' NAMES.	Texan Boundary & New Mexico Bill.	Admission of California.	Fugitive Slave Bill.	Utah Territorial Bill.	Abolition of Slave Trade in Dist. Col.
Albertson of Ind.	yea	yea	yea	yea	yea
Alexander of N. Y.	nay	yea	nay	nay	yea
ALLEN of Mass.	nay	yea	nay	nay	
Alston of Ala.	yea	nay	yea	yea	nay
Anderson of Tenn.	yea	yea		yea	nay
Andrews of N. Y.	yea	yea			yea
Ashe of N. C.		nay	yea	yea	nay
Ashmun of Mass.					yea
Averett of Va.	nay	nay	yea	yea	nay
Baker of Ill.	nay	yea	nay		
Bay of Mo.	yea	yea	yea		
Bayly of Va.	yea	nay	yea	yea	nay
Beale of Va.	yea	nay	yea	yea	yea
Bennett of N. Y.	nay	yea	nay	nay	
Bingham of Mich.	nay	yea	nay	nay	yea
Bissell of Ill.		yea	yea	yea	yea
Bocock of Va.					
Bokee of N. Y.	yea	yea		yea	
BOOTH of Conn.	nay	yea	nay	nay	yea
Bowdon of Ala.	nay	nay	yea	nay	nay
Bowie of Md.	yea	yea	yea		nay
Bowlin of Mo.	yea	yea	yea	yea	
Boyd of Ky.	yea	nay	yea	yea	
Breck of Ky.	yea	yea	yea	yea	
Briggs of N. Y.	yea	yea	nay	yea	yea
Brooks of N. Y.	yea	yea		yea	yea
Brown of Miss.	nay	nay	yea	nay	nay
Brown of Ind.	yea	yea	yea	yea	yea
Buel of Mich.	yea	yea	yea		yea
Burrows of N. Y.	nay	yea	nay	nay	yea
Burt of S. C.	nay	nay	yea	nay	nay
Butler of Pa.	yea	yea		yea	yea
Butler of Conn.	nay	yea	nay	nay	yea
Cabell of Fla.	yea	nay			nay
Cable of Ohio	nay	yea		nay	yea
Caldwell of Ky.	yea	nay	yea	yea	nay
Caldwell of N. C.	yea	yea	yea	yea	nay
Calvin of Pa.	nay	yea	nay	nay	yea
Campbell of Ohio	nay	yea	nay	nay	yea
Carter of Ohio	nay	yea	nay		yea
Casey of Pa.	yea	yea		yea	yea
Chandler of Pa.	yea	yea	nay	nay	yea
Clarke of N. Y.	nay	yea		nay	yea
Cleveland of Conn.					yea
Clingman of N. C.	nay	nay	yea		nay
Cobb of Ga.					
Cobb of Ala.	yea	nay	yea	yea	nay
Colcock of S. C.	nay	nay	yea	nay	nay
Cole of Wis.	nay	yea	nay	nay	yea
Conger of N. Y.	nay				
Conrad of La.					
Corwin of Ohio	nay	yea	nay	nay	yea
Crowell of Ohio	nay	yea	nay	nay	yea
Daniel of N. C.	nay	nay	yea	yea	
Deberry of N. C.	yea	nay	yea	yea	nay
Dickey of Pa.	nay	yea	nay	nay	yea
Dimmick of Pa.	yea	yea	yea	yea	yea
Disney of Ohio	yea	yea	nay	yea	yea
Dixon of R. I.	nay	yea	nay	nay	yea
Doty of Wis.	nay	yea	nay	nay	yea
Duncan of Mass.	yea	yea	nay	nay	yea
Duer of N. Y.	yea	yea		nay	yea
Dunham of Ind.	yea	yea	yea	yea	yea
DURREE of Wis.	nay	yea	nay	nay	yea
Edmunson of Va.	yea	nay	yea	yea	nay
Elliott of Mass.	yea	yea	yea	yea	yea
Evans of Md.		yea		yea	nay
Evans of Ohio	nay	yea	nay	nay	yea
Ewing of Tenn.	yea	yea	yea	yea	nay
Featherston of Miss.	nay	nay	yea	nay	nay
Fitch of Ind.	yea	yea	nay	nay	yea
Fowler of Mass	nay	yea	nay	nay	yea
Freedley of Pa.		yea	nay		yea
Fuller of Maine	yea	yea	yea	yea	yea
Gentry of Tenn.	yea	yea	yea	yea	yea
Gerry of Maine	yea	yea	yea	yea	yea
GIDDINGS of Ohio	nay	yea	nay	nay	
Gilbert of Cal.			yea		yea
Gilmore of Pa.	yea	yea		yea	yea
Goodenow of Me.					
Gorman of Ind.	yea	yea	yea	yea	yea
Gott of N. Y.	nay	yea	nay	nay	yea
Gould of N. Y.		yea	nay	nay	yea
Green of Mo.	yea	nay	yea		nay
Grinnell of Mass.	yea	yea			yea

MEMBERS' NAMES.	Texan Boundary & New Mexico Bill.	Admission of California.	Fugitive Slave Bill.	Utah Territorial Bill.	Abolition of Slave Trade in Dist. Col.
Hackett of Geo.					
Hall of Missouri	yea	yea	yea	yea	yea
Halloway of N. Y.	nay	yea	nay	nay	yea
Hamilton of Md.		yea	yea		nay
Hammond of Md.	yea				
Hampton of Pa.			nay		yea
Haralson of Geo.	nay	nay	yea	yea	nay
Harlan of Ind.	nay	yea	nay	nay	yea
Harmanson of La.					
Harris of Tenn.	yea	nay	yea	yea	nay
Harris of Ala.	nay	nay	yea	nay	nay
Harris of Ill.	yea	yea	yea	yea	yea
Hay of N. Y.			nay		yea
Haymond of Va.	yea	yea	yea	yea	yea
Hebard of Vt.	nay		nay	nay	yea
Henry of Vt.	nay	yea	nay	nay	yea
Hibbard of N. H.	yea	yea	yea	yea	yea
Hilliard of Ala.	yea	nay	yea	yea	
Hoagland of Ohio	yea	yea	yea	yea	yea
Holladay of Va.	nay	nay	yea	yea	nay
Holmes of S. C.	nay		yea	yea	
Houston of Del.	yea	yea	yea	yea	
Howard of Texas	yea	nay	yea	yea	nay
Howe of Pa.	nay	yea	nay	nay	yea
Hubbard of Ala.	nay	nay	yea	yea	nay
HUNTER of Ohio	nay	yea	nay	nay	yea
Inge of Ala.	nay	nay	yea	yea	nay
Jackson of Geo.	nay	nay	yea	yea	nay
Jackson of N. Y.	nay	yea	nay	nay	yea
Johnson of Ky.	yea	yea	yea	yea	
Johnson of Tenn.	yea	yea	yea	yea	nay
Johnson of Ark.	nay	nay	yea		
Jones of Tenn.	yea	yea	yea	yea	nay
JULIAN of Ind.	nay	yea	nay	nay	yea
Kaufman of Texas	yea	nay	yea	yea	nay
Kerr of Md.	yea	yea	yea	yea	nay
King of R. I.	yea	yea	nay	nay	yea
King of N. J.	nay	yea	nay	nay	yea
J. A. King of N. Y.	nay	yea	nay	nay	yea
King of Mass.					
P. King of N. Y.	nay	yea	nay	nay	yea
La Sere of La.	nay	nay	yea	yea	nay
Leffler of Iowa	yea	yea	yea	yea	yea
LEVIN of Pa. (Native American)	yea	yea		yea	yea
Littlefield of Me.	yea	yea	yea	yea	yea
Mann of Mass.	nay	yea	nay	nay	yea
Mann of Pa.	yea	yea	yea	yea	yea
Marshall of Ky.	yea	yea	yea	yea	nay
Mason of Ky.	yea	yea	yea	yea	
Matteson of N. Y.	nay	yea	nay	nay	yea
McClernand of Ill.	yea	yea	yea	yea	yea
McDonald of Ind.	yea	yea	yea	yea	yea
McDowell of Va.	yea	nay		yea	nay
McGaughey of Ind.	nay	yea	yea		yea
McKissock of N. Y.	yea	yea	nay	nay	yea
McLanahan of Pa.	yea	yea	yea	yea	yea
McLane of Md.	yea	yea		yea	nay
Mc Lean of Ky.	yea	yea		yea	
McMullen of Va.	yea	nay	yea	yea	nay
McQueen of S. C.	nay	nay	yea	nay	nay
Mc Willie of Miss.	nay	nay	yea	yea	
Meacham of Vt.	nay	yea	nay	nay	yea
Meade of Va.	nay	nay	yea	nay	
Miller of Ohio			yea		yea
Millson of Va.	nay	nay	yea		nay
Moore of Pa.	nay	yea	nay	nay	yea
Moorehead of Ky.	yea	yea		yea	
Morse of La.	nay	nay			nay
Morris of Ohio	nay	yea	nay	nay	yea
Morton of Va.	yea	nay	yea	yea	
Nelson of N. Y.	yea	yea	nay	nay	yea
Nes of Pa.					
Newell of N. J.	nay	yea		nay	
Ogle of Pa.	nay	yea		nay	yea
Olds of Ohio	nay	yea		nay	
Orr of S. C.	nay	nay	yea		nay
Otis of Me.	nay	yea	nay	nay	yea
Outlaw of N. C.	yea	nay	yea	yea	nay
Owen of Geo.	yea	nay	yea	yea	
Parker of Va.	yea	nay	yea	yea	nay
Peaslee of N. H.	yea	yea	yea	yea	yea
Peck of Vt.	nay	yea		nay	
Phelps of Mo.	nay	yea	yea		nay
Phœnix of N. Y.	yea	yea			yea
Pitman of Pa.	yea	yea	nay	yea	yea

MEMBERS' NAMES.	Texan Boundary & New Mexico Bill.	Admission of California.	Fugitive Slave Bill.	Utah Territorial Bill.	Abolition of Slave Trade in Dist. Col.
Potter of Ohio	yea	yea		yea	yea
Powell of Va.	nay	nay	yea		nay
Putnam of N. Y.	nay	yea	nay		yea
Reed of Pa.	nay	yea	nay	nay	yea
Reynolds of N. Y.	nay	yea		nay	
Richardson of Ill.	yea	yea	yea	yea	yea
Risley of N. Y.					yea
Robbins of Pa.	yea	yea	yea	yea	yea
Robinson of Ind.	yea	yea	nay	yea	yea
Rockwell of Mass.	nay				
Roor of Ohio	nay	yea	nay	nay	
Rose of N. Y.	yea	yea		yea	yea
Ross of Pa.	yea	yea	yea	yea	yea
Rumsey of N. Y.	nay	yea	nay	nay	yea
Sackett of N. Y.	nay	yea	nay	nay	yea
Savage of Tenn.	yea	nay	yea	yea	nay
Sawtelle of Me.	nay	yea	nay	nay	yea
Schenck of Ohio	nay	yea		nay	yea
Schermerhorn of N. Y.	yea	yea	nay		yea
Schoolcraft of N. Y.	nay	yea	nay	nay	yea
Seddon of Va.	nay	nay	yea	nay	nay
Shepperd of N. C.	yea	nay	yea	yea	
Spaulding of N. Y.					yea
Sprague of Mich.	nay	yea	nay	nay	yea
Stanley of N. C.	yea	yea	yea	yea	
Stanton of Tenn.	yea	nay	yea	yea	nay
Stanton of Ky.	yea	nay	yea	yea	nay
Stephens of Ga.					nay
Stetson of Me.	nay	yea	nay	nay	yea
Stevens of Pa.	nay	yea	nay	nay	yea
Strong of Pa.	yea	yea		yea	yea
Sweetser of Ohio	nay	yea		nay	
Sylvester of N. Y.	nay	yea	nay	nay	yea
Taylor of Ohio	yea	yea	yea	nay	yea
Thomas of Tenn.	yea	nay	yea		nay
Thompson of Miss.	nay	nay	yea	yea	
Thompson of Pa.	yea	yea	yea	yea	yea
Thompson of Ky.	yea	yea	yea	yea	
Thurman of N. Y.	yea	yea	nay	yea	yea
Toombs of Ga.	yea	nay	yea	yea	
Tuck of N. H.	nay	yea	nay	nay	yea
Underhill of N. Y.	yea	yea	nay		yea
Van Dyke of N. J.	nay	yea		nay	
Venable of N. C.	nay	nay	yea		nay
Vinton of Ohio	nay	yea	nay	nay	yea
Walden of N. Y.	yea	yea	yea	yea	yea
Waldo of Conn.	nay	yea	nay	nay	yea
Wallace of S. C.	nay	nay	yea	nay	nay
Watkins of Tenn.	yea	yea	yea	yea	nay
Welborn of Ga.	yea	nay	yea	yea	
Wentworth of Ill.	nay	yea	nay	nay	yea
Wildrick of N. J.	yea	yea	yea	yea	yea
White of N. Y.	yea	yea			yea
Whittlesey of Ohio	yea	yea	nay		yea
Williams of Tenn.	yea	yea	yea	yea	nay
WILMOT of Pa.					
Wilson of N. H.	yea	yea		yea	
Winthrop of Mass.					
Wood of Ohio			nay		yea
Woodward of S. C.	nay	nay	yea	nay	nay
Wright of Cal.			nay		
Young of Ill.	yea	yea	yea	yea	yea
Yeas	180	150	109	97	124
Nays	97	56	76	85	59

Democrats in *italic*, Whigs in roman, Free Soilers in SMALL CAPS; one Native American, SMALL CAPS.

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The several acts of Congress embraced in this series of measures were five in number.

1. An act proposing to the state of Texas the establishment of her northern and western boundaries, the relinquishment by the said state of all territory claimed by her exterior to said boundaries, and of all her claim upon the United States, and to establish a territorial government for New Mexico. [Sept. 9, 1850.] In the fifth clause of the first section of said act is the following proviso, introduced on the motion of Mr. Mason of Va., viz.:

"Provided, That nothing herein contained shall be construed to impair or qualify any thing contained in the third article of the second section of the 'joint resolution for annexing Texas to the United States,' approved March 1, 1845, either as regards the number of states that may hereafter may be formed out of the state of Texas, or otherwise."

In the second section, establishing the territory of New Mexico, is the following proviso:—

"Sec. 2. And be it further enacted, That all that portion of the territory of the United States, bounded as follows," &c. &c. &c., "be, and the same is hereby erected into a temporary government, by the name of the Territory of New Mexico: Provided," &c., &c.: "And provided further, That when admitted as a state, the said territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of admission."

"Sec. 7. And be it further enacted, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States, and the provisions of this act."

"Sec. 17. And be it further enacted, That the Constitution and laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said territory of New Mexico as elsewhere within the United States."

2. An act to establish a territorial government for Utah.—[September 9, 1850.] This act contains the same provision in regard to slavery as the preceding.

3. An act for the admission of the state of California. This has no reference whatever to slavery; the constitution of the state, however, prohibited it.

4. An act to amend, and supplementary to the act entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," approved February 12, 1793.—[September 16, 1850.]

For this act in full see under head of FUGITIVE SLAVES.

5. An act to suppress the slave trade in the District of Columbia, [Sept. 20, 1850,] abolished the importation of slaves into the District for the purpose of traffic.

Constitution of the United States.

Preamble.

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Art. I.—*Of the Legislature.*

Sec. I.—1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sec. II.—1. The House of Representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several states which which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantations one; Connecticut five; New York six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five; and Georgia three.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill up such vacancies.

5. The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

Sec. III.—1. The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years, and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

Sec. IV.—1. The times, places, and manner of holding elections for Senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. V.—1. Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

2. Each House may determine the rule of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their

judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Sec. VI.—1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

5. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Sec. VII.—1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objection at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. VIII.—The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States:

2. To borrow money on the credit of the United States:

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States:

7. To establish post offices and post roads:

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress:

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square), as may, by cession of particular states and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: and,

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government

of the United States, or any department or officer thereof.

Sec. IX.—1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

Sec. X.—1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of Congress. No state shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Art. II.—*Of the Executive.*

Sec. I.—1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:—

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled in Congress; but no Senator or Representative, or person holding any office of trust or profit under the United States, shall be appointed an elector.

3. The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by states; the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such

officer shall act accordingly, until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Sec. II.—1. The President shall be commander-in-chief of the army and navy of the United States and of the militia of the several states, when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur: and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Sec. III.—1. He shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

Sec. IV.—1. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ART. III.—*Of the Judiciary.*

Sec. I.—1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, order and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. II.—1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as Congress may by law have directed.

Sec. III.—1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

2. Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

ART. IV.—*Miscellaneous.*

Sect. I.—1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Sec. 2.—1. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. III.—1. New states may be admitted by Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of Congress.

2. Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

Sec. IV.—1. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion: and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

Art. V.—*Of Amendments.*

1. Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Art. VI.—*Miscellaneous.*

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office, or public trust, under the United States.

Art. VII.—*Of the Ratification.*

1. The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in Convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and deputy from Virginia.

NEW HAMPSHIRE.
John Langdon,
Nicholas Gilman.

MASSACHUSETTS.
Nathaniel Gorman,
Rufus King.

CONNECTICUT.
William Samuel Johnson,
Roger Sherman.

NEW YORK.
Alexander Hamilton.

NEW JERSEY.
William Livingston,
David Brearly,
William Patterson,
Jonathan Dayton.

PENNSYLVANIA.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

DELAWARE.
George Read,
Gunning Bedford Jr.,
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.
James M'Henry,
Daniel of St. Tho. Jenifer,
Daniel Carroll.

VIRGINIA.
John Blair,
James Madison, Jr.

NORTH CAROLINA.
William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

SOUTH CAROLINA.
John Rutledge,
Chas. Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.
William Few,
Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary*.

Amendments to the Constitution.

Art. 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Art. 2. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Art. 3. No soldier shall in time of peace be

quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Art. 4. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Art. 5. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war, or public danger; nor shall any person be subject for the same offence, to be put twice in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Art. 6. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

Art. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

Art. 8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Art. 9. The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

Art. 10. The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Art. 11. The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of another state, or by citizens or subjects of any foreign state.

Art. 12. Sec. 1. The electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate: the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such a majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

Sec. 2. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President: a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

Sec. 3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

Note.—At the fourth Presidential election, Thomas Jefferson and Aaron Burr were the Democratic candidates for President and Vice President. By the electoral returns they had an even number of votes. In the House of Representatives, Burr, by intrigue, got up a party to vote for him for President; and the House was so divided that there was a tie. A contest was carried on for several days, and so warmly that even sick members were brought to the House on their beds. Finally one of Burr's adherents withdrew, and Jefferson was elected by *one* majority—which was the occasion of this twelfth article.

Conventions, History of.

The contents under this heading constitute a synopsis of a like history contained in the columns of the New York Herald during the year 1856.

The origin of the present application of the word caucus is unknown. The first regular caucuses in this country were of members of Congress, who borrowed the idea from the Whig members of the House of Commons, who, as early as 1696, introduced the system

by holding meetings at various taverns to perfect the organization and discipline of the party.

Irregular caucuses, both of Whigs and Tories, were held here anterior to the Revolution, and the Green Dragon tavern in Boston has an historic fame as the place of meeting of the Otises, Warrens, Hancocks, Prescotts, Pickerings, and other leaders of the popular cause. From this time until after the Revolution, we hardly hear the name of caucus.

The last administration of President Washington was an exceedingly stormy one. He was, during his second term, in a continual war with the Democratic or Republican party in Congress, and the most important administration measures were only carried through Congress by bare majorities. For the third election of President it does not appear that there was any set caucasing to put Messrs. Adams and Jefferson before the people. Mr. Adams was recognised as the great leader of the Federalists, and although the South did prefer Mr. Pinckney, there seems to have been no great difficulty in combining the strength of the party by giving the last-named gentleman the second place on the ticket. Mr. Jefferson was beaten for the first place, but obtained the second. The usual process of naming candidates at that time was a trial of votes in the state legislatures.

The first Congressional caucus to nominate candidates for President and Vice President that we have any account of, was said to be held in Philadelphia in the year 1800. We quote from a newspaper of that day, which states that thirty-seven representatives and nine senators were present, and nominated Messrs. Jefferson and Burr. It is important to note here that the system, which is so intensely exclusive and aristocratic, was originated by the leaders of the Democratic, then called the Republican party. It is also proper to say that the first caucuses were more like informal meetings of a certain number of gentlemen, to express their preferences for a candidate.

The first regular caucus on record was held at Washington, on the 19th of January, 1808. The chief cause of this meeting was a dispute in Virginia as to the succession. The legislature of that state was divided between Mr. Madison, then Secretary of State, and Mr. Monroe, then Minister to England. Our readers will notice that these were the "good old times" when the Old Dominion furnished all the high officers of state. The caucus then met to decide which Virginian should be President of the United States, for Mr. Jefferson went out of office in such a blaze of glory that the nomination of his party was equivalent to election. At this time the whole number of members of Congress was 176, and of these only about 40 were Federalists. The Republicans (Democrats now) numbered 136. Of these 94, being a majority of the two Houses, attended the caucus. Mr. Madison was the choice of the caucus, receiving 83 votes, the remainder being given to Mr. Monroe and Mr. George Clinton. The people also chose Mr. Madison, whose administration was popular, although when his term had nearly expired the North declared against him and in favor of De Witt Clinton, who was nominated by the legislature of New York.

The administration members of Congress, still largely in the majority, were called to meet in caucus at Washington on the 18th May, 1812. The whole number of members was 176—Democrats, 133. Present at the caucus, 83, all of whom named Mr. Madison for re-election. One or two Democratic members from Maryland, and the majority of the New York and Massachusetts members, did not give in their adhesion to the nomination. In September of the same year, the first convention of the opposition or Federalist party was held in New York, when seventy members from eleven states appeared and nominated Mr. Clinton. The opposition excited by the anti-war sentiment proved very strong, but Mr. Madison was re-elected, receiving 128 votes in the electoral colleges, to 89 for Mr. Clinton.

After Mr. Madison's second success there was a growing prejudice against these caucuses in the mass of the party, and an unsuccessful attempt was made in the first caucus held thereafter to declare that Presidential nominations by members of Congress were inexpedient. This was defeated by the friends of Mr. Monroe. He had been in Madison's Cabinet during the whole of his administration. Mr. Monroe was denounced by a large number of the Democratic leaders as incompetent, and the caucus system was declared exceptionable. Colonel Burr desired General Andrew Jackson to be brought forward at that time, and said that if he had had a respectable nomination the Virginia caucus would have been beaten. D. D. Tompkins of N. Y. was also proposed.

The members of Congress now numbered 213, of which number 138 were Republicans. The whole power of the administration was used to carry the caucus for Monroe, and no means were spared to procure that end. The opposition had united upon William H. Crawford of Ga., a sort of compromise candidate. He had sat in the Senate, was a Republican, but favored a bank, and was opposed to Mr. Madison. He had been Minister to France and Secretary at War, and was generally considered to be a man of much more ability than Mr. Monroe.

The caucus met on the 11th of March, 1816, and 119 Republican members answered to their names. The 19 absentees refused to attend, because they were opposed to this method of making nominations. Mr. Monroe received 65 votes, and Mr. Crawford 54. Mr. Monroe was chosen by the people, and Mr. Crawford accepted the post of Secretary of the Treasury. Mr. Monroe's firm, prudent, and altogether respectable administration conci-

liated all parties, and there was no one to oppose him for his second term, when he received all the electoral votes but one.

This brings us down to the memorable caucus of the 14th of Feb., 1824, which was insisted upon by Mr. Van Buren and other friends of Mr. Crawford, and which brought about several changes. First, it killed off Crawford and nearly all his friends; second, it killed the caucus system, which had grown to be an intolerable despotism; and third, it broke the back of the Republican party, which did not rise again until resuscitated by the name of Jackson. This caucus, so interesting, is worth attention.

Congress now had 261 members, of which 216 held affinity with the Republican Democratic party. These were not all Crawford men, however, and were divided in opinion as to the propriety of making a Congressional nomination. It was then stated on the other side that 180 Republican members were opposed to a caucus nomination.

Notwithstanding all these warnings, combined with a strong popular clamor against the measure, a meeting of the Democratic members of the Legislature was called on the date above mentioned. Only 66 out of 216 attended, and King Caucus was dead at last. Mr. Crawford received 64 votes. The great majority of the party throughout the country indignantly repudiated the nomination.

Mr. Crawford had lost much of his popularity, and he was in such bad health that it was doubtful whether, if elected, he would live to take his seat. But Virginia insisted upon having him. The members of the caucus were nearly all senators, and one paper says that only eight members of the popular branch of the Congress were in attendance from twenty states out of the twenty-four.

Of the electoral votes, Jackson had 99; J. Q. Adams (Federalist), 84; Crawford, 41; Clay (then acting with the Republicans), 41.

The election going to the House, the friends of Mr. Clay voted for Adams to defeat Jackson, and succeeded in their efforts. Thus was the Republican party broken up after an uninterrupted sway of twenty-four years. It was killed by its friends, and died from the effects of too much prosperity.

General Jackson was placed early in the field by the legislature of his own state, and found it easy to organize a strong opposition to Mr. Adams, who was only a minority President, after all. There was no more caucusing, and General Jackson received a large majority of electoral votes. He was again put in nomination by the legislatures of Pennsylvania and New York, and again elected, and his administration brings us to a consideration of the

CONVENTION SYSTEM.

The first convention for the nomination of a President and Vice President was the anti-Masonic meeting held at Baltimore, in September, 1831. This party or faction is an interesting one, inasmuch as it brought Mr. Seward and Mr. Fillmore into public life. The party originated in the western part of New York, and grew out of a great and skilfully-managed popular excitement. A man of the name of William Morgan had published what purported to be an expose of the three first degrees of the Masonic order. He suddenly disappeared, and some ridiculous story was circulated about his being murdered by the Free Masons. The politicians went so far as to trump up something resembling a human body, which was asserted to be that of Morgan, and from this shallow imposture arose a storm of anti-Masonic excitement which inflicted a blow upon the order from which it has never entirely recovered. The humbug body was said by Thurlow Weed to be "a good enough Morgan until after election."

So it proved to be. The anti-Masonic party, thus originating in this state in 1826, achieved partial successes in several of the Northern states in the local elections of the next two or three years, and held a so-called National Convention at Philadelphia in September, 1830, at which delegates were present from eleven states. After adopting an anti-Masonic platform and calling a convention, to meet at Baltimore in September, 1831, the Philadelphia meeting dissolved.

At this time the opposition looked to Mr. Clay as their leader in the contest so soon to be commenced. He was the only man in the Whig party who was thought to be strong enough to cope with Old Hickory; but Mr. Clay being an ardent supporter of, and an affiliated member of the Masonic order, his nomination, by that section of the opposition which was organized on the basis of hostility to that Fraternity, was out of the question, and thus the enemies of General Jackson were divided at the start.

The opposition had now assumed the name of National Republicans, and the Baltimore Convention was called to concentrate all the factions against the Democracy. John McLean of Ohio, lately a prominent Know Nothing candidate, and since talked of by the Republicans, was the favorite of the anti-Masons, but was strongly opposed by the National Republicans. He declined; and the Anti-Masonic Convention nominated William Wirt of Maryland, formerly Attorney General, for President, and Amos Ellmaker of Pennsylvania, for Vice President.

Here we may be pardoned for digressing so far as to point out a curious fact: Millard Fillmore, last year the candidate of a secret political order, was brought into public life on the basis of bitter hostility to secret orders of all kinds, political and social, while Judge McLean, the choice of the North Americans, narrowly escaped the nomination given to William Wirt.

In December, 1831, the first National Republican Convention was held at Baltimore, and nominated Henry Clay of Kentucky for President, and John Sergeant of Pennsylva-

nia for Vice President. Thus Mr. Clay and Mr. Wirt were placed in the field to lead the opposition, and it was hoped that the election would be thrown into the House.

General Jackson's position was a strong one, and the administration party thought of no one else for the succession. Mr. Calhoun, then Vice President, had quarrelled with the President, and it was important to select some strong man for the second place on the ticket for the succession. Jackson was accordingly nominated by the administration members of the New York legislature, and the state of New Hampshire has, in addition to the glory of presenting a President in the person of the late incumbent, the further gem in her political crown of having originated the system of National Conventions. The legislature of New Hampshire sent out the first call for a Democratic National Convention, to nominate a candidate for Vice President. No number of delegates being mentioned, each state sent as many as could afford the time, and on the 21st of May, 1832, the Democracy mustered in great force at Baltimore, and this may be called the first National Convention worthy of the name that was ever held. General Robert Lucas, of Ohio, presided over the deliberations of this body, which adopted the celebrated two-thirds rule, drawn up by Mr. Saunders, of North Carolina, as follows:—

> Resolved, That each state be entitled, in the nomination to be made of a candidate for the Vice Presidency, to a number of votes equal to the number that they will be entitled to in the Electoral Colleges under the new apportionment in voting for President and Vice President, and that two-thirds of the whole number of votes in the convention shall be necessary to constitute a choice.

This is the celebrated machine which has been used to execute all the best men in the party, and which has killed off Mr. Cass.

The total number of electoral votes at that time was 288, of which 283 were represented. Mr. Van Buren received 203; Mr. Barbour, of Virginia, 49 (both had assisted in the obsequies of King Caucus, and both were sincere mourners); Richard M. Johnson, 26. The Convention then adopted a platform, which in point of brevity is a model. This ticket was chosen, receiving 219 electoral votes to 49 for Mr. Clay. The anti-Masonic ticket received the electoral vote of Vermont (7). South Carolina voted for John Floyd. Pennsylvania gave its vote for William Wilkins. In this election, pledged electoral tickets became more firmly established. When the time approached for the next National Convention, which was to nominate for the succession, the Democratic party was united, while the opposition, though numerically powerful, was politically weak, being split up into various factions. The southern anti-Jackson candidate was Hugh L. White, of Tennessee, nominated by the Alabama legislature. He was also supported by the Tennessee legislature, and by the delegation from that state in Congress, except Messrs. Polk and Johnson. An opposition meeting at Harrisburg, Pa., put General W. H. Harrison, of Ohio, in nomination. The Whigs in the Massachusetts legislature nominated Daniel Webster, and John McLean was brought forward in the same manner in Ohio.

The Convention question seriously agitated the Democratic party. Mr. Van Buren and his friends were strongly in favor of a Convention. General Jackson, in February, 1835, came out in favor of a National Convention to nominate candidates for President and Vice President. None but the friends of Van Buren favored a National Convention, and none but his friends appeared in the body which met at Baltimore on the 20th of May, 1835. More than six hundred delegates were present, representing twenty-two states. Mr. Van Buren was unanimously nominated, receiving all the votes, and being the first Presidential nominee of a Democratic National Convention, properly speaking. There was some difficulty in getting the second place on the ticket for Richard M. Johnson, of Kentucky. Virginia desired Mr. Rives, and bolted from Johnson, who lost his election by the people, but was chosen by the Senate. Mr. Van Buren was elected by rather a tight squeeze.

The Democratic National Convention had now come to be considered a regular institution as much as Congress, and the third of these bodies was proclaimed from Washington to be held at Baltimore, on the fifth of May, 1840. During the three years previous the opposition had gradually been gaining tremendous strength in Congress. The Whigs gained great advantages in 1837–'38, and the voice of the best portion of the party pointed to Mr. Clay as the man to be pitted against Van Buren, who was determined to place himself before the people.

The Abolitionists began their national political organization in 1839. The New York Anti-Slavery Society met in Warsaw, N. Y., in November of that year, and formed itself into a nominating convention, and nominated James G. Birney, of Michigan, for President, and Francis J. Lemoyne, of Pennsylvania, for Vice President. They polled 7000 votes at the ensuing election, receiving votes in every free state but Indiana.

The first National Convention of the Whig party was held at Harrisburg, Dec. 4, 1839. Twenty-two states were represented by about four hundred delegates. On an informal ballot, *per capita*, Mr. Clay had a plurality, but no majority.

Imitating the example of the Democracy, the Whigs desired to put forward General Harrison or General Scott. In a speech at Buffalo, Mr. Clay came out in the most gallant manner, and told his party to put his name away, if it was considered the slightest obstacle to harmony. Small politicians were afraid that they could not lead him by the nose, and therefore said that the anti-Masons, the anti-tariff Whigs, &c., would not vote for him, and they spared no means to prevent his nomination. They also succeeded in killing off General

Scott; and General Harrison, in a vote by states, after the manner of the Democratic conventions, received 148, Clay 90, and Scott 16. John Tyler, of Va., was nominated for Vice President.

The Democratic National Convention met at Baltimore, May 5, 1840. Twenty-one states sent delegates. Governor William Carroll, of Tenn., presided. In order to simplify business, a committee was appointed to report the names of candidates. They reported the name of Mr. Van Buren for President, but made no report on the subject of a candidate for the Vice Presidency. R. M. Johnson, received, however, the Democratic vote. In this convention there were about 250 delegates, representing twenty-one states.

The issue of this struggle is well known. Harrison and Tyler were carried into power by popular majorities, unprecedented since Monroe's second term. But, in 1844, the Democratic party rallied stronger than ever, and the fourth National Convention, held at Baltimore, May 27, 1844, was a curious, exciting, interesting, and extraordinary body. Every state, except S. Carolina, was represented. The number of delegates was 325, entitled to 266 votes. The Hon. H. B. Wright, of Pa., was chosen chairman. Mr. Saunders laid on the two-thirds rule of 1832. After a long debate it was carried: 148 to 118. Mr. Van Buren had a majority on the first vote, but not two-thirds. He fell off on the fourth ballot, and Mr. Cass had a majority. On the ninth ballot James K. Polk, of Tenn., received 44 votes, and on the tenth he was unanimously nominated. The question of "Who is James K. Polk?" was immediately asked in all parts of the Union, except Tennessee. It was answered on the ensuing 4th of March by the Chief Justice of the United States.

At the same time that the Democratic convention was held in Baltimore, a Tyler convention was held in that city, and Mr. Tyler was put in nomination; but the struggle being a hopeless one, he retired from the field in August.

The Whig National Convention was held at Baltimore, May 1. It was more like a mass meeting, and the Whigs came up resolved to give Mr. Clay a chance. Ambrose Spencer, of N. Y., presided, and every state in the Union was represented. There were two hundred and twenty-five delegates. Mr. Clay was nominated by acclamation for President, and Mr. Frelinghuysen, of N. J., for Vice President. The Texas question was the great issue in this canvass. Mr. Clay wrote a letter opposing the annexation of that republic, and that killed him, while Mr. Polk was understood to stand on the platform of the "re-annexation of Texas at the earliest practicable moment," and to go for the whole of Oregon.

The Abolitionists took up the Texas question, and nominated James G. Birney for the campaign of 1844. He received 62,140 votes.

We come now to 1848, a memorable year in the history of conventions and party nominations. The war with Mexico had given the Whigs and the Democrats several heroes, but none appealed so forcibly to the public heart as General Taylor, whose proclivities were believed to be Whig, but who was innocent on the subject of politics. On the other hand, stood Clay and Webster, the lights of the great Whig party, with their thousands of worshippers. The Whig leaders resolved on the final slaughter of Clay, and, on the 27th January, 1848, a meeting of the Whig members of Congress was held in Washington. This meeting called a National Nominating Convention, to be held at Philadelphia, on the 7th of June. The Democrats were called to meet in May, as usual, at Baltimore. It assembled on the 22d, Andrew Stevenson, of Va., in the chair. The New York difficulties were then for the first time introduced into the councils of the party. The friends of Mr. Van Buren (now called Softs) were then denominated Barnburners, and the friends of Mr. Cass (now transferred to Dickinson, and called Hards), were termed Hunkers. The Convention voted to admit both delegations, but both declined to take part in the discussions or the votes. The two-thirds rule (263 whole vote) was adopted, and Mr. Cass was nominated on the fourth ballot. General W. O. Butler, of Tenn., for Vice President.

The Convention failed to restore harmony to the party in New York, and Mr. Van Buren's friends took ground in favor of prohibiting slavery in territory to be acquired hereafter. A Convention was held at Utica, N. Y., on the 22d and 23d of June, when Mr. Van Buren was nominated for President, and Henry Dodge for Vice President. Mr. Dodge subsequently (June 29) declined, and a national convention was held at Buffalo in 1848 (August 9), when nearly all the free states were represented. A strong anti-slavery platform was adopted, and the Convention then put in nomination Mr. Van Buren and Mr. Adams, (son of President J. Q. Adams). This divided the vote in New York, and defeated the Democratic party.

The Whigs met at Philadelphia on the 7th June, 1848, and held what is called the "Slaughterhouse Convention." The political death of Clay, Webster, and Scott had long been resolved upon—at least they were to be put out of the way for that campaign. General Taylor was the man, and he was nominated by a majority vote on the third ballot.

The second place on the ticket was given to Mr. Fillmore.*

The Democracy were early in the field in 1852, and the central committee called a Convention to meet at Baltimore on the first of June. Hon. John W. Davis, of Indiana, presided. There was a tremendous crowd of delegates, and the old two-thirds rule was put on

* Gerritt Smith was also voted for in 1848.

by a large vote. Every state, except South Carolina, was represented, and the number of delegates was 288.

The Convention sat five days, most of which time was spent in ineffectual ballotings. On the 30th Virginia changed from Buchanan, and gave 15 votes to Pierce. On the 49th ballot, Mr. Pierce received all the votes but six, and was nominated. W. R. King of Ala. was named second on the ticket. In order to preserve peace at future conventions, the following was adopted:—

Voted, That the next Democratic National Convention be held at Cincinnati, in the state of Ohio.

Voted, That in constituting the future National Convention, in order to secure the respective rights of the states, each state shall be entitled to twice the number of delegates it has in the Electoral College, and no more; and the Democratic Committee, in making arrangements for the next Democratic Convention, provide such number of seats and secure them for the delegates elect.

This is the rule for the Convention which was held in Cincinnati on the first Monday of June, 1856.

It may be necessary to say, that although South Carolina has generally omitted to send delegations to the Democratic Conventions, she has, with the exception above noted, given her electoral vote to the nominees of that party.

The last Convention of the Whig party met at Baltimore on the 10th June, 1852. George Evans of Me. presided. On the fifty-third ballot General Scott was nominated. This Convention was full—296 delegates from all the states. General Scott, being supported by the Sewardites, was deserted by the National Whigs.

In July, 1852, a Native American Convention was held at Trenton, N. J., by which Jacob Broom of Pa., late a member of Congress, was nominated for President on a sort of Know Nothing platform. He received 2485 votes in all.

An Abolition Convention (called national) was held at Buffalo, Sept. 1, 1852, under the call of James G. Birney, Gerritt Smith, and William Godell. The last named person was nominated for President, and received 72 votes in New York state.

At a Convention held in Georgia in the summer of 1852, G. M. Troup was nominated as a Southern States Rights candidate for President. He received about 100 votes in Georgia, and 2000 in Alabama.

The remnants of various parties met in National Convention at Pittsburgh, August 11. The New York Democracy being united on Pierce, this Convention excited no attention. It put in nomination John P. Hale of N. H., and George W. Julian of Ind. They did not carry the electoral vote of any state, but received about 155,000 popular votes.

Since 1852 there have been several national conventions so called. A great party based upon the Know Nothing or Native American idea sprung up, and was successful. It held a National Convention which met in Philadelphia in June, 1855. It adopted a platform which was not satisfactory to either section, and which caused the North to bolt and hold a Convention at Cincinnati in November of the same year. The principal business done by this last-named body was endeavoring to make arrangements to get back to the party from which it had bolted, and another Convention was consequently called, to meet at Philadelphia on the 18th of February, 1856, where the Know Nothings cast off the old platform altogether and adopted a new one. On that they nominated for President Millard Fillmore (Whig), for Vice President A. J. Donelson. This ticket only received the electoral vote of Maryland.

The old Free Soilers, with some accessions from the Seward Whigs, held a Convention at Pittsburgh, February 22, and called a Nominating Convention to meet at Philadelphia, June 17, 1856.

The Republican Convention which met at Philadelphia in June, 1856, nominated John C. Fremont for President, and William L. Dayton for Vice President. This ticket received the vote of all the free states except Illinois, Indiana, Pennsylvania, New Jersey, and California.

Creole Case.

This case was presented to Congress March 21, 1842.

The brig Creole, bound from Richmond, Va., to New Orleans, was freighted, among other things, with a large lot of negroes, who mutinied in a storm, killed the captain, several of the crew and passengers, and compelled some of the officers of the vessel to take her into Nassau, N. P., one of the British West India islands, where the negroes were taken care of and set free by the authorities of the island. This case was the subject of Congressional action in both Houses of Congress, and of negotiation with Great Britain. The most intense feeling was manifested all over the Union, and particularly in the South.

During the pendency of the excitement, Mr. Giddings offered a set of resolutions justifying the negroes in their mutiny and murder, and approving of their course, denying that the said negroes had violated any law of the United States; stating that they had incurred no legal penalty, and are justly liable to no punishment; and that all attempts to regain possession of, or to re-enslave said persons, are unauthorized by the Constitution, and prejudicial to the national honor.

We annex them, omitting the first three:—

"Resolved, That slavery, being an abridgment of the natural rights of man, can exist only by force of positive municipal law, and is necessarily confined to the territorial jurisdiction of the power creating it.

"That when a ship belonging to the citizens of any state of this Union leaves the waters and territory of such state, and enters upon the high seas, the persons (slaves) on board cease to be subject to the laws of

such state, and thenceforth are governed in their relations to each other by, and are amenable to, the laws of the United States.

"6. That when the brig Creole, on her late passage to New Orleans, left the territorial jurisdiction of Virginia, the slave laws of that state ceased to have jurisdiction over the persons (slaves) on board said brig, and such persons became amenable only to the laws of the United States.

"7. That the persons (slaves) on board said brig, in resuming their natural rights of personal liberty, violated no law of the United States, incurred no legal penalty, and are justly liable to no punishment.

"8. That all attempts to regain possession of, or to re-enslave said persons, are unauthorized by the Constitution and laws of the United States, and are incompatible with our national honor.

"9. That all attempts to exert our national influence in favor of the coastwise slave trade, or to place this nation in the attitude of maintaining a commerce in human beings, are subversive of the rights and injurious to the feelings and the interests of the free states, are unauthorized by the Constitution, and prejudicial to our national character."

A motion was made that the resolutions do lie on the table—yeas 52, nays 125. This could not be considered a test vote; many members who were opposed to the resolutions voted against the motion, in order to kill them by a direct vote.

Mr. John Minor Botts, on the same day, offered the following preamble and resolution:—

"Whereas, the Hon. Joshua R. Giddings has this day presented to this House a series of resolutions touching the most important interests connected with a large portion of the Union, now a subject of negotiation between the United States and Great Britain, of the most delicate nature, the result of which may eventually involve those nations in war; and whereas, it is the duty of every good citizen to discountenance all efforts to create excitement, dissatisfaction, and division among the people of the United States at such a time, under such circumstances; and whereas, mutiny and murder are therein justified and approved in terms shocking to all sense of law, order, and humanity; therefore,

"Resolved, That this House holds the conduct of the said member as altogether unwarranted and unwarrantable, and deserving the severe condemnation of the people of this country, and of this body in particular."

On these resolutions a motion was made to suspend the rules—yeas 128, nays 68. Two-thirds not voting in the affirmative, the rules were not suspended.

The call for resolutions still resting with the state of Ohio, Mr. Weller offered Mr. Botts's resolution as his own.

Mr. Adams then moved to lay the whole subject on the table—yeas 70, nays 125. The direct vote was then taken on the resolution censuring Mr. Giddings—yeas 125, nays 69, as follows:—

YEAS.—Messrs. L. W. Andrews of Ky., Arnold of Tenn., Arrington of N. C., Atherton of N. H., Barton of Va., Beeson of Pa., Bidlack of Pa., Black of Ga., Botts of Va., Boyd of Ky., Brewster of N. Y., A. V. Brown of Tenn., M. Brown of Tenn., C. Brown of Pa., Burke of N. H., S. H. Butler of S. C., Wm. Butler of Ky., Wm. O. Butler of Ky., G. W. Caldwell of N. C., John Campbell of S. C., Wm. B. Campbell of Tenn., Thomas J. Campbell of Tenn., Caruthers of Tenn., Cary of Va., Casey of Ill., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va., Colquit of Ga., M. A. Cooper of Ga., Daniel of N. C., G. Davis of Ky., Dawson of Ga., Dean of O., Deberry of N. C., Doan of O., Eastman of N. H., John C. Edwards of Pa., C. A. Floyd of N. Y., Fornance of Pa., Thomas F. Foster of Ga., Gentry of Tenn., Gerry of Pa., Gilmer of Va., Goggin of Va., W. O. Goode of Va., Graham of N. C., Green of Ky., Gwin of Miss., Habersham of Ga., Harris of Va., John Hastings of O., Hays of Va., Holmes of S. C., Hopkins of Va., Houck of N. Y., Houston of Ala., Hubard of Va., Hunter of Va., C. J. Ingersoll of Pa., J. R. Ingersoll of Pa., Jack of Pa., Cave Johnson of Tenn., Keim of Pa., J. P. Kennedy of Md., Andrew Kennedy of Ind., Lane of Ind., Lewis of Ala., Littlefield of Me., A. McClellan of Tenn., R. McClellan of N. Y., McKay of N. C., Mallery, Marchand of Pa., Alfred Marshall of Me., John T. Mason of Md., Mathews of O., Medill of Mass., Miller of Mo., Moore of La., Newhard of Pa., Oliver of N. Y., Ousley of Ky., Pickens of S. C., Plumer of Pa., Powell of Va., Alex. Randall of Md., Rayner of N. C., Reding of N. H., Rencher of N. C., Reynolds, Rhett of S. C., Riggs of N. Y., Rogers of S. C., Shaw of N. H., Shepperd of N. C., Shields of Ala., Wm. Smith of Va., Snyder of Pa., Sollers of Md., Sprigg of Ky., Stanley of N. C., Steenrod of Va., Stratton of N. J., Alex. H. H. Stuart of Va., John T. Stuart of Ill., Summers of Va., Sweney of O., Taliaferro of Va., John B. Thompson of Ky., Rich. W. Thompson of Ind., Jacob Thompson of Miss., Triplett of Ky., Turney of Tenn., Wallace of Ind., Ward of N. Y., Warren of Ga., Washington of N. C., Watterson of Tenn., Weller of O., Westbrooke of Pa., E. D. White of La., Ch. H. Williams of Tenn., Joseph L. Williams of Tenn.—125.

NAYS.—Messrs. Adams of Mass., Allen of Me., S. J. Andrews of O., Ayerigg of N. J., Baker of Mass., Birdseye of N. Y., Blair of N. Y., Boardman of Conn., Borden of Mass., Brockway of Conn., Bronson of Me., J. Brown of Pa., Calhoun of Mass., Childs of N. Y., Chittenden of N. Y., J. C. Clark of N. Y., Cowen of O., Cranston of R. I., Cravens of Ind., Cushing of Mass., R. D. Davis of N. Y., Doig of N. Y., J. Edwards of Mo., Egbert of N. Y., Everett of Vt., Ferris of N. Y., Fessenden of Me., Fillmore of N. Y., Gates of N. Y., P. G. Goode of O., Gorden of N. Y., Granger of N. Y., Hall of Vt., Wm. S. Hastings of Mass., Henry of Pa., Howard of Mich., Heedson of Mass., Wm. W. Irwin of Pa., James Linn of N. Y., McKeon of N. Y., S. Mason of O., Mathiot of O., Mattocks of Vt., Maxwell of N. J., Maynard of N. J., Morgan of N. Y., Morris of O., Morrow of O., Osborne of Conn., Parmenter of Mass., Pendleton of O., Pope of Ky., Benj. Randall of Me., Ridgway of O., Roosevelt of N. Y., J. M. Russell of O., Saltonstall of Mass., Simonton of Pa., T. Smith, Stokely of O., Tomlinson of N. Y., Trumbull of Conn., Underwood of Ky., Van Rensselaer of N. Y., Jos. L. White of Ky., Thomas W. Williams of Conn., Winthrop of Mass., Augustus Young of Vt.—69.

Cuba.

PROCLAMATION RESPECTING AN APPREHENDED INVASION OF.

By the President of the United States of America:—

WHEREAS there is reason to believe that a military expedition is about to be fitted out in the United States with intention to invade the Island of Cuba, a colony of Spain, with which this country is at peace; and whereas it is believed that this expedition is instigated and set on foot chiefly by foreigners who dare to make our shores the scene of their guilty and hostile preparations against a friendly power; and seek by falsehood and misrepresentation to seduce our own citizens, especially the young and inconsiderate, into their wicked schemes,—an ungrateful return for the benefits conferred upon them by this people, in per-

mitting them to make our country an asylum from oppression,—and in flagrant abuse of the hospitality thus extended to them:

And whereas such expeditions can only be regarded as adventures for plunder and robbery, and must meet the condemnation of the civilized world, whilst they are derogatory to the character of our country,—in violation of the laws of nations,—and expressly prohibited by our own. Our statutes declare "that if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, every person, so offending, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and imprisoned not more than three years:"

Now, therefore, I have issued this my Proclamation, warning all persons who shall connect themselves with any such enterprise or expedition in violation of our laws and national obligations that they will thereby subject themselves to the heavy penalties denounced against such offences, and will forfeit their claim to the protection of this government, or any interference in their behalf, no matter to what extremities they may be reduced in consequence of their illegal conduct. And therefore I exhort all good citizens, as they regard our national reputation, as they respect their own laws and the laws of nations, as they value the blessings of peace and the welfare of their country, to discountenance, and, by all lawful means, prevent any such enterprise; and I call upon every officer of this government, civil or military, to use all efforts in his power, to arrest for trial and punishment every such offender against the laws of the country.

Given under my hand, the twenty-fifth day of April, in the year of our Lord [L. s.] one thousand eight hundred and fifty-one, and the seventy-fifth of the Independence of the United States.

MILLARD FILLMORE.

By the President:

W. S. DERRICK, Acting Secretary of State.

Davis, H. Winter, of Maryland.

EXTRACT from Mr. Davis's speech in the House of Representatives, on the 6th of Jan., 1857, on the results of the recent Presidential election:—

"Still more, sir, it dissipates the sweet delusion of the dead heroes of the Nebraska act, that there was a day of resurrection for them. It demonstrates that the blast which prostrated its friends in the North was no passing squall; that no sober second thought has changed their first thought; but that a settled and unchangeable hostility through all the North condemns them to a hopeless and pitiable minority. The death-wound, I rather think, has been dealt to that party which insolently boasted itself a perpetual plague to the republic, but now—worse than the scotched snake—staggers to its grave, like a wounded gladiator, whose fall, even in the arms of victory, wins for him neither pity nor a crown.

"These are some of the lessons about which I think there can be very little difference of opinion. They need only the teaching of numbers. They need only to count the results of the ballot-box. They depend on no adjustment of the difference of principle between the different portions of the party. They are irrespective of the question, whether the approval of President Pierce's administration was made or evaded north of Mason and Dixon's line. They still stand, no matter what meaning was assigned to the Kansas-Nebraska act anywhere. On a simple count of the voices of the judges—even admitting a northern and a southern Democrat to mean the same thing—it appears that the great majority of the country are tired of its men, are hostile to its principles, condemn its measures, mock at its blunders, are weary of its agitations, abhor its sectional warfare, and have ordered hue and cry to be made against everything bearing the name of Democrat as a disturber of the public peace. Instead of repentance and reform under the discipline administered two years age, the majority of the people of the country have beheld with alarm every element of electioneering torture applied to wring from the terrors of the country an approval, real or apparent, of the conduct of the administration; and they have by this great vote indicated their abiding hostility to a policy which has brought the republic to the verge of ruin. This, I take it, is the judgment of the American people—only they were so unfortunate as to differ as to the measures of redress; and the penalty of this blunder is the continuance of that domination in the executive chair for four years more.

* * * * * * * *

"The great lesson is taught by this election that both the parties which rested their hopes on sectional hostility, stand at this day condemned by the great majority of the country, as common disturbers of the public peace of the country.

"The Republican party was a hasty levy, en masse, of the Northern people to repel or revenge an intrusion by Northern votes alone. With its occasion it must pass away. The gentlemen of the Republican side of the House can now do nothing. They can pass no law excluding slavery from Kansas in the next Congress—for they are in a minority. Within two years Kansas must be a state of the Union. She will be admitted with or without slavery, as her people prefer. Beyond Kansas there is no question that is practically open. I speak to practical men. Slavery does not exist in any other territory,—it is excluded by law from several, and not likely

to exist anywhere; and the Republican party has nothing to do, and can do nothing. It has no future. Why cumbers it the ground?

"Between these two stand the firm ranks of the American party, thinned by desertions, but still unshaken. To them the eye of the country turns in hope. The gentleman from Georgia saluted the Northern Democrats with the title of heroes—who swam vigorously down the current. The men of the American party faced, in each section, the sectional madness. They would cry neither free nor slave Kansas; but proposed a safe administration of the laws, before which every right would find protection. Their voice was drowned amid the din of factions. The men of the North would have no moderation, and they have paid the penalty. The American party elected a majority of this House: had they of the North held fast to the great American principle of silence on the negro question, and, firmly refusing to join either agitation, stood by the American candidate, they would not now be writhing, crushed beneath an utter overthrow. If they would now destroy the Democrats, they can do it only by returning to the American party. By it alone can a party be created strong at the South as well as at the North. To it alone belongs a principle accepted wherever the American name is heard—the same at the North as at the South, on the Atlantic or the Pacific shore. It alone is free from sectional affiliations at either end of the Union which would cripple it at the other. Its principle is silence, peace, and compromise. It abides by the existing law. It allows no agitation. It maintains the present condition of affairs. It asks no change in any territory, and it will countenance no agitation for the aggrandizement of either section. Though thousands fell off in the day of trial —allured by ambition, or terrified by fear—at the North and at the South, carried away by the torrent of fanaticism in one part of the Union, or driven by the fierce onset of the Democrats in another, who shook Southern institutions by the violence of their attack, and half waked the sleeping negro by painting the Republican as his liberator, still a million of men, on the great day, in the face of both factions, heroically refused to bow the knee to either Baal. They knew the necessities of the times, and they set the example of sacrifice, that others might profit by it. They now stand the hope of the nation, around whose firm ranks the shattered elements of the great majority may rally and vindicate the right of the majority to rule, and of the native of the land to make the law of the land.

The recent election has developed, in an aggravated form, every evil against which the American party protested. Again in the war of domestic parties, Republican and Democrat have rivalled each other in bidding for the foreign vote to turn the balance of a domestic election. Foreign allies have decided the government of the country—men naturalized in thousands on the eve of the election—eagerly struggled for by competing parties, mad with sectional fury, and grasping any instrument which would prostrate their opponents. Again, in the fierce struggle for supremacy, men have forgotten the ban which the Republic puts on the intrusion of religious influence on the political arena. These influences have brought vast multitudes of foreign-born citizens to the polls, ignorant of American interests, without American feelings, influenced by foreign sympathies, to vote on American affairs; and those votes have, in point of fact, accomplished the present result.

The high mission of the American is to restore the influence of the interests of the people in the conduct of affairs; to exclude appeals to foreign birth or religious feeling as elements of power in politics; to silence the voice of sectional strife—not by joining either section, but by recalling the people from a profitless and maddening controversy which aids no interest, and shakes the foundation not only of the common industry of the people, but of the Republic itself; to lay a storm amid whose fury no voice can be heard in behalf of the industrial interests of the country, no eye can watch and guard the foreign policy of the government, till our ears may be opened by the crash of foreign war waged for purposes of political and party ambition, in the name, but not by the authority nor for the interests, of the American people.

Return, then, Americans of the North, from the paths of error to which in an evil hour fierce passions and indignation have seduced you, to the sound position of the American party—silence on the slavery agitation. Leave the territories as they are—to the operation of natural causes. Prevent aggression by excluding from power the aggressors, and there will be no more wrong to redress. Awake the national spirit to the danger and degradation of having the balance of power held by foreigners. Recall the warnings of Washington against foreign influence—here in our midst—wielding part of our sovereignty; and with these sound words of wisdom let us recall the people from paths of strife and error to guard their peace and power; and when once the mind of the people is turned from the slavery agitation, that party which waked the agitation will cease to have power to disturb the peace of the land.

This is the great mission of the American party. The first condition of success is to prevent the administration from having a majority in the next Congress; for, with that, the agitation will be resumed for very different objects. The Ostend manifesto is full of warning; and they who struggle over Kansas may awake and find themselves in the midst of an agitation compared to which that of Kansas was a summer's sea; whose instruments will be, not words, but the sword.

Declaration and Pledge.

THE undersigned, members of the thirty-first Congress of the United States, believing that a renewal of sectional controversy upon the subject of slavery would be both *dangerous to the Union and destructive to its objects*, and seeing no mode by which such controversies can be avoided, except by a strict adherence to the settlement thereof, effected by the compromise passed at the last session of Congress, do hereby declare their intention to maintain the same settlement inviolate, and to resist all attempts to repeal or alter the acts aforesaid, unless by general consent of the friends of the measure, and to remedy such evils, if any, as time and experience may develop. And for the purpose of making this resolution effective, they further declare that they will not support for the office of President or Vice President, or of Senator or of Representative in Congress, or as member of a state legislature, any man, of whatever party, who is not known to be opposed to the disturbance of the sentiment aforesaid, and to the renewal, in any form, of agitation upon the subject of slavery hereafter.

Henry Clay of Ky.,	*Howell Cobb* of Geo.,
C. S. Morehead of Ky.,	*H. S. Foote* of Miss.,
Robert L. Rose, of N. Y.,	William Duer of N.,
William C. Dawson of Geo.,	James Brooks of N. Y.,
Thomas J. Rusk of Texas,	A. H. Stephens of Geo.,
Jeremiah Clemens of Ala.,	R. Toombs of Geo.,
James Cooper of Pa.,	M. P. Gentry of Tenn.,
Thomas G. Pratt of Md.,	H. W. Hilliard of Ala.,
William M. Gwinn of Cal.,	F. E. McLean of Ky.,
Samuel A. Elliott of Mass.,	A. G. Watkins of Tenn.,
David Outlaw of N. C.,	H. A. Bullard of La.,
C. H. Williams of Tenn.,	T. S. Haymond of Va.,
J. Philips Phœnix of N. Y.,	A. H. Sheppard of N. C.,
A. U. Schermerhorn of N. Y.,	Edmund Deberry of N. C.,
John R. Thurman of N. Y.,	H. Marshall of Ky.,
D. A. Bokee of N. Y.,	Daniel Breck of Ky.,
George R. Andrews of N. Y.,	James L. Johnson of Ky.,
W. P. Mangum of N. C.,	J. B. Thompson of Ky.,
Jeremiah Morton of Va.,	J. M. Anderson of Tenn.,
R. I. Bowie of Md.,	John B. Kerr of N. C.,
E. C. Cabell of Fla.,	J. P. Caldwell of N. C.,
Alexander Evans of Md.,	Allen F. Owen of Geo.

Those in italics Democrats; those in roman Whigs.

Declaration of Independence.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; and that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments, long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of the colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operations till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose, obstructing the laws of naturalization of foreigners, refusing to pass others to encourage their migration thither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws: giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefit of trial by jury:

For transporting us beyond seas, to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms. Our repeated petitions have been answered only by repeated injuries. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of the attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war, in peace, friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do. And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:—

JOHN HANCOCK.

NEW HAMPSHIRE.
Josiah Bartlett,
William Whipple,
Matthew Thornton.

MASSACHUSETTS BAY.
Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

RHODE ISLAND.
Stephen Hopkins,
William Ellery.

CONNECTICUT.
Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

NEW YORK.
William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

NEW JERSEY.
Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

PENNSYLVANIA.
Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilson,
George Ross.

DELAWARE.
Cæsar Rodney,
George Read,
Thomas M'Kean.

MARYLAND.
Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carrollton.

VIRGINIA.
George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, Jr.,
Francis Lightfoot Lee,
Carter Braxton.

NORTH CAROLINA.
William Hooper,
Joseph Hewes,
John Penn.

SOUTH CAROLINA.
Edward Rutledge,
Thomas Heyward, Jr.,
Thomas Lynch, Jr.,
Arthur Middleton.

GEORGIA.
Button Gwinnett,
Lyman Hall,
George Walton.

Democratic Caucus, 34th Congress.

Resolutions of.—See Letter of Samuel Carutuers.

Democratic Platforms.

The following platform, adopted by the Cincinnati Convention of 1856, contains, besides the position of the Democratic party upon new issues, the material portions of all its previous platforms; which renders a repetition of them useless.

Resolved, That the American Democracy place their trust in the intelligence, the patriotism, and the discriminating justice of the American people.

Resolved, That we regard this as a distinctive feature of our political creed, which we are proud to maintain before the world, as the great moral element in a form of government springing from and upheld by the popular will; and we contrast it with the creed and practice of Federalism, under whatever name or form, which seeks to palsy the will of the constituent, and which conceives no imposture too monstrous for the popular credulity.

Resolved, therefore, That, entertaining these views, the Democratic party of this Union, through their delegates assembled in a general Convention, coming together in a spirit of concord, of devotion to the doctrines and faith of a free representative government, and appealing to their fellow citizens for the rectitude of their intentions, renew and re-assert before the American people, the declarations of principles avowed by them when, on former occasions in general Convention, they have presented their candidates for the popular suffrages.

1. That the federal government is one of limited power, derived solely from the Constitution; and the grants of power made therein ought to be strictly construed by all the departments and agents of the government; and that it is inexpedient and dangerous to exercise doubtful constitutional powers.

2. That the Constitution does not confer upon the general government the power to commence and carry on a general system of internal improvements.

3. That the Constitution does not confer authority upon the federal government, directly or indirectly, to assume the debts of the several states, contracted for local and internal improvements, or other state purposes; nor would such assumption be just or expedient.

4. That justice and sound policy forbid the federal government to foster one branch of industry to the detriment of any other, or to cherish the interests of one portion to the injury of another portion of our common country; that every citizen and every section of the country has a right to demand and insist upon an equality of rights and privileges, and to complete an ample protection of persons and property from domestic violence or foreign aggression.

5. That it is the duty of every branch of the government to enforce and practise the most rigid economy in conducting our public affairs, and that no more revenue ought to be raised than is required to defray the necessary expenses of the government, and for the gradual, but certain extinction of the public debt.

6. That the proceeds of the public lands ought to be sacredly applied to the national objects specified in the Constitution; and that we are opposed to any law for the distribution of such proceeds among the states, as alike inexpedient in policy and repugnant to the Constitution.

7. That Congress has no power to charter a national bank; that we believe such an institution one of deadly hostility to the best interests of the country, dangerous to our republican institutions and the liberties of the people, and calculated to place the business of the country within the control of a concentrated money power, and above the laws and the will of the people; and that the results of Democratic legislation in this and all other financial measures upon which issues have been made between the two political parties of the country, have demonstrated to candid and practical men of all parties, their soundness, safety, and utility, in all business pursuits.

8. That the separation of the moneys of the government from banking institutions is indispensable for the safety of the funds of the government, and the rights of the people.

9. That we are decidedly opposed to taking from the President the qualified veto power, by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interests, to suspend the passage of a bill whose merits cannot secure the approval of two-thirds of the Senate and House of Representatives, until the judgment of the people can be obtained thereon, and which has saved the American people from the corrupt and tyrannical domination of the Bank of the United States, and from a corrupting system of general internal improvements.

10. That the liberal principles embodied by Jefferson in the Declaration of Independence, and sanctioned in the Constitution, which makes ours the land of liberty, and the asylum of the oppressed of every nation, have ever been cardinal principles in the Democratic faith, and every attempt to abridge the privilege of becoming citizens and the owners of soil among us, ought to be resisted with the same spirit which swept the alien and sedition laws from our statute books.

And, Whereas, Since the foregoing declaration was uniformly adopted by our predecessors in National Conventions, an adverse political and religious test has been secretly organized by a party claiming to be exclusively American, it is proper that the American Democracy should clearly define its relation thereto, and declare its determined opposition

to all secret political societies, by whatever name they may be called.

Resolved, That the foundation of this union of states having been laid in, and its prosperity, expansion, and pre-eminent example in free government built upon entire freedom in matters of religious concernment, and no respect of person in regard to rank or place of birth; no party can justly be deemed national, constitutional, or in accordance with American principles, which bases its exclusive organization upon religious opinions and accidental birth-place. And hence a political crusade in the nineteenth century, and in the United States of America, against Catholic and foreign-born, is neither justified by the past history or the future prospects of the country, nor in unison with the spirit of toleration and enlarged freedom which peculiarly distinguishes the American system of popular government.

Resolved, That we reiterate with renewed energy of purpose, the well considered declarations of former Conventions upon the sectional issue of domestic slavery, and concerning the reserved rights of the states.

1. That Congress has no power under the Constitution, to interfere with or control the domestic institutions of the several states, and that such states are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the Constitution; that all efforts of the abolitionists, or others, made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.

2. That the foregoing proposition covers, and was intended to embrace, the whole subject of slavery agitation in Congress; and therefore, the Democratic party of the Union, standing on this national platform, will abide by and adhere to a faithful execution of the acts known as the Compromise Measures, settled by the Congress of 1850; "the act for reclaiming fugitives from service or labor," included; which act being designed to carry out an express provision of the Constitution, cannot, with fidelity thereto, be repealed, or so changed as to destroy or impair its efficiency.

3. That the Democratic party will resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question under whatever shape or color the attempt may be made.

4. That the Democratic party will faithfully abide by and uphold the principles laid down in the Kentucky and Virginia resolutions of 1798, and in the report of Mr. Madison to the Virginia legislature, in 1799; that it adopts those principles as constituting one of the main foundations of its political creed, and is resolved to carry them out in their obvious meaning and import.

And that we may more distinctly meet the issue on which a sectional party, subsisting exclusively on slavery agitation, now relies to test the fidelity of the people, north and south, to the Constitution and the Union—

1. Resolved, That claiming fellowship with, and desiring the co-operation of, all who regard the preservation of the Union under the Constitution as the paramount issue—and repudiating all sectional parties and platforms concerning domestic slavery, which seek to embroil the states and incite to treason and armed resistance to law in the territories; and whose avowed purposes, if consummated, must end in civil war and disunion; the American Democracy recognise and adopt the principles contained in the organic laws establishing the territories of Kansas and Nebraska as embodying the only sound and safe solution of the "slavery question" upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—Non-interference by Congress with slavery in state and territory, or in the District of Columbia.

2. That this was the basis of the compromises of 1850—confirmed by both the Democratic and Whig parties in national Conventions—ratified by the people in the election of 1852—and rightly applied to the organization of territories in 1854.

3. That by the uniform application of this Democratic principle to the organization of territories, and to the admission of new states, with or without domestic slavery, as they may elect—the equal rights of all the states will be preserved intact—the original compacts of the Constitution maintained inviolate—and the perpetuity and expansion of this Union insured to its utmost capacity of embracing, in peace and harmony, every future American state that may be constituted or annexed, with a republican form of government.

Resolved, That we recognise the right of the people of all the territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a Constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other states.

Resolved, finally, That in the view of the condition of popular institutions in the Old World (and the dangerous tendencies of sectional agitation, combined with the attempt to enforce civil and religious disabilities against the rights of acquiring and enjoying citizenship, in our own land), a high and sacred duty is devolved with increased responsibility upon the Democratic party of this country, as the party of the Union, to uphold and maintain the rights of every state, and thereby the union of the states; and to sustain and advance among us constitutional liberty, by continuing to resist all monopolies and exclusive

legislation for the benefit of the few at the expense of the many, and by a vigilant and constant adherence to those principles and compromises of the Constitution, which are broad enough and strong enough to embrace and uphold the Union as it was, the Union as it is, and the Union as it shall be, in the full expansion of the energies and capacity of this great and progressive people.

1. Resolved, That there are questions connected with the foreign policy of this country, which are inferior to no domestic question whatever. The time has come for the people of the United States to declare themselves in favor of free seas and progressive free trade throughout the world, and, by solemn manifestations, to place their moral influence at the side of their successful example.

2. Resolved, That our geographical and political position with reference to the other states of this continent, no less than the interest of our commerce and the development of our growing power, requires that we should hold as sacred the principles involved in the Monroe doctrine: their bearing and import admit of no misconstruction; they should be applied with unbending rigidity.

3. Resolved, That the great highway which nature, as well as the assent of the states most immediately interested in its maintenance, has marked out for a free communication between the Atlantic and the Pacific Oceans, constitutes one of the most important achievements realized by the spirit of modern times and the unconquerable energy of our people. That result should be secured by a timely and efficient exertion of the control which we have the right to claim over it, and no power on earth should be suffered to impede or clog its progress by any interference with the relations it may suit our policy to establish between our governments and the governments of the states within whose dominions it lies. We can, under no circumstance, surrender our preponderance in the adjustment of all questions arising out of it.

4. Resolved, That in view of so commanding an interest, the people of the United States cannot but sympathize with the efforts which are being made by the people of Central America to regenerate that portion of the continent which covers the passage across the Interoceanic Isthmus.

5. Resolved, That the Democratic party will expect of the next administration that every proper effort be made to insure our ascendancy in the Gulf of Mexico, and to maintain a permanent protection to the great outlets through which are emptied into its waters the products raised out of the soil, and the commodities created by the industry of the people of our Western valleys, and of the union at large.

6. Resolved, That the administration of Franklin Pierce has been true to the great interests of the country. In the face of the most determined opposition it has maintained the laws, enforced economy, fostered progress, and infused integrity and vigor into every department of the government at home. It has signally improved our treaty relations, extended the field of commercial enterprise, and vindicated the rights of American citizens abroad. It has asserted with eminent impartiality the just claims of every section, and has at all times been faithful to the Constitution. We therefore proclaim our unqualified approbation of its measures and its policy.

7. Resolved, That the Democratic party recognises the great importance, in a political and commercial point of view, of a safe and speedy communication through our own territory between the Atlantic and Pacific coasts of the Union, and that it is the duty of the federal government to exercise all its constitutional power to the attainment of that object, thereby binding the Union of these states in indissoluble bonds, and opening to the rich commerce of Asia an overland transit from the Pacific to the Mississippi river, and the great lakes of the North.

Deposite Bill.

Copy of that part of Act of June 23, 1836, providing for a deposite of the surplus revenue with the states.

Be it enacted, That the money which shall be in the Treasury of the United States on the first day of January, 1837 (reserving the sum of five millions of dollars), shall be deposited with such of the several states, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall, by law, authorize their treasurers or other competent authorities, to receive the same, on the terms hereinafter specified; and the Secretary of the Treasury shall deliver the same to such treasurers or other competent authorities, on receiving certificates of deposit therefor, signed by such competent authorities, in such form as may be prescribed by the Secretary aforesaid, which certificates shall express the usual and legal obligations, and pledge the faith of the states for the safekeeping and repayment thereof, and shall pledge the faith of the states receiving the same to pay the said moneys, and every part thereof, from time to time, whenever the same shall be required by the Secretary of the Treasury, for the purpose of defraying any wants of the public treasury, beyond the amount of the five millions aforesaid: Provided, That if any state declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other states agreeing to accept the same on deposit in the proportion aforesaid: And provided further, That when said money, or any part thereof, shall be wanted by the said Secretary, to meet appropriations by law, the same shall be called for, in rateable proportion, within one year, as nearly as conveniently may be, from the different states with which the same is deposited, and shall not be called for in sums exceeding ten thousand dollars from any one state in any one month, without previous notice of thirty days for every additional sum of twenty thousand dollars, which may at any time be required.

On the 16th of June, 1836, the bill containing this provision, which was originated by Mr. Calhoun, being before the Senate, Mr. Black of Miss. moved to strike out the part above quoted.

The motion was rejected by yeas and nays as follows:—

Yeas.—Messrs. Benton of Mo., Black of Miss., Cuthbert of Ga., Grundy of Tenn., Niles of Conn., Walker of Miss., Wright of N. Y.—7.

Nays.—Messrs. Buchanan of Pa., Calhoun of S. C., Clay and Crittenden of Ky., Davis of Mass., Ewing of O., Ewing of Ill., Goldsborough of Md., Hendricks of Ind., Hubbard of N. H., Kent of Md., King of Ala., King of Ga., Knight of R. I., Leigh of Va., Linn of Mo., McKean of Pa., Mangum of N. C., Moore of Ala., Morris of O., Naudain of Del., Nicholas of La., Page of N. H., Porter of La., Prentiss of Vt., Preston of S. C., Rives of Va., Robbins of R. I., Robinson of Ill., Ruggles of Me., Shepley of Me., Southard of N. J.,

Swift of Vt., Talmadge of N. Y., Tipton of Ind., Tomlinson of Conn., Wall of N. J., Webster of Mass., White of Tenn. —39.

On the 18th of June, 1836, the vote was taken on the final passage of the bill—it was carried by yeas and nays as follows:

The yeas were the same as the negative vote last recorded, with the exception of Mr. Naudain of Del., and the addition of Mr. Niles of Conn.

The nays were the same as the affirmative vote last recorded, with the exception of Mr. Niles of Conn.

The House passed the bill on the 22d of June, 1836, by yeas and nays as follows:—

YEAS.—Messrs. John Quincy Adams, Allan of Ky., Allen of Vt., Anthony of Pa., Ashley of Mo., Bailey of Me., Bell of Tenn., Bookee of N. Y., Bond of O., Boon of Ind., Borden of Mass., Bovee of N. Y., Boyd of Ky., Briggs of Mass., Bunch of Tenn., Bynum of N. C., Calhoon of Ky., Calhoun of Mass., Carr of Ind., Carter of Tenn., Casey of Ill., Chambers of Pa., Chaney of O., Chapman of Ala., Chapin of N. Y., Childs of N. Y., Claiborne of Va., Clark of Pa., Cleveland of Ga., Conner of N. C., Corwin of O., Craig of Va., Cramer of N. Y., Crane of O., Cushing of Mass., Darlington of Pa., Deberry of N. C., Denny of Pa., Dickerson of N. J., Doubleday of N. Y., Evans of Me., Everett of Vt., Forester of Tenn., Fowler of N. J., French of Ky., Fry of Pa., Fuller of N. Y., Galbraith of Pa., Garland of Va., Garland of La., Granger of N. Y., Grantland of Ga., Graves of Ky., Grayson of S. C., Grennell of Mass., Griffin of S. C., Haley of Conn., Hannegan of Ind., Hard of N. Y., Hardin of Ill., Harlan of Ky., Harrison of Pa., Harrison of Mo., Hawes of Ky., Hawkins of N. C., Hazletine of N. Y., Henderson of Pa., Heister of Pa., Hoar of Mass., Hopkins of Va., Howard of Md., Howell of O., Hubley of Pa., Hunt of N. Y., Huntsman of Tenn., Ingersoll of Pa., Ingham of Conn., Jackson of Mass., Jackson of Ga., Janes of Vt., Jenifer of Md., Johnson of Va., Jones of Va., Jones of O., Judson of Conn., Kilgore of O., Kinnard of Ind., Lane of Ind., Laporte of Pa., Lawler of Ala., Lawrence of Mass., Lay of N. Y., Lee of N. J., Lea of Tenn., Leonard of N. Y., Lewis, Lincoln of Mass., Logan of Pa., Love of N. Y., Lyon of Ala., Mann of Pa., Martin of Ala., Mason of Me., Mason of O., May of Ill., McCarty of Ind., McComas of Va., McKennan of Pa., Mercer of Va., Milligan of Del., Miller of Pa., Montgomery of N. C., Morgan of Va., Morris of Pa., Muhlenberg of Pa., Parker of N. J., Patterson of O., Patten of Va., Pearce of R. I., Pearce of Md., Pettigrew of N. C., Peyton of Tenn., Phelps of Conn., Phillips of Mass., Pickens of S. C., Potts of Pa., Reed of Mass., Rencher of N. C., Reynolds of N. Y., Ripley of La., Robertson of Va., Russell of N. Y., Shepperd of N. C., Shields of Tenn., Shinn of N. J., Slade of Vt., Smith of Me., Spangler of O., Speight of N. C., Standifer of Tenn., Storer of O., Sutherland of Pa., Taliaferro of Va., Thomson of S. C., Toucey of Conn., Underwood of Ky., Vinton of O., Wagener of Pa., Washington of Md., Webster of O., White of Ky., Whittlesey of Conn., Whittlesey of O., Williams of N. C., Williams of Ky.—155.

NAYS.—Messrs. Ash of Pa., Beale of Va., Bean of N. H., Beaumont of Pa., Brown of N. Y., Burns of N. H., Claiborne of Miss., Coles of Va., Cushman of N. H., Dromgoole of Va., Fairfield of Me., Fuller of N. Y., Gillett of N. Y., Hall of Me., Hamer of O., Jarvis of Me., Johnson of Ky., Lansing of N. Y., G. Lee of N. Y., Loyall of Va., Mann of N. Y., Mason of Va., McKay of N. C., McKean of N. Y., McKim of Md., Parke of Me., Pierce of N. H., Pinckney of S. C., Roane of Va., Rogers of S. C., Sickles of N. Y., Taylor of N. Y., Thomas of Md., Turrill of N. Y., Vanderpoel of N. Y., Ward of N. Y., Wardwell of N. Y., Wise of Va.—38.

Extract from speech of Mr. Benton on the Deposite Bill, June 17, 1836:—

Mr. Benton said—The bad consequences of this distribution of money to the states are palpable and frightful. It is complicating the federal and state systems, and multiplying their points of contact and hazards of collision. Take it as ostensibly presented, that of a deposite, or loan, to be repaid at some future time; then it is establishing the relation of debtor and creditor between them; a relation critical between friends, embarrassing between a state and its citizens, and eminently dangerous between confederate states and their common head. It is a relation always deprecated in our federal system. The land credit system was abolished by Congress fifteen years ago, to get rid of the relation of debtor and creditor between the federal government and the citizens of the states; and seven or eight millions of debt, principal and interest, was then surrendered. The collection of a large debt from numerous individual debtors was found to be almost impossible. How much worse if the state itself becomes the debtor! and more, if all the states become indebted together! An attempt to collect the debt would be attended, first, with ill blood, then with cancellation. It must be the representatives of the states who are to enforce the collection of the debt. This they would not do. They would stand together against creditor. No member of Congress would vote to tax his state to raise money for the general purposes of the confederacy. No one could vote an appropriation which was to become a charge on his own state treasury. Taxation would first be resorted to, and the tariff and the public lands would become the fountain of supply to the federal government.

Taken as a real transaction, as a deposite with the states, or a loan to the states, as this measure professes to be, and it is fraught with consequences adverse to the harmony of the federal system, and fraught with new burdens upon the customs and upon the lands; taken as a fiction to avoid the Constitution, as a John Doe and Richard Roe invention to convey a gift under the name of a deposite, and to effect a distribution under the disguise of a loan, and it is an artifice which makes derision of the Constitution, lets down the Senate from its lofty station, and provides a facile way for doing anything that any Congress may choose to do in all time to come. It is only to depose one word and instal another—it is merely to change a name—and the frowning Constitution immediately smiles on the late forbidden attempt.

To the federal government the consequences of these distributions must be deplorable and destructive. It must be remitted to the helpless condition of the old confederacy, depending for its supplies upon the voluntary contributions of the states. Worse than depending on the voluntary contributions, it will be left to the gratuitous leavings, to the eleemosynary crumbs which remain upon the table after the feast of the states is over. God grant they may not prove to be the feasts of the Lapithæ and Centaurs! But the states will be served first; and what remains may go to the objects of common defence and national concern for which the confederacy was framed, and for which the power of raising money was confided to Congress. The distribution bills will be passed first, and the appropriation bills afterwards; and every appropriation will be cut down to the lowest point and kept off to the last moment. To stave off as long as possible, to reduce as low

as possible, to defeat whenever possible, will be the tactics of federal legislation; and when at last some object of national expenditure has miraculously run the gauntlet of all these assaults, and escaped the perils of these multiplied dangers, behold the enemy still ahead, and the recapture which awaits the devoted appropriation in the shape of unexpended balances, on the first day of January then next ensuing.

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Extract from the speech of Mr. Buchanan in the Senate, June 17, 1836:—

"What, then, is the true nature of the measure now before the Senate? It is a deposite with the states in form, and a deposite in effect. It is no distribution—no gift of the public money. The bill requires the states receiving the money to deliver to the Secretary of the Treasury certificates of deposit for such amounts, and in such form as he may prescribe—payable to the United States or their assigns; and, without any direction from Congress, he is authorized to sell and assign these certificates, rateably, in proportion to the sums received, and thus convert them into money whenever it shall become necessary for the payment of any of the appropriations made by Congress. How any constitutional objection can arise to this disposition of the public money, I am utterly at a loss to conceive. In order to maintain such an objection, gentlemen must establish the position that Congress do not possess the power of depositing the public money where they think proper. This would, indeed, be a Herculean task.

"This bill provides merely for a deposit of the public money with the states; not for a donation of it to them. In its terms and in its spirit, it proposes nothing more than to make the state treasuries the depositories of a portion of the public money, instead of the deposite banks. If the states should derive incidental advantages from the use of this money, without interest, the deposite banks have heretofore used it, and, under the provisions of this bill will continue to use it, upon the very same terms, to the extent of one-fourth of their capitals. Surely no Senator upon this floor can complain of the benefits which may be conferred upon the states by the adoption of this measure."

—

Extract from the speech of Mr. Calhoun, May 27, 1836:—

"But the plan proposed is supported by its justice, as well as these high considerations of political expediency. The surplus money in the treasury is not ours. It properly belongs to those who made it, from whom it has been unjustly taken. I hold it an unquestionable principle that the government has no right to take a cent from the people beyond what is necessary to meet its legitimate and constitutional wants. To take more intentionally would be robbery; and if the government has not incurred the guilt in the present case, its exemption can only be found in its folly—the folly of not seeing and guarding against a vast excess of revenue, which the most ordinary understanding ought to have foreseen and prevented. If it were in our power—if we could ascertain from whom the vast amount now in the treasury was improperly taken, justice would demand that it should be returned to its lawful owners. But, as that is impossible, the measure next best, as approaching nearest to restitution, is that which is proposed, to deposit it in the treasuries of the several states, which will place it under the disposition of the immediate representatives of the people, to be used by them as they may think fit, till the wants of the government may require its return."

—

Mr. Calhoun, six years afterwards, in January, 1841, made the following reference to the deposite bill of 1836:—

"I regarded it then, and still do, as simply a deposite. But while I regarded it as a deposite, I did then and now do believe that it should never be withdrawn but in the event of war, when it would be found a valuable resource. The surplus was not lawfully collected. Congress had no right to take a cent from the people but for the just and constitutional wants of the country. To take more, or for other purposes, is neither more nor less than robbing—more criminal for being perpetrated by a trustee appointed to guard their interest. It, in fact, belonged to those from whom it was unjustly plundered; and if the individual and the share of each could have been ascertained, it ought, upon every principle of justice, to have been returned to them. But as that was impossible, the nearest practicable approach to justice was to return it proportionately to the states as a deposit till wanted for the use of the people from whom it was unjustly taken, instead of leaving it with the banks for the benefit of speculators and stock-jobbers. So far from this (being distribution), the deposite act, whether viewed in the causes which led to it, or its object and effects, stands in direct contrast with it."

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Extract from a speech of Mr. Walker of Mississippi, May 30, 1836:—

Mr. Walker said he had other objections to this bill. It was a dangerous and untried experiment. It would greatly complicate and embarrass the relations between the states and the general government. It would make all the states debtors of the general government, and create a new and strong pecuniary interest in favor of a dissolution of the Union, as a means of absolving themselves from the heavy debts they may incur to the general government under this law. The relation of debtor and creditor was not generally one of long-continued friendship. It was an old, but true remark, if you wish to make a friend your enemy, loan him money beyond his means of convenient payment. It is admitted

that the states will expend this money, and when we call upon them for payment, will it be made? Suppose a minority of states refuse payment, or that a single state refuses, how will we collect the money? A suit is impracticable. Will we then collect it by force, or leave it uncollected, to the injury of all the states that make payment? But if the general government must loan the money, and the states must make good the loan, how will they do it? Will the state legislatures dare to impose a direct tax upon the people of each state to refund these uncounted millions? No, they will instruct their representatives in Congress to collect the money required by the general government by increasing the tariff and the price of the public lands. If the loan be not a gift in disguise, an increase of the tariff and the price of the public lands is the inevitable result of this measure. If it be a gift in disguise, it is a distribution of the surplus revenue, which the Senator from South Carolina [Mr. Calhoun] has denounced as a gross violation of the Constitution.

—

The effect upon the deposite banks of the delivery of the first and second instalments to the states, draining, as it did, from them so many millions each quarter, was such as to force them to close their doors.

The first instalment, says Col. Benton, in his Thirty Years' View, was paid to the states in specie, or its equivalent; the second also in valid money, the third one was accepted in depreciated paper, and the fourth they were very willing to take in the same way.

Before the payment of the fourth instalment, the federal government needed the money itself, even more than the amount already deposited.

To remedy the difficulty a bill was reported to the Senate to postpone the payment of the fourth instalment of the deposite.

The Finance Committee brought in a bill to repeal the obligation to deposit that instalment.

This bill was opposed by Messrs. McDuffie and Crittenden, on the ground that the states had anticipated the fourth instalment by contracts for public works, and that they would suffer more from not receiving it than the federal treasury otherwise would from supplying its place.

Other Senators, says Col. Benton, treated the deposit act as a contract which the United States was bound to comply with, by delivering all the instalments.

In the progress of the bill, Mr. Buchanan proposed an amendment to release the Secretary from the duty of calling upon the states for a return of the deposit when needed by the federal treasury, and to enact that the instalments already delivered should remain in deposite with the states until called for by Congress.

Mr. Niles of Conn., opposing the amendment of Mr. Buchanan, remarked:—

"He must ask for the yeas and nays on the amendment, and was sorry it had been offered. If it was to be fully considered, it would renew the debate on the deposite act, as it went to change the essential principles and terms of that act. A majority of those who voted for that act, about which there had been so much said, and so much misrepresentation, had professed to regard it—and he could not doubt that at the time they did so regard it—as simply a deposit law; as merely changing the place of deposite from the banks to the states, so far as related to the surplus. The money was still to be in the treasury, and liable to be drawn out, with certain limitations and restrictions, by the ordinary appropriation laws, without the direct action of Congress. The amendment, if adopted, will change the principles of the deposite act, and the condition of the money deposited with the states under it. It will no longer be a deposite; it will not be in the treasury, even in point of legal effect or form: the deposite will be changed to a loan, or, perhaps more properly, a grant to the states. The rights of the United States will be changed to a mere claim, like that against the late Bank of the United States; and a claim without any means to enforce it. We were charged, at the time, with making a distribution of the public revenue to the states, in the disguise and form of a deposite; and this amendment, it appeared to him, would be a very bold step towards confirming the truth of that charge. He deemed the amendment an important one, and highly objectionable; but he saw that the Senate were prepared to adopt it, and he would not pursue the discussion, but content himself with repeating his request for the yeas and nays on the question."

The proposition of Mr. Buchanan was carried by yeas and nays as follows:—

Yeas.—Messrs. Allen of O., Bayard of Del., Black of Miss., Brown of N. C., Buchanan of Pa., Calhoun of S. C., Clayton of Del., Crittenden of Ky., Fulton of Arks., Grundy of Tenn., Kent of Md., King of Ala., King of Geo., Knight of R. I., Linn of Mo., Lyon of Mich., Morris of O., Nicholas of La., Norvell of Mich., Preston of S. C., Robbins of R. I., Robinson of Ill., Sevier of Arks., Smith of Ind., Southard of N. J., Strange of N. C., Swift of Vt., Tallmadge of N. Y., Wall of N. J., Webster of Mass., White of Tenn., Williams of Me., and Young of Ill.—33.

Nays.—Messrs. Benton of Mo., Clay of Ala., Hubbard of N. H., Niles of Conn., Pierce of N. H., Rives of Va., Roane of Va., Ruggles of Me., Smith of Conn., Tipton of Ind., Walker of Miss., and Wright of N. Y.—12.

In the House the bill was carried by a vote of 119 to 117.

Mr. Pickens of S. C. moved to reconsider the vote by which the bill passed.

He then moved to amend the bill so as to postpone the payment of the fourth instalment of the deposite, until the 1st day of January, 1839.

This amendment was adopted by yeas and nays as follows:—

Yeas.—Messrs. Heman Allen of Vt., Jno. W. Allen of O., Anderson of Me., Andrews, Atherton of N. H., Beatty of Pa., Bicknell of N. Y., Borden of Mass., Briggs of Mass., Bronson of N. Y., Bruyn of N. Y., Buchanan of Pa., Wm. B. Calhoun of Mass., Jno. Calhoon of Ky., Cambreleng of N. Y., Wm. B. Campbell of Tenn., Jno. Campbell of S. C., Timothy J. Carter of Me., Wm. B. Carter of Tenn., Casey of

Ell., Chancy of O., Cheatham of Tenn., Cilley of Me., Claiborne of Miss., Clark of N. Y., Cleveland of Geo., Clowney of S. C., Connor of N. C.. Corwin of O., Craig of Va., Crockett of Tenn., Cushman of Mass., Davee of Me., Deberry of N. C., Degraff of N. Y., Duncan of O., Elmore of S. C., Fairfield of Me., Foster of N. Y., Gallup of N. Y., Rice Garland of La., Gholson of Miss., Glascock of Geo., Grantland of Geo., Grant of N. Y., Gray of N. Y., Griffin of S. C., Hall of Vt., Hammond of Pa., Hamer of O., Hastings of Mass., Hawkins of N. C., Henry of Pa., Herod of Ind., Holsey of Geo., Howard of Md., Robt. M. T. Hunter of Va., Ingham of Conn., Jabez Jackson of Geo., Jenifer of Md., Henry Johnson of La., James Johnson of Va., Nathaniel Jones of N. Y., Jno. W. Jones of Va., Kilgore of O., Legare of S. C., Leadbetter of O., Lewis of Ala., Logan of Pa., Andrew W. Loomis of N. Y., Lyon of Ala., Martin of Ala., Maury of Tenn., Maxwell of N. J., Robt. McClellan of N. Y., McClure of Pa., McKim of Md., Menefee of Ky., Montgomery of N. C., Morgan of Va., Matthias Morris of Pa., Samuel W. Morris of Pa., Murray, Naylor of Pa., Noble of N. Y., Owens of Geo., Palmer of N. Y., Parker of N. Y.. Parmeter of Mass., Petriken of Pa., Phelps of Conn., Pickens of S. C., Plumer of Pa., Pope of Ky., Potts of Pa., Potter of Pa., Pratt of N. Y., Prentiss of N. Y., Rariden of Ind., Randolph of N. J., Rhett of S. C., Richardson of S. C., Ridgway of Ohio, Rumsey of Ky., Russell of N. Y., Sawyer of N. C., Sergeant of Pa., Sheffer of Pa., Agustine H. Shepherd of N. C., Chas. Sheppard of N. C., Shipler of O., Slade of Vt., Smith of Me., Spencer of N. Y., Taylor of N. Y., Thomas of Md., Thompson of S. C., Titus of N. Y., Towns of Geo., Vail of N. Y., Vanderveer of N. Y., Wagner of Pa., Webster of O., Weeks of N. H., Albert S. White of Ind., Elisha Whittlesey of O., Thos. T. Whittlesey of Conn., Sherrod Williams of Ky., Worthington of Md., Yell of Arks.—131.

Nays.—Messrs. Adams of Mass., Ayerigg of N. J., Bieme of Va., Bell of Tenn., Biddle of Pa., Birdsall of N. Y., Bond of O., Bouldin of Va., Brodhead of N. Y., Chambers of Ky., Chapman of Ala., Childs of N. Y., Coles of Va., Crary of Mich., Cranston of R. I., Curtis of N. Y., Cushing of Mass., Darlington of Pa., Dawson of Ga., Davies of Pa., Dennis of Md., Dromgoole of Va., Dunn of Ind., Edwards of N. Y., Evans of Me., Everett of Vt., Ewing of Ind., Farrington of N. H., Richard Fletcher of Vt., Fillmore of N. Y., Fry of Pa., Goode of O., Jas. Graham of N. C., Wm. Graham of Ind., Graves of Ky., Grennell of Mass., Haley of Conn., Halstead of N. J., Harlan of Ky., Harrison of Mo., Harper of O., Hawes of Ky., Haynes of Ga., Hoffman of N. Y., Holt of Conn., Hubley of Me., Wm. H. Hunter of O., Thos. B. Jackson of N. Y., Wm. Cost. Johnson of Md., Kemble of N. Y., Klingensmith of Pa., Lincoln of Mass., Arphaxed Loomis of N. Y., Mallory of Va., Marvin of N. Y., Jas. M. Mason of Va., Samson Mason of O., McKay of N. C., Abraham McClellan of Tenn., McKennan of Pa., Mercer of Va., Milligan of Del., Miller of Mo., Moore of N. Y., Calvary Morris of O., Muhlenberg of Pa., Noyes of Me., Ogle of Pa., Patterson of N. Y., Paynter of Pa., Pearce of Md., Peck of N. Y., Pennybacker of Va., Phillips of Mass., Reed of Mass., Reiley of Pa., Rencher of N. C., Rives of Va., Robertson of Va., Shields of Tenn., Southgate of Ky., Stanby of N. C., Stuart, Taliaferro of Va., Tillinghast of R. I., Sibley of N. Y., Snyder of Ill., Toland of Pa., Toucey of Conn., Turney of Tenn., Underwood of Ky., John White of Ky., Lewis Williams of N. C., Jared W. Williams of N. H., Joseph L. Williams of Tenn., Christopher H. Williams of Tenn., Wise of Va., Yorke of N. J.—90.

Col. Benton says: "The three instalments already delivered were not to be recalled until Congress should so order, and it was quite certain it would never so order. At the same time the nominal discretion of Congress over the deposite of the remainder was denied, and the duty of the Secretary made peremptory to deliver it in the brief space of one year and a quarter from that time. But events frustrated that order. The treasury was in no condition on the 1st day of January, 1839, to deliver that amount of money. It was penniless itself. The compromise act of 1833, making periodical reductions in the tariff, until the whole duty was reduced to an ad valorem of twenty per cent., had nearly run its course, and left the treasury in the condition of a borrower instead of that of a donor or lender of money. The fourth instalment could not be delivered at the time appointed, nor subsequently, and was finally relinquished: the states retaining the amount they had received.

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At the third session of the 34th Congress, Mr. Campbell of O., from the Committee of Ways and Means, reported the following bill:—

A bill to provide for the deposite of the surplus in the Treasury of the United States with the several states.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the money which shall be in the Treasury of the United States on the first day of July, 1857, reserving the sum of $2,000,000, shall be deposited with such of the several states, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall by law authorize their treasurers or other competent authorities to receive the same on the terms hereinafter specified; and the Secretary of the Treasury shall deliver the same to such treasurers or other competent authorities on receiving certificates of deposite therefor, signed by such competent authorities, in such form as may be prescribed by the Secretary aforesaid; which certificates shall express the usual and legal obligations and pledge the faith of the state for the safe-keeping and repayment thereof, and shall pledge the faith of the states receiving the same to pay the said moneys and every part thereof, from time to time, whenever the same shall be required by the Secretary of the Treasury for the purpose of defraying any wants of the public Treasury beyond the amount of the two millions aforesaid: Provided, That if any state declines to receive its proportion of the surplus aforesaid on the terms before named, the same shall be deposited with the other states agreeing to accept the same on deposite in the proportion aforesaid: And provided further, That when said money, or any part thereof, shall be wanted by the said Secretary to meet appropriations by law, the same shall be called for, in rateable proportions, within one year, as nearly as conveniently may be, from the different states with which the same is deposited, and shall not be called for in sums exceeding $10,000 from any one state, in any one month, without previous notice of thirty days for every additional sum of $20,000 which may at any time be required.

Sec. 2. And be it further enacted, That the said deposites shall be made with the said states in the following proportions and at the following terms, to wit: one half part on the first day of July, 1857, and one-half part on the first day of October, 1857.

Mr. Orr called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 119, nays 79; as follows:—

Yeas.—Messrs. Akers, Albright, Allison, Ball, Henry Bennett, Benson, Bingham, Bishop, *Bocock*, *Bowie*, Bradshaw, *Branch*, Brenton, Broom, Burlingame, James H. Campbell, John P. Campbell, Lewis D. Campbell, *Cuskic*, Ezra Clark, Clawson, *Clingman*, Colfax, Covode, Cox, Cragin, *Craige*, Cullen, Cumback, Henry Winter Davis, Timothy Davis, Dean, Dick, Dickson, Dodd, Dunn, Durfee, Edie, *Faulkner*, Flagler, Henry M. Fuller, Galloway, Harlan, J. Morrison Harris, Harrison, Haven, Hodges, Hoffman, Holloway, Thomas R. Horton, Valentine B. Horton, Howard, Hughston, *Kelly*, Kelsey, Kennett, King, Knapp, Knight, Knowlton, Knox, Kunkel, Alexander K. Marshall, Humphrey Marshall, McCarty, *McMullin*, Killian Miller, *Millson*, Millward, Moore, Morgan, Morrill, Murray, Norton, Paine, Parker, Pennington, Perry, Porter, Pringle, Purviance, Purvear, Ready, Ricaud, Ritchie, Robbins, Roberts, Robinson, *Ruffin*, Sabin, Sage, Sapp, Scott, Sherman, Simmons, *William Smith*, Sneed, Stanton, *Stewart*, Stranahan, Swope, Tappan, Thorington, Thurston, *Tyson*,* Underwood, Valk, Wade, Wakeman, Walbridge, Waldron, Elihu B. Washburne, Israel Washburne, Welch, *Williams*, *Winslow*, Wood, Woodruff, Zollicoffer.—119.

Nays.—Messrs. *Aiken*. *Allen*, Barbour, Barclay, *Hendley S. Bennett*, Billinghurst, *Boyce*, Buffington, *Burnett*, *Cadwalader*, Carlile, *Caruthers*, Chaffee, *Williamson R. W. Cobb*, Comins, *Crawford*. Damrell, *Davidson*, *Jacob C. Davis*, Day, *Denver*, *Dowdell*, *Elliott*, Eustis, Evans, *Florence*, Foster, *Thomas J. D. Fuller*, *Garnett*, *Goode*, *Greenwood*, *Augustus Hall*, *Sampson W. Harris*, *Thomas L. Harris*, *Herbert*, *Houston*, *Jewett*, *George W. Jones*, *J. Glancy Jones*, *Kidwell*, Lake,

* Does not profess to be a Democrat, but supported Mr. Buchanan.

Leiter, *Letcher*, *Lumpkin*, Mace, *Samuel S. Marshall*, *Maxwell*, *McQueen*, *Smith Miller*, *Morrison*, Mott, Nichols, Andrew Oliver, *Orr*, *Packer*, *Peck*, Pettit, *Powell*, *Quitman*, *Sandidge*, *Savage*, *Seward*, *Shorter*, *Samuel A. Smith*, William R. Smith, Spinner, *Talbot*, *Taylor*, Trafton, *Vail*, *Walker*, *Warner*, Cadwalader C. Washburne, Watson, *Wells*, *Wheeler*, Woodworth, *Daniel B. Wright*, *John V. Wright*.—79.

Fillmore Americans in small caps; Republicans in roman; Democrats in italics.

So the bill was passed.

Mr. Campbell of O. moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Pending the vote,

Mr. Smith of Va. said: Protesting against the policy which creates the necessity of this act, and compels me to vote for it, I vote "ay."

Mr. Etheridge stated that if he had been present when his name was called, he would have voted "ay."

The bill was not acted on by the Senate.

Distribution of Proceeds of Public Lands.

See Public Lands.

Douglas, Stephen A.

(See Nebraska, &c. Tonnage Duties.)

Chicago Resolutions of.

On the 23d of August, 1850, Judge Douglas delivered a speech at the City Hall, Chicago, in defence of his support of the Compromise measures of 1850.

At the conclusion of his speech he offered the following resolutions, which were passed without a dissenting voice:—

Resolved, That it is the sacred duty of every friend of the Union to maintain, and preserve inviolate, every provision of our Federal Constitution.

Resolved, That any law enacted by Congress, in pursuance of the Constitution, should be respected as such by all good and law-abiding citizens; and should be faithfully carried into effect by the officers charged with its execution.

Resolved, That so long as the Constitution of the United States provides, that all persons held to service or labor in one state, escaping into another state, "shall be delivered up on the claim of the party to whom the service or labor may be due," and so long as members of Congress are required to take an oath to support the Constitution, it is their solemn and religious duty to pass all laws necessary to carry that provision of the Constitution into effect.

Resolved, that if we desire to preserve the Union, and render our great republic inseparable and perpetual, we must perform all our obligations under the Constitution, at the same time that we call upon our brethren in other states to yield implicit obedience to it.

Resolved, That as the lives, property, and safety of ourselves and our families depend upon the observance and protection of the laws, every effort to excite any portion of our population to make resistance to the due execution of the laws of the land, should be promptly and emphatically condemned by every good citizen.

Resolved, That we will stand or fall by the American Union and its Constitution, with all its compromises; with its glorious memories of the past and precious hopes of the future.

[The following was offered in addition by B. S. Morris, and also adopted:]

Resolved, That we, the people of Chicago, repudiate the resolutions, passed by the common council of Chicago, upon the subject of the fugitive slave law passed by Congress at its last session.

The resolutions of the council referred to were as follows:—

Whereas, The Constitution of the United States provides that the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it; and,

Whereas, The late act of Congress, purporting to be for the recovery of fugitive slaves, virtually suspends the habeas corpus and abolishes the right of trial by jury, and by its provisions, not only fugitive slaves, but white men, "owing service" to another in another state, viz., the apprentice, the mechanic, the farmer, the laborer engaged on contract or otherwise, whose terms of service are unexpired, may be captured and carried off summarily, and without legal resource of any kind; and,

Whereas, No law can be legally or morally binding on us which violates the provisions of the Constitution; and,

Whereas, Above all, in the responsibilities of human life, and the practice and propagation of Christianity, the laws of God should be held paramount to all human compacts and statutes: Therefore,

Resolved, That the Senators and Representatives in Congress from the free states, who aided and assisted in the passage of this infamous law, and those who so basely sneaked away from their seats, and thereby evaded the question, richly merit the reproach of all lovers of freedom, and are fit only to be ranked with the traitors. Benedict Arnold and Judas Iscariot, who betrayed his Lord and Master for thirty pieces of silver.

And Resolved, That the citizens, officers, and police of the city be, and they are hereby, requested to abstain from any and all interference in the capture and delivering up of the fugitive from unrighteous oppression, of whatever nation, name, or color.

Resolved, That the fugitive slave law lately passed by Congress is a cruel and unjust law, and ought not to be respected by any intelligent community, and that this council will not require the city police to render any assistance for the arrest of fugitive slaves.

Yeas.—Ald. Milliken, Loyd, Sherwood, Foss, Throop, Sherman, Richards, Brady, and Dodge.

Nays.—Ald. Page and Williams.

On the succeeding night the common council of the city repealed their nullifying resolution by a vote of 12 to 1.

Drayton and Sayres Pardon.

In the year 1848 the city of Washington was startled by the announcement that a very large number of its slave population had absconded upon the same night. Suspicion was directed against a particular vessel which had left the port of Washington; it was pursued and overtaken, and concealed under hatches were found seventy-three slaves belonging to citizens of the District of Columbia and of the states of Maryland and Virginia. The vessel was in charge of three white men from the North. The slaves and the kidnappers were brought back to the city and placed in prison.

The following record shows the action of the Criminal Court in the case:—

Criminal Court of the District of Columbia, for the county of Washington. March term, 1849.

United States *v.* Daniel Drayton. } May 8. Convicted of transporting slaves in 73 cases, and sentenced by the court in each case to pay a fine of $140 and costs, one half of the fine to the owner of the slaves, according to the act of Md. of 1796, ch. 67.

Ordered to be committed to the jail of Washington county till fines and costs are paid.

Same number of cases *v.* Edward Sayres, and fined $100 and costs in each, and committed as above.

Test: John A. Smith, Clerk.

Under the law of Maryland, in force in the District of Columbia, the penalty is a fine not exceeding two hundred dollars, with imprison-

ment in the county jail as the alternative of non-payment. This act was passed in 1796. The court did not impose the maximum fine in either case, one-half of which, under the terms of the law, enured to the owners of the slaves, and the other to the "commissioners of the county." The costs belonged to the United States, by whom all the expenses of the prosecution had been paid.

They remained in jail four years, when Mr. Fillmore pardoned them.

Record of pardon.—Criminal Court of the District of Columbia for the county of Washington:—United States *v.* Daniel Drayton. August 12, 1852.—Discharged from jail by the President of the United States, Millard Fillmore.

Same *v.* Edward Sayres.—Also discharged, at the same time, by the President.

Test: JOHN A. SMITH, Clerk.

In the speeches and addresses of Mr. Sumner of Mass., will be found an argument which he laid before Mr. Fillmore, and to which is credited their pardon.

On the 22d of April, 1852, Mr. Crittenden, the Attorney-General, submitted an opinion on the right of the President to pardon the prisoners, from which the following is an extract:—

Under these statutes, Daniel Drayton and Edward Sayres were severally indicted, in the Criminal Court for the District of Columbia and county of Washington, in many cases, for transporting various slaves, the property of persons residing in the city of Washington, Georgetown, and the county of Washington, to the number of fifty or sixty slaves or more. The slaves were transported in a vessel which was pursued by some of the inhabitants of the District, overtaken in the Chesapeake Bay, and the vessel, slaves, and the offenders, were brought back to the city of Washington. Upon the convictions on the several indictments, the court pronounced judgments for fines in various sums, under two hundred dollars each and costs; amounting in all the several convictions of the two offenders to upwards of $18,000.

The cases of Daniel Drayton and Edward Sayres are convictions under a law, which gave one half of the penalties for its violation to the parties aggrieved, and the other half to the use of the county. The judgments are so given and recorded. According to the uniform and unbroken current of opinions pronounced by the sages of the common law of England, the prerogative power of pardon, vested in the crown of Great Britain, and exercised from time immemorial, does not comprehend such cases as those of Drayton and Sayres.

I have given you a citation of the decisions in the courts of the United States, bearing upon the power of granting pardons, as vested by the Constitution of the United States in the President.

I cannot advise that this power is of greater scope and extent than that vested in the King of Great Britain, as a branch of the royal prerogative, and as understood and exercised in that country from time immemorial.

I cannot advise that your power of pardon, as President of the United States, extends to any portion of the several fines imposed by the judgments against Drayton and Sayres. The imprisonment is to compel payment of the fines, and not to be released by the power of granting pardons, any more than the fines themselves.

If the power of granting pardons had been, in practice, applied to the release of the portion of fines, penalties, and forfeitures, which, by the laws of the United States, are directed to be distributed to individuals, the question of such a power would have been brought before the judiciary, and into the Supreme Court of the United States, for final adjudication: the individuals, deprived of their interests by such pardons, would not have suffered their losses to go by default, without seeking the opinion of the judiciary. In the long series of sixty years and more, during which the Federal Constitution has been in operation, that no such question has been brought into the Supreme Court of the United States, leads rationally to the conclusion that no one of your predecessors in office (twelve in number), during the whole operations of the Constitution and laws of the United States, has exercised the power of pardon, by way of remitting or releasing a private right or interest in a fine, penalty, or forfeiture, accrued under laws of the United States, and consummated by judgment or condemnation. The non-user of such a power in any instance, during such a great length of time, and under such multiplied prosecutions, lays the foundation for rational belief that your predecessors in office have construed the Constitution as not conferring such a power; as limiting and confining the prerogative power of pardon by the principles of the common law; and as not conferring on the President of the United States a more extensive power than the prerogative of granting pardons, vested in the king by the British constitution.

Having given my advice and opinion on the question as propounded to me, with the reasons and authorities on which my opinion has been formed, it remains for you, in your highest trust and better judgment, to decide for yourself this very important question of constitutional law.

I have the honor to be,

Very respectfully,

J. J. CRITTENDEN.

To the President.

On the 4th of Aug., 1852, Mr. Crittenden submitted another opinion, of which the following is an extract:—

I shall trouble the President with no further authorities or remarks on the question he has been pleased to refer to me. I regret

the length to which they have been already extended; and will close by a simple and brief statement of the conclusions to which my mind has been brought, and which seem to me to be sustained by the remarks and authorities I have hereinbefore presented. They are:—

First—That the pardoning power of the President extends over the whole case of Drayton and Sayres; and that, by his pardon, he may discharge them from prison, and remit the fines for which they were imprisoned.

Second—That if the President cannot remit the fines in this case, because they have become private property, he can still pardon and release the offending parties from imprisonment, because that is part of the proceedings against them, as criminals, and at the instance of the United States, and is a thing distinct from any individual right of property in the fines.

Third—That the President may pardon the offence and imprisonment, with an exception or saving as to the fines; in which case, as I suppose, the fines would remain as a debt to the United States, or to those to whom the United States had granted or transferred it; and would be recoverable accordingly by the appropriate legal remedies. And such remedies I suppose, the distributees of the fines, in this case, will have, if they are entitled to any absolute right or property in said fines.

It has been my intention to confine my remarks exclusively to the question of your constitutional power to pardon, a question of much greater or graver consequence than the disposition to be made of this particular case.

Whether that power should be exercised, in this instance, is another and very different question, not referred to me, and on which it is not my intention or province to pronounce here any opinion, though I shall be quite ready to express my sentiments on that subject also, whenever it may be proper for me to do so.

I have the honor to be,

Very respectfully yours,

J. J. CRITTENDEN.

To the President.

Dred Scott Case.

OPINIONS OF THE JUDGES OF THE SUPREME COURT OF THE UNITED STATES THEREON.

Dred Scott, Plaintiff in Error, v. *John F. A. Sanford.*—This case was brought up, by writ of error, from the Circuit Court of the United States for the district of Missouri.

It was an action of trespass *vi et armis* instituted in the Circuit Court by Scott against Sandford.

Prior to the institution of the present suit, an action was brought by Scott for his freedom in the Circuit Court of St. Louis county (State Court), where there was a verdict and judgment in his favor. On a writ of error to the Supreme Court of the State, the judgment below was reversed, and the case remanded to the Circuit Court, where it was continued to await the decision of the case now in question.

The declaration of Scott contained three counts: one, that Sandford had assaulted the plaintiff; one, that he had assaulted Harriet Scott, his wife; and one, that he had assaulted Eliza Scott and Lizzie Scott, his children.

Sandford appeared, and filed the following plea:

DRED SCOTT v. JOHN F. A. SANDFORD. } *Plea to the jurisdiction of the Court.*

APRIL TERM, 1854.

And the said John F. A. Sandford, in his own proper person, comes and says, that this court ought not to have or take further cognisance of the action aforesaid, because he says that said cause of action, and each and every of them (if any such have accrued to the said Dred Scott), accrued to the said Dred Scott out of the jurisdiction of this court, and exclusively within the jurisdiction of the Courts of the state of Missouri, for that, to wit: the said plaintiff, Dred Scott, is not a citizen of the state of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves, and this the said Sandford is ready to verify. Wherefore he prays judgment, whether this court can or will take further cognisance of the action aforesaid. JOHN F. A. SANDFORD.

To this plea there was a demurrer in the usual form, which was argued in April, 1854, when the court gave judgment that the demurrer should be sustained.

In May, 1854, the defendant, in pursuance of an agreement between counsel, and with the leave of the court, pleaded in bar of the action:

1. Not guilty.

2. That the plaintiff was a negro slave, the lawful property of the defendant, and, as such, the defendant gently laid his hands upon him, and thereby had only restrained him, as the defendant had a right to do.

3. That with respect to the wife and daughters of the plaintiff, in the second and third counts of the declaration mentioned, the defendant had, as to them, only acted in the same manner, and in virtue of the same legal right.

In the first of these pleas, the plaintiff joined issue; and to the second and third, filed replications alleging that the defendant, of his own wrong and without the cause in his second and third pleas alleged, committed the trespasses, &c.

The counsel then filed the following agreed statement of facts, viz.:—

In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, 1834, said Dr. Emerson took the plaintiff from the state of Missouri to the military post at Rock Island, in the state of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situated north of the latitude of thirty-six degrees thirty minutes north, and north of the state of Missouri. Said Dr. Emerson held the plaintiff in slavery at Fort Snelling, from said last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at said Fort Snelling unto the said Dr. Emerson hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and said Harriet, at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the state of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the state of Missouri, at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet, and their said daughter Eliza, from said Fort Snelling to the state of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them, and each of them, as slaves.

At the times mentioned in the plaintiff's declaration, the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them, doing in this respect, however, no more than what he might lawfully do, if they were of right his slaves at such times.

Further proof may be given on the trial for either party.

It is agreed that Dred Scott brought suit for his freedom in the Circuit Court of St. Louis county; that there was a

verdict and judgment in his favor; that on a writ of error to the Supreme Court the judgment below was reversed, and the same remanded to the Circuit Court, where it has been continued to await the decision of this case.

In May, 1854, the cause went before a jury, who found the following verdict, viz.: "As to the first issue joined in this case, we of the jury find the defendant not guilty; and as to the issue secondly above joined, we of the jury find that, before and at the time when, &c., in the first count mentioned, the said Dred Scott was a negro slave, the lawful property of the defendant; and as to the issue thirdly above joined, we, the jury, find that, before and at the time when, &c., in the second and third counts mentioned, the said Harriet, wife of said Dred Scott, and Eliza and Lizzie, the daughters of the said Dred Scott, were negro slaves, the lawful property of the defendant."

Whereupon, the court gave judgment for the defendant.

After an ineffectual motion for a new trial, the plaintiff filed the following bill of exceptions.

On the trial of this cause by the jury, the plaintiff, to maintain the issues on his part, read to the jury the following agreed statement of facts (see agreement above). No further testimony was given to the jury by either party. Thereupon the plaintiff moved the court to give to the jury the following instruction, viz.:

"That, upon the facts agreed to by the parties, they ought to find for the plaintiff. The court refused to give such instruction to the jury, and the plaintiff, to such refusal, then and there duly excepted."

The court then gave the following instruction to the jury, on motion of the defendant:

"The jury are instructed, that upon the facts in this case, the law is with the defendant." The plaintiff excepted to this instruction.

Upon these exceptions, the case came up to this court.

It was argued at December term, 1855, and ordered to be reargued at the present term.

It was now argued by Mr. Blair and Mr. G. F. Curtis for the plaintiff in error, and by Mr. Geyer and Mr. Johnson for the defendant in error.

Mr. Chief Justice TANEY delivered the opinion of the court.

This case has been twice argued. After the argument at the last term, differences of opinion were found to exist among the members of the court; and as the questions in controversy are of the highest importance, and the court was at that time much pressed by the ordinary business of the term, it was deemed advisable to continue the case, and direct a re-argument on some of the points, in order that we might have an opportunity of giving to the whole subject a more deliberate consideration. It has accordingly been again argued by counsel, and considered by the court; and I now proceed to deliver its opinion.

There are two leading questions presented by the record:

1. Had the Circuit Court of the United States jurisdiction to hear and determine the case between these parties? And

2. If it had jurisdiction, is the judgment it has given erroneous or not?

The plaintiff in error, who was also the plaintiff in the court below, was, with his wife and children, held as slaves by the defendant, in the state of Missouri; and he brought this action in the Circuit Court of the United States for that district, to assert the title of himself and his family to freedom.

The declaration is in the form usually adopted in that state to try questions of this description, and contains the averment necessary to give the court jurisdiction; that he and the defendant are citizens of different states; that is, he is a citizen of Missouri, and the defendant a citizen of New York.

The defendant pleaded in abatement to the jurisdiction of the court, that the plaintiff was not a citizen of the state of Missouri, as alleged in his declaration, being a negro of African descent, whose ancestors were of pure African blood, and who were brought into this country and sold as slaves.

To this plea the plaintiff demurred, and the defendant joined in demurrer. The court overruled the plea, and gave judgment that the defendant should answer over. And he thereupon put in sundry pleas in bar, upon which issues were joined; and at the trial the verdict and judgment were in his favor. Whereupon the plaintiff brought this writ of error.

Before we speak of the pleas in bar, it will be proper to dispose of the questions which have arisen on the plea in abatement.

That plea denies the right of the plaintiff to sue in a court of the United States for the reasons therein stated.

If the question raised by it is legally before us, and the court should be of opinion that the facts stated in it disqualify the plaintiff from becoming a citizen, in the sense in which that word is used in the Constitution of the United States, then the judgment of the Circuit Court is erroneous, and must be reversed.

It is suggested, however, that this plea is not before us; and that as the judgment in the court below on this plea was in favor of the plaintiff, he does not seek to reverse it, or bring it before the court for revision by his writ of error; and also that the defendant waived this defence by pleading over, and thereby admitted the jurisdiction of the court.

But, in making this objection, we think the peculiar and limited jurisdiction of courts of the United States has not been adverted to. This peculiar and limited jurisdiction has made it necessary, in these courts, to adopt different rules and principles of pleading, so far as jurisdiction is concerned, from those which regulate courts of common law in England, and in the different states of the Union which have adopted the common law rules.

In these last-mentioned courts, where their character and rank are analogous to that of a Circuit Court of the United States; in other words, where they are what the law terms courts of general jurisdiction; they are presumed to have jurisdiction, unless the contrary appears. No averment in the pleadings of the plaintiff is necessary, in order to give jurisdiction. If the defendant objects to it, he must plead it specially, and unless the fact on which he relies is found to be true by a jury, or admitted to be true by the plaintiff, the jurisdiction cannot be disputed in an appellate court.

Now, it is not necessary to inquire whether in courts of that description a party who pleads over in bar, when a plea to the jurisdiction has been ruled against him, does or does not waive his plea; nor whether upon a judgment in his favor on the pleas in bar, and a writ of error brought by the plaintiff, the question upon the plea in abatement would be open for revision in the appellate court. Cases that may have been decided in

such courts, or rules that may have been laid down by common-law pleaders, can have no influence in the decision in this court. Because, under the Constitution and laws of the United States, the rules which govern the pleadings in its courts, in questions of jurisdiction, stand on different principles and are regulated by different laws.

This difference arises, as we have said, from the peculiar character of the government of the United States. For although it is sovereign and supreme in its appropriate sphere of action, yet it does not possess all the powers which usually belong to the sovereignty of a nation. Certain specified powers, enumerated in the Constitution, have been conferred upon it; and neither the legislative, executive, nor judicial departments of the government can lawfully exercise any authority beyond the limits marked out by the Constitution. And in regulating the judicial department, the cases in which the courts of the United States shall have jurisdiction are particularly and specifically enumerated and defined; and they are not authorized to take cognisance of any case which does not come within the description therein specified. Hence, when a plaintiff sues in a court of the United States, it is necessary that he should show, in his pleading, that the suit he brings is within the jurisdiction of the court, and that he is entitled to sue there. And if he omits to do this, and should, by any oversight of the Circuit Court, obtain a judgment in his favor, the judgment would be reversed in the appellate court for want of jurisdiction in the court below. The jurisdiction would not be presumed, as in the case of a common-law English or state court, unless the contrary appeared. But the record, when it comes before the appellate court, must show, affirmatively, that the inferior court had authority, under the Constitution, to hear and determine the case. And if the plaintiff claims a right to sue in a Circuit Court of the United States, under that provision of the Constitution which gives jurisdiction in controversies between citizens of different states, he must distinctly aver in his pleading that they are citizens of different states; and he cannot maintain his suit without showing that fact in the pleadings.

This point was decided in the case of Bingham *v.* Cabot, (in 3 Dall., 382,) and ever since adhered to by the court. And in Jackson *v.* Ashton, (8 Pet., 148,) it was held that the objection to which it was open could not be waived by the opposite party, because consent of parties could not give jurisdiction.

It is needless to accumulate cases on this subject. Those already referred to, and the cases of Capron *v.* Van Noorden, (in 2 Cr., 126,) and Montalet *v.* Murray, (4 Cr., 46,) are sufficient to show the rule of which we have spoken. The case of Capron *v.* Van Noorden strikingly illustrates the difference between a common-law court and a court of the United States.

If, however, the fact of citizenship is averred in the declaration, and the defendant does not deny it, and put it in issue by plea in abatement, he cannot offer evidence at the trial to disprove it, and consequently cannot avail himself of the objection in the appellate court, unless the defect should be apparent in some other part of the record. For if there is no plea in abatement, and the want of jurisdiction does not appear in any other part of the transcript brought up by the writ of error, the undisputed averment of citizenship in the declaration must be taken in this court to be true. In this case, the citizenship is averred, but it is denied by the defendant in the manner required by the rules of pleading, and the fact upon which the denial is based is admitted by the demurrer. And, if the plea and demurrer, and judgment of the court below upon it, are before us upon this record, the question to be decided is, whether the facts stated in the plea are sufficient to show that the plaintiff is not entitled to sue as a citizen in a court of the United States.

We think they are before us. The plea in abatement and the judgment of the court upon it, are a part of the judicial proceedings in the Circuit Court, and are there recorded as such; and a writ of error always brings up to the superior court the whole record of the proceedings in the court below. And in the case of the United States *v.* Smith, (11 Wheat., 172,) this court said, that the case being brought up by writ of error, the whole record was under the consideration of this court. And this being the case in the present instance, the plea in abatement is necessarily under consideration; and it becomes, therefore, our duty to decide whether the facts stated in the plea are or are not sufficient to show that the plaintiff is not entitled to sue as a citizen in a court of the United States.

This is certainly a very serious question, and one that now for the first time has been brought for decision before this court. But it is brought here by those who have a right to bring it, and it is our duty to meet it and decide it.

The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guarantied by that instrument to the citizen? One of which rights is the privilege of suing in a court of the United States in the cases specified in the Constitution.

It will be observed, that the plea applies to that class of persons only whose ancestors were negroes of the African race, and imported into this country, and sold and held as slaves. The only matter in issue before the court, therefore, is, whether the descendants of such slaves, when they shall be emancipated, or who are born of parents who had become free before their birth, are citizens of a state, in the sense in which the word citizen

is used in the Constitution of the United States. And this being the only matter in dispute on the pleadings, the court must be understood as speaking in this opinion of that class only. That is, of those persons who are the descendants of Africans who were imported into this country, and sold as slaves.

The situation of this population was altogether unlike that of the Indian race. The latter, it is true, formed no part of the colonial communities, and never amalgamated with them in social connexions or in government. But although they were uncivilized, they were yet a free and independent people, associated together in nations or tribes, and governed by their own laws. Many of these political communities were situated in territories to which the white race claimed the ultimate right of dominion. But that claim was acknowledged to be subject to the right of the Indians to occupy it as long as they thought proper, and neither the English nor colonial governments claimed or exercised any dominion over the tribe or nation by whom it was occupied, nor claimed the right to the possession of the territory, until the tribe or nation consented to cede it. These Indian governments were regarded and treated as foreign governments, as much so as if an ocean had separated the red man from the white; and their freedom has constantly been acknowledged, from the time of the first emigration to the English colonies to the present day, by the different governments which succeeded each other. Treaties have been negotiated with them, and their alliance sought for in war; and the people who compose these Indian political communities have always been treated as foreigners not living under our government. It is true that the course of events has brought the Indian tribes within the limits of the United States under subjection to the white race; and it has been found necessary, for their sake as well as our own, to regard them as in a state of pupilage, and to legislate to a certain extent over them and the territory they occupy. But they may, without doubt, like the subjects of any other foreign government, be naturalized by the authority of Congress, and become citizens of a state, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign people.

We proceed to examine the case as presented by the pleadings.

The words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them.

It is not the province of the court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted.

In discussing this question, we must not confound the rights of citizenship which a state may confer within its own limits, and the rights of citizenship as a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a state, that he must be a citizen of the United States. He may have all of the rights and privileges of the citizen of a state, and yet not be entitled to the rights and privileges of a citizen in any other state. For, previous to the adoption of the Constitution of the United States, every state had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character of course was confined to the boundaries of the state, and gave him no rights or privileges in other states beyond those secured to him by the laws of nations and the comity of states. Nor have the several states surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each state may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other states. The rights which he would acquire would be restricted to the state which gave them. The Constitution has conferred on Congress the right to establish an uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently, no state, since the adoption of the Constitution, can by naturalizing an alien invest him with the rights and privi-

leges secured to a citizen of a state under the federal government, although, so far as the state alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the rights and immunities which the constitution and laws of the state attached to that character.

It is very clear, therefore, that no state can, by any act or law of its own, passed since the adoption of the Constitution, introduce a new member into the political community created by the Constitution of the United States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the Constitution brought into existence, but were intended to be excluded from it.

The question then arises, whether the provisions of the Constitution, in relation to the personal rights and privileges to which the citizen of a state should be entitled, embraced the negro African race, at that time in this country, or who might afterwards be imported, who had then or should afterwards be made free in any state; and to put it in the power of a single state to make him a citizen of the United States, and endue him with the full rights of citizenship in every other state without their consent? Does the Constitution of the United States act upon him whenever he shall be made free under the laws of a state, and raised there to the rank of a citizen, and immediately clothe him with all the privileges of a citizen in every other state, and in its own courts?

The court think the affirmative of these propositions cannot be maintained. And if it cannot, the plaintiff in error could not be a citizen of the state of Missouri, within the meaning of the Constitution of the United States, and, consequently, was not entitled to sue in its courts.

It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognised as citizens in the several states, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guarantied to citizens of this new sovereignty were intended to embrace those only who were then members of the several state communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the Constitution and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his state which he did not before possess, and placed him in every other state upon a perfect equality with its own citizens as to rights of person and rights of property; it made him a citizen of the United States.

It becomes necessary, therefore, to determine who were citizens of the several states when the Constitution was adopted. And in order to do this, we must recur to the governments and institutions of the thirteen colonies, when they separated from Great Britain and formed new sovereignties, and took their places in the family of independent nations. We must inquire who, at that time, were recognised as the people or citizens of a state, whose rights and liberties had been outraged by the English government; and who declared their independence, and assumed the powers of government to defend their rights by force of arms.

In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.

It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.

They had, for more than a century before, been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

And in no nation was this opinion more firmly fixed, or more uniformly acted upon, than by the English government and English people. They not only seized them on the coast of Africa, and sold them, or held them in slavery for their own use; but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more extensively engaged in this commerce than any other nation in the world.

The opinion thus entertained and acted upon in England, was naturally impressed upon the colonies they founded on this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property, and held, and bought, and sold as such, in every one of the thirteen colonies which united in the Declaration of Independence, and afterwards formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable. But no one seems to have doubted the correctness of the prevailing opinion of the time.

The legislation of the different colonies furnishes positive and indisputable proof of this fact.

It would be tedious, in this opinion, to enumerate the various laws they passed upon this subject. It will be sufficient, as a sample of the legislation which then generally prevailed throughout the British colonies, to give the laws of two of them; one being still a large slaveholding state, and the other the first state in which slavery ceased to exist.

The province of Maryland, in 1717 (ch. 13, s. 5), passed a law declaring "that if any free negro or mulatto intermarry with any white woman, or if any white man shall intermarry with any negro or mulatto woman, such negro or mulatto shall become a slave during life, excepting mulattoes born of white women, who, for such intermarriage, shall only become servants for seven years, to be disposed of as the justices of the county court, where such marriage so happens, shall think fit; to be applied by them towards the support of a public school within the said county. And any white man or white woman who shall intermarry as aforesaid, with any negro or mulatto, such white man or white woman shall become servants during the term of seven years, and shall be disposed of by the justices as aforesaid, and be applied to the uses aforesaid."

The other colonial law to which we refer was passed by Massachusetts, in 1705 (chap. 6.) It is entitled "An act for the better preventing of a spurious and mixed issue," &c.; and it provides that "if any negro or mulatto shall presume to smite or strike any person of the English or other Christian nation, such negro or mulatto shall be severely whipped, at the discretion of the justices before whom the offender shall be convicted."

And "that none of her Majesty's English or Scottish subjects, nor of any other Christian nation, within this province, shall contract matrimony with any negro or mulatto; nor shall any person, duly authorized to solemnize marriage, presume to join any such in marriage, on pain of forfeiting the sum of fifty pounds; one moiety thereof to her Majesty, for and towards the support of the government within this province, and the other moiety to him or them that shall inform and sue for the same, in any of her Majesty's courts of record within the province, by bill, plaint, or information."

We give both of these laws in the words used by the respective legislative bodies, because the language in which they are framed, as well as the provisions contained in them, show, too plainly to be misunderstood, the degraded condition of this unhappy race. They were still in force when the Revolution began, and are a faithful index to the state of feeling towards the class of persons of whom they speak, and of the position they occupied throughout the thirteen colonies, in the eyes and thoughts of the men who framed the Declaration of Independence and established the state constitutions and governments. They show that a perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery, and governed as subjects with absolute and despotic power, and which they then looked upon as so far below them in the scale of created beings, that intermarriages between white persons and negroes or mulattoes were regarded as unnatural and immoral, and punished as crimes, not only in the parties, but in the person who joined them in marriage. And no distinction in this respect was made between the free negro or mulatto and the slave, but this stigma, of the deepest degradation, was fixed upon the whole race.

We refer to these historical facts for the purpose of showing the fixed opinions concerning that race, upon which the statesmen of that day spoke and acted. It is necessary to do this, in order to determine whether the general terms used in the Constitution of the United States, as to the rights of man and the rights of the people, was intended to include them, or to give to them or their posterity the benefit of any of its provisions.

The language of the Declaration of Independence is equally conclusive:

It begins by declaring that, "when in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect for the opinions of mankind requires that they should declare the causes which impel them to the separation."

It then proceeds to say: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted, deriving their just powers from the consent of the governed."

The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and

formed no part of the people who framed and adopted this declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation.

Yet the men who framed this declaration were great men—high in literary acquirements—high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized governments and the family of nations, and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks, and laws long before established, and were never thought of or spoken of except as property, and when the claims of the owner or the profit of the trader were supposed to need protection.

This state of public opinion had undergone no change when the Constitution was adopted, as is equally evident from its provisions and language.

The brief preamble sets forth by whom it was formed, for what purposes, and for whose benefit and protection. It declares that it is formed by the *people* of the United States; that is to say, by those who were members of the different political communities in the several states; and its great object is declared to be to secure the blessings of liberty to themselves and their posterity. It speaks in general terms of the *people* of the United States, and of *citizens* of the several states, when it is providing for the exercise of the powers granted or the privileges secured to the citizen. It does not define what description of persons are intended to be included under these terms, or who shall be regarded as a citizen and one of the people. It uses them as terms so well understood, that no further description or definition was necessary.

But there are two clauses in the constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the government then formed.

One of these clauses reserves to each of the thirteen states the right to import slaves until the year 1808, if it thinks proper. And the importation which it thus sanctions was unquestionably of persons of the race of which we are speaking, as a traffic in slaves in the United States had always been confined to them. And by the other provision the states pledge themselves to each other to maintain the right of property of the master, by delivering up to him any slave who may have escaped from his service, and be found within their respective territories. By the first above-mentioned clause, therefore, the right to purchase and hold this property is directly sanctioned and authorized for twenty years by the people who framed the Constitution. And by the second, they pledge themselves to maintain and uphold the right of the master in the manner specified, as long as the government they then formed should endure. And these two provisions show, conclusively, that neither the description of persons therein referred to, nor their descendants, were embraced in any of the other provisions of the Constitution; for certainly these two clauses were not intended to confer on them or their posterity the blessings of liberty, or any of the personal rights so carefully provided for the citizen.

No one of that race had ever migrated to the United States voluntarily; all of them had been brought here as articles of merchandise. The number that had been emancipated at that time were but few in comparison with those held in slavery; and they were identified in the public mind with the race to which they belonged, and regarded as a part of the slave population rather than the free. It is obvious that they were not even in the minds of the framers of the Constitution when they were conferring special rights and privileges upon the citizens of a state in every other part of the Union.

Indeed, when we look to the condition of this race in the several states at the time, it is impossible to believe that these rights and privileges were intended to be extended to them.

It is very true, that in that portion of the Union where the labor of the negro race was found to be unsuited to the climate and unprofitable to the master, but few slaves were held at the time of the Declaration of Independence; and when the Constitution was adopted, it had entirely worn out in one of them, and measures had been taken for its gradual abolition in several others. But this change had not been produced by any change of opinion in relation to this race; but because it was discovered, from experience, that slave labor was unsuited to the climate and productions of these states: for some of the states, where it had ceased or nearly ceased to exist, were actively engaged in the slave trade, procuring cargoes on the coast of Africa, and transporting them for sale to those parts of the Union where their labor was found to be profitable, and suited to the climate and productions. And this traffic was openly carried on, and fortunes accumulated by it, without reproach from the people of the states

where they resided. And it can hardly be supposed that, in the states where it was then countenanced in its worst form—that is, in the seizure and transportation—the people could have regarded those who were emancipated as entitled to equal rights with themselves.

And we may here again refer, in support of this proposition, to the plain and unequivocal language of the laws of the several states, some passed after the Declaration of Independence and before the Constitution was adopted, and some since the government went into operation.

We need not refer, on this point, particularly to the laws of the present slaveholding states. Their statute books are full of provisions in relation to this class, in the same spirit with the Maryland law which we have before quoted. They have continued to treat them as an inferior class, and to subject them to strict police regulations, drawing a broad line of distinction between the citizen and the slave races, and legislating in relation to them upon the same principle which prevailed at the time of the Declaration of Independence. As relates to these states, it is too plain for argument, that they have never been regarded as a part of the people or citizens of the state, nor supposed to possess any political rights which the dominant race might not withhold or grant at their pleasure. And as long ago as 1822, the Court of Appeals of Kentucky decided that free negroes and mulattoes were not citizens within the meaning of the Constitution of the United States; and the correctness of this decision is recognised, and the same doctrine affirmed, in 1 Meigs's Tenn. Reports, 331.

And if we turn to the legislation of the states where slavery had worn out, or measures taken for its speedy abolition, we shall find the same opinions and principles equally fixed and equally acted upon.

Thus, Massachusetts, in 1786, passed a law similar to the colonial one of which we have spoken. The law of 1786, like the law of 1705, forbids the marriage of any white person with any negro, Indian, or mulatto, and inflicts a penalty of fifty pounds upon any one who shall join them in marriage; and declares all such marriages absolutely null and void, and degrades thus the unhappy issue of the marriage by fixing upon it the stain of bastardy. And this mark of degradation was renewed, and again impressed upon the race, in the careful and deliberate preparation of their revised code published in 1836. This code forbids any person from joining in marriage any white person with any Indian, negro, or mulatto, and subjects the party who shall offend in this respect, to imprisonment, not exceeding six months, in the common jail, or to hard labor, and to a fine of not less than fifty nor more than two hundred dollars; and, like the law of 1786, it declares the marriage to be absolutely null and void. It will be seen that the punishment is increased by the code upon the person who shall marry them, by adding imprisonment to a pecuniary penalty.

So, too, in Connecticut. We refer more particularly to the legislation of this state, because it was not only among the first to put an end to slavery within its own territory, but was the first to fix a mark of reprobation upon the African slave trade. The law last mentioned was passed in October, 1788, about nine months after the state had ratified and adopted the present Constitution of the United States; and by that law it prohibited its own citizens, under severe penalties, from engaging in the trade, and declared all policies of insurance on the vessel or cargo made in the state to be null and void. But, up to the time of the adoption of the constitution, there is nothing in the legislation of the state indicating any change of opinion as to the relative rights and position of the white and black races in this country, or indicating that it meant to place the latter, when free, upon a level with its citizens. And certainly nothing which would have led the slaveholding states to suppose, that Connecticut designed to claim for them, under the new Constitution, the equal rights and privileges and rank of citizens in every other state.

The first step taken by Connecticut upon this subject was as early as 1774, when it passed an act forbidding the further importation of slaves into the state. But the section containing the prohibition is introduced by the following preamble:—

"And whereas the increase of slaves in this state is injurious to the poor, and inconvenient."

This recital would appear to have been carefully introduced, in order to prevent any misunderstanding of the motive which induced the legislature to pass the law, and places it distinctly upon the interest and convenience of the white population—excluding the inference that it might have been intended in any degree for the benefit of the other.

And in the act of 1784, by which the issue of slaves, born after the time therein mentioned, were to be free at a certain age, the section is again introduced by a preamble assigning a similar motive for the act. It is in these words:—

"Whereas sound policy requires that the abolition of slavery should be effected as soon as may be consistent with the rights of individuals, and the public safety and welfare"—showing that the right of property in the master was to be protected, and that the measure was one of policy, and to prevent the injury and inconvenience, to the whites, of a slave population in the state.

And still further pursuing its legislation, we find that in the same statute passed in 1774, which prohibited the further importation of slaves into the state, there is also a provision by which any negro, Indian, or mulatto servant, who was found wandering

out of the town or place to which he belonged, without a written pass such as therein described, was made liable to be seized by any one, and taken before the next authority to be examined and delivered up to his master—who was required to pay the charge which had accrued thereby. And a subsequent section of the same law provides, that if any free negro shall travel without such pass, and shall be stopped, seized, or taken up, he shall pay all charges arising thereby. And this law was in full operation when the Constitution of the United States was adopted, and was not repealed till 1797. So that up to that time free negroes and mulattoes were associated with servants and slaves in the police regulations established by the laws of the state.

And again, in 1833, Connecticut passed another law, which made it penal to set up or establish any school in that state for the instruction of persons of the African race not inhabitants of the state, or to instruct or teach in any such school or institution, or board or harbor for that purpose, any such person, without the previous consent in writing of the civil authority of the town in which such school or institution might be.

And it appears by the case of Crandall *v.* The State, reported in 10 Conn. Rep. 340, that upon an information filed against Prudence Crandall for a violation of this law, one of the points raised in the defence was, that the law was a violation of the Constitution of the United States; and that the persons instructed, although of the African race, were citizens of other states, and therefore entitled to the rights and privileges of citizens in the state of Connecticut. But Chief Justice Dagget, before whom the case was tried, held, that persons of that description were not citizens of a state, within the meaning of the word citizen in the Constitution of the United States, and were not therefore entitled to the privileges and immunities of citizens in other states.

The case was carried up to the Supreme Court of Errors of the state, and the question fully argued there. But the case went off upon another point, and no opinion was expressed on this question.

We have made this particular examination into the legislative and judicial action of Connecticut, because, from the early hostility it displayed to the slave trade on the coast of Africa, we may expect to find the laws of that state as lenient and favorable to the subject race as those of any other state in the Union; and if we find that at the time the Constitution was adopted, they were not even there raised to the rank of citizens, but were still held and treated as property, and the laws relating to them passed with reference altogether to the interest and convenience of the white race, we shall hardly find them elevated to a higher rank anywhere else.

A brief notice of the laws of two other states, and we shall pass on to other considerations.

By the laws of New Hampshire, collected and finally passed in 1815, no one was permitted to be enrolled in the militia of the state, but free white citizens; and the same provision is found in a subsequent collection of the laws, made in 1855. Nothing could more strongly mark the entire repudiation of the African race. The alien is excluded, because, being born in a foreign country, he cannot be a member of the community until he is naturalized. But why are the African race, born in the state, not permitted to share in one of the highest duties of the citizen? The answer is obvious; he is not, by the institutions and laws of the state, numbered among its people. He forms no part of the sovereignty of the state, and is not therefore called on to uphold and defend it.

Again, in 1822, Rhode Island, in its revised code, passed a law forbidding persons who were authorized to join persons in marriage, from joining in marriage any white person with any negro, Indian, or mulatto, under the penalty of two hundred dollars, and declaring all such marriages absolutely null and void; and the same law was again re-enacted in its revised code of 1844. So that, down to the last-mentioned period, the strongest mark of inferiority and degradation was fastened upon the African race in that state.

It would be impossible to enumerate and compress in the space usually allotted to an opinion of a court, the various laws, marking the condition of this race, which were passed from time to time after the Revolution, and before and since the adoption of the Constitution of the United States. In addition to those already referred to, it is sufficient to say, that Chancellor Kent, whose accuracy and research no one will question, states in the sixth edition of his Commentaries, (published in 1848, 2 vol., 258, note *b*), that in no part of the country except Maine, did the African race, in point of fact, participate equally with the whites in the exercise of civil and political rights.

The legislation of the states therefore shows, in a manner not to be mistaken, the inferior and subject condition of that race at the time the Constitution was adopted, and long afterwards, throughout the thirteen states by which that instrument was framed; and it is hardly consistent with the respect due to these states, to suppose that they regarded at that time, as fellow citizens and members of the sovereignty, a class of beings whom they had thus stigmatized; whom, as we are bound, out of respect to the state sovereignties, to assume they had deemed it just and necessary thus to stigmatize, and upon whom they had impressed such deep and enduring marks of inferiority and degradation; or, that when they met in convention to form the Constitution, they looked upon them as a portion of their constituents, or designed to include them in the provisions so carefully inserted for the security and pro-

tection of the liberties and rights of their citizens. It cannot be supposed that they intended to secure to them rights, and privileges, and rank, in the new political body throughout the Union, which every one of them denied within the limits of its own dominion. More especially, it cannot be believed that the large slaveholding states regarded them as included in the word citizens, or would have consented to a Constitution which might compel them to receive them in that character from another state. For if they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race, who were recognised as citizens in any one state of the Union, the right to enter every other state whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the state.

It is impossible, it would seem, to believe that the great men of the slaveholding states, who took so large a share in framing the Constitution of the United States, and exercised so much influence in procuring its adoption, could have been so forgetful or regardless of their own safety and the safety of those who trusted and confided in them.

Besides, this want of foresight and care would have been utterly inconsistent with the caution displayed in providing for the admission of new members into this political family. For, when they gave to the citizens of each state the privileges and immunities of citizens in the several states, they at the same time took from the several states the power of naturalization, and confined that power exclusively to the Federal Government. No state was willing to permit another state to determine who should or should not be admitted as one of its citizens, and entitled to demand equal rights and privileges with their own people, within their own territories. The right of naturalization was therefore, with one accord, surrendered by the states, and confided to the federal government. And this power granted to Congress to establish an uniform rule of *naturalization* is, by the well-understood meaning of the word, confined to persons born in a foreign country, under a foreign government. It is not a power to raise to the rank of a citizen any one born in the United States, who, from birth or parentage, by the laws of the country, belongs to an inferior and subordinate class. And when we find the states guarding themselves from the indiscreet or improper admission by other states of emigrants from other countries, by giving the power exclusively to Congress, we cannot fail to see that they could never have left with the states a much more important power—that is, the power of transforming into citizens a numerous class of persons, who in that character would be much more dangerous to the peace and safety of a large portion of the Union, than the few foreigners one of the states might improperly naturalize. The Constitution upon its adoption obviously took from the states all power by any subsequent legislation to introduce as a citizen into the political family of the United States any one, no matter where he was born, or what might be his character or condition; and it gave to Congress the power to confer this character upon those only who were born outside of the dominions of the United States. And no law of a state, therefore, passed since the Constitution was adopted, can give any right of citizenship outside of its own territory.

A clause similar to the one in the Constitution, in relation to the rights and immunities of citizens of one state in the other states, was contained in the Articles of Confederation. But there is a difference of language, which is worthy of note. The provision in the Articles of Confederation was, "that the *free inhabitants* of each of the states, paupers, vagabonds, and fugitives from justice excepted, should be entitled to all the privileges and immunities of free citizens in the several states."

It will be observed, that under this Confederation, each state had the right to decide for itself, and in its own tribunals, whom it would acknowledge as a free inhabitant of another state. The term *free inhabitant*, in the generality of its terms, would certainly include one of the African race who had been manumitted. But no example, we think, can be found of his admission to all the privileges of citizenship in any state of the Union after these Articles were formed, and while they continued in force. And, notwithstanding the generality of the words "free inhabitants," it is very clear that, according to their accepted meaning in that day, they did not include the African race, whether free or not: for the fifth section of the ninth article provides that Congress should have the power "to agree upon the number of land forces to be raised, and to make requisitions from each state for its quota in proportion to the number of *white* inhabitants in such state, which requisition should be binding."

Words could hardly have been used which more strongly mark the line of distinction between the citizen and the subject; the free and the subjugated races. The latter were

not even counted when the inhabitants of a state were to be embodied in proportion to its numbers for the general defence. And it cannot for a moment be supposed, that a class of persons thus separated and rejected from those who formed the sovereignty of the states, were yet intended to be included under the words "free inhabitants," in the preceding article, to whom privileges and immunities were so carefully secured in every state.

But although this clause of the Articles of Confederation is the same in principle with that inserted in the Constitution, yet the comprehensive word inhabitant, which might be construed to include an emancipated slave, is omitted; and the privilege is confined to citizens of the state. And this alteration in words would hardly have been made, unless a different meaning was intended to be conveyed, or a possible doubt removed. The just and fair inference is, that as this privilege was about to be placed under the protection of the general government, and the words expounded by its tribunals, and all power in relation to it taken from the state and its courts, it was deemed prudent to describe with precision and caution the persons to whom this high privilege was given—and the word citizen was on that account substituted for the words free inhabitant. The word citizen excluded, and no doubt intended to exclude, foreigners who had not become citizens of some one of the states when the Constitution was adopted; and also every description of persons who were not fully recognised as citizens in the several states. This, upon any fair construction of the instruments to which we have referred, was evidently the object and purpose of this change of words.

To all this mass of proof we have still to add, that Congress has repeatedly legislated upon the same construction of the Constitution that we have given. Three laws, two of which were passed almost immediately after the government went into operation, will be abundantly sufficient to show this. The two first are particularly worthy of notice, because many of the men who assisted in framing the Constitution, and took an active part in procuring its adoption, were then in the halls of legislation, and certainly understood what they meant when they used the words "people of the United States" and "citizen" in that well-considered instrument.

The first of these acts is the naturalization law, which was passed at the second session of the first Congress, March 26, 1790, and confines the right of becoming citizens "to aliens being free white persons."

Now, the Constitution does not limit the power of Congress in this respect to white persons. And they may, if they think proper, authorize the naturalization of any one, of any color, who was born under allegiance to another government. But the language of the law above quoted, shows that citizenship at that time was perfectly understood to be confined to the white race; and that they alone constituted the sovereignty in the government.

Congress might, as we before said, have authorized the naturalization of Indians, because they were aliens and foreigners. But, in their then untutored and savage state, no one would have thought of admitting them as citizens in a civilized community. And, moreover, the atrocities they had but recently committed, when they were the allies of Great Britain in the revolutionary war, were yet fresh in the recollection of the people of the United States, and they were even then guarding themselves against the threatened renewal of Indian hostilities. No one supposed then that any Indian would ask for, or was capable of enjoying, the privileges of an American citizen, and the word white was not used with any particular reference to them.

Neither was it used with any reference to the African race imported into or born in this country; because Congress had no power to naturalize them, and therefore there was no necessity for using particular words to exclude them.

It would seem to have been used merely because it followed out the line of division which the Constitution has drawn between the citizen race, who formed and held the government, and the African race, which they held in subjection and slavery, and governed at their own pleasure.

Another of the early laws of which we have spoken, is the first militia law, which was passed in 1792, at the first session of the second Congress. The language of this law is equally plain and significant with the one just mentioned. It directs that every "free able-bodied white male citizen" shall be enrolled in the militia. The word white is evidently used to exclude the African race, and the word "citizen" to exclude unnaturalized foreigners; the latter forming no part of the sovereignty, owing it no allegiance, and therefore under no obligation to defend it. The African race, however, born in the country, did owe allegiance to the government, whether they were slave or free; but it is repudiated and rejected from the duties and obligations of citizenship in marked language.

The third act to which we have alluded is even still more decisive; it was passed as late as 1813 (2 Stat., 809), and it provides: "That from and after the termination of the war in which the United States are now engaged with Great Britain, it shall not be lawful to employ, on board of any public or private vessels of the United States, any person or persons except citizens of the United States, or persons of color, natives of the United States."

Here the line of distinction is drawn in express words. Persons of color, in the judgment of Congress, were not included in the word citizens, and they are described as another and different class of persons, and authorized to be employed, if born in the United States.

And even as late as 1820, (chap. 104, sec. 8,) in the charter to the city of Washington,

the corporation is authorized "to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes," thus associating them together in its legislation; and after prescribing the punishment that may be inflicted on the slaves, proceeds in the following words: "And to punish such free negroes and mulattoes by penalties not exceeding twenty dollars for any one offence; and in case of the inability of any such free negro or mulatto to pay any such penalty and costs thereon, to cause him or her to be confined to labor for any time not exceeding six calendar months." And in a subsequent part of the same section, the act authorizes the corporation "to prescribe the terms and conditions upon which free negroes and mulattoes may reside in the city."

This law, like the laws of the states, shows that this class of persons were governed by special legislation directed expressly to them, and always connected with provisions for the government of slaves, and not with those for the government of free white citizens. And after such an uniform course of legislation as we have stated, by the colonies, by the states, and by Congress, running through a period of more than a century, it would seem that to call persons thus marked and stigmatized, "citizens" of the United States, "fellow-citizens," a constituent part of the sovereignty, would be an abuse of terms, and not calculated to exalt the character of an American citizen in the eyes of other nations.

The conduct of the executive department of the government has been in perfect harmony upon this subject with this course of legislation. The question was brought officially before the late William Wirt, when he was the Attorney General of the United States, in 1821, and he decided that the words "citizens of the United States" were used in the acts of Congress in the same sense as in the Constitution; and that free persons of color were not citizens, within the meaning of the Constitution and laws; and this opinion has been confirmed by that of the late Attorney General, Caleb Cushing, in a recent case, and acted upon by the Secretary of State, who refused to grant passports to them as "citizens of the United States."

But it is said that a person may be a citizen, and entitled to that character, although he does not possess all the rights which may belong to other citizens; as, for example, the right to vote, or to hold particular offices; and that yet, when he goes into another state, he is entitled to be recognised there as a citizen, although the state may measure his rights by the rights which it allows to persons of a like character or class resident in the state, and refuse to him the full rights of citizenship.

This agrument overlooks the language of the provision in the Constitution of which we are speaking.

Undoubtedly, a person may be a citizen, that is, a member of the community who form the sovereignty, although he exercises no share of the political power, and is incapacitated from holding particular offices. Women and minors, who form a part of the political family, cannot vote; and when a property qualification is required to vote or hold a particular office, those who have not the necessary qualification cannot vote or hold the office, yet they are citizens.

So, too, a person may be entitled to vote by the law of the state, who is not a citizen even of the state itself. And in some of the states of the union foreigners not naturalized are allowed to vote. And the state may give the right to free negroes and mulattoes, but that does not make them citizens of the state, and still less of the United States. And the provision in the Constitution giving privileges and immunities in other states, does not apply to them.

Neither does it apply to a person who, being the citizen of a state, migrates to another state. For then he becomes subject to the laws of the state in which he lives, and he is no longer a citizen of the state from which he removed. And the state in which he resides may then, unquestionably, determine his status or condition, and place him among the class of persons who are not recognised as citizens, but belong to an inferior and subject race; and may deny him the privileges and immunities enjoyed by its citizens.

But so far as mere rights of person are concerned, the provision in question is confined to citizens of a state who are temporarily in another state without taking up their residence there. It gives them no political rights in the state, as to voting or holding office, or in any other respect. For a citizen of one state has no right to participate in the government of another. But if he ranks as a citizen in the state to which he belongs, within the meaning of the Constitution of the United States, then, whenever he goes into another state, the Constitution clothes him, as to the rights of person, with all the privileges and immunities which belong to citizens of the state. And if persons of the African race are citizens of a state, and of the United States, they would be entitled to all of these privileges and immunities in every state, and the state could not restrict them; for they would hold these privileges and immunities under the paramount authority of the federal government, and its courts would be bound to maintain and enforce them, the Constitution and laws of the state to the contrary notwithstanding. And if the states could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation; and would give no rights to the citizen when in another state. He would have none but what the state itself chose to allow him. This is evidently not the construction or meaning of the clause in question. It guaranties rights to the citizen, and the state cannot withhold them. And these rights are of a character and would lead to consequences which make

it absolutely certain that the African race were not included under the name of citizens of a state, and were not in the contemplation of the framers of the Constitution when these privileges and immunities were provided for the protection of the citizen in other states.

The case of Legrand *v.* Darnall (2 Peters, 664) has been referred to for the purpose of showing that this court has decided that the descendant of a slave may sue as a citizen in a court of the United States; but the case itself shows that the question did not arise and could not have arisen in the case.

It appears from the report, that Darnall was born in Maryland, and was the son of a white man by one of his slaves, and his father executed certain instruments to manumit him, and devised to him some landed property in the state. This property Darnall afterwards sold to Legrand, the appellant, who gave his notes for the purchase-money. But becoming afterwards apprehensive that the appellee had not been emancipated according to the laws of Maryland, he refused to pay the notes until he could be better satisfied as to Darnall's right to convey. Darnall, in the mean time, had taken up his residence in Pennsylvania, and brought suit on the notes, and recovered judgment in the Circuit Court for the district of Maryland.

The whole proceeding, as appears by the report, was an amicable one; Legrand being perfectly willing to pay the money, if he could obtain a title, and Darnall not wishing him to pay unless he could make him a good one. In point of fact, the whole proceeding was under the direction of the counsel who argued the case for the appellee, who was the mutual friend of the parties, and confided in by both of them, and whose only object was to have the rights of both parties established by judicial decision in the most speedy and least expensive manner.

Legrand, therefore, raised no objection to the jurisdiction of the court in the suit at law, because he was himself anxious to obtain the judgment of the court upon his title. Consequently, there was nothing in the record before the court to show that Darnall was of African descent, and the usual judgment and award of execution was entered. And Legrand thereupon filed his bill on the equity side of the Circuit Court, stating that Darnall was born a slave, and had not been legally emancipated, and could not therefore take the land devised to him, nor make Legrand a good title; and praying an injunction to restrain Darnall from proceeding to execution on the judgment, which was granted. Darnall answered, averring in his answer that he was a free man, and capable of conveying a good title. Testimony was taken on this point, and at the hearing the Circuit Court was of opinion that Darnall was a free man and his title good, and dissolved the injunction and dismissed the bill; and that decree was affirmed here, upon the appeal of Legrand.

Now, it is difficult to imagine how any question about the citizenship of Darnall, or his right to sue in that character, can be supposed to have arisen or been decided in that case. The fact that he was of African descent was first brought before the court upon the bill in equity. The suit at law had then passed into judgment and award of execution, and the Circuit Court, as a court of law, had no longer any authority over it. It was a valid and legal judgment, which the court that rendered it had not the power to reverse or set aside. And unless it had jurisdiction as a court of equity to restrain him from using its process as a court of law, Darnall, if he thought proper, would have been at liberty to proceed on his judgment, and compel the payment of the money, although the allegations in the bill were true, and he was incapable of making a title. No other court could have enjoined him, for certainly no state equity court could interfere in that way with the judgment of a Circuit Court of the United States.

But the Circuit Court as a court of equity certainly had equity jurisdiction over its own judgment as a court of law, without regard to the character of the parties; and had not only the right, but it was its duty—no matter who were the parties in the judgment—to prevent them from proceeding to enforce it by execution, if the court was satisfied that the money was not justly and equitably due. The ability of Darnall to convey did not depend upon his citizenship, but upon his title to freedom. And if he was free, he could hold and convey property, by the laws of Maryland, although he was not a citizen. But if he was by law still a slave, he could not. It was therefore the duty of the court, sitting as a court of equity in the latter case, to prevent him from using its process, as a court of common law, to compel the payment of the purchase-money, when it was evident that the purchaser must lose the land. But if he was free, and could make a title, it was equally the duty of the court not to suffer Legrand to keep the land, and refuse the payment of the money, upon the ground that Darnall was incapable of suing or being sued as a citizen in a court of the United States. The character or citizenship of the parties had no connexion with the question of jurisdiction, and the matter in dispute had no relation to the citizenship of Darnall. Nor is such a question alluded to in the opinion of the court.

Besides, we are by no means prepared to say that there are not many cases, civil as well as criminal, in which a Circuit Court of the United States may exercise jurisdiction, although one of the African race is a party; that broad question is not before the court. The question with which we are now dealing is, whether a person of the African race can be a citizen of the United States, and become thereby entitled to a special privilege, by virtue of his title to that character, and which, under the Consti-

tution, no one but a citizen can claim. It is manifest that the case of Legrand and Darnall has no bearing on that question, and can have no application to the case now before the court.

This case, however, strikingly illustrates the consequences that would follow the construction of the Constitution which would give the power contended for to a state. It would in effect give it also to an individual. For if the father of young Darnall had manumitted him in his lifetime, and sent him to reside in a state which recognised him as a citizen, he might have visited and sojourned in Maryland when he pleased, and as long as he pleased, as a citizen of the United States; and the state officers and tribunals would be compelled, by the paramount authority of the Constitution, to receive him and treat him as one of its citizens, exempt from the laws and police of the state in relation to a person of that description, and allow him to enjoy all the rights and privileges of citizenship, without respect to the laws of Maryland, although such laws were deemed by it absolutely essential to its own safety.

The only two provisions which point to them and include them, treat them as property, and make it the duty of the government to protect it; no other power, in relation to this race, is to be found in the Constitution; and as it is a government of special delegated powers, no authority beyond these two provisions can be constitutionally exercised. The government of the United States had no right to interfere for any other purpose but that of protecting the rights of the owner, leaving it altogether with the several states to deal with this race, whether emancipated or not, as each state may think justice, humanity, and the interests and safety of society, require. The states evidently intended to reserve this power exclusively to themselves.

No one, we presume, supposes that any change in public opinion or feeling, in relation to this unfortunate race, in the civilized nations of Europe or in this country, should induce the court to give to the words of the Constitution a more liberal construction in their favor than they were intended to bear when the instrument was framed and adopted. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended; but while it remains unaltered, it must be construed now as it was understood at the time of its adoption. It is not only the same in words, but the same in meaning, and delegates the same powers to the government, and reserves and secures the same rights and privileges to the citizen; and as long as it continues to exist in its present form, it speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of its framers, and was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judical character of this court, and make it the mere reflex of the popular opinion or passion of the day. This court was not created by the Constitution for such purposes. Higher and graver trusts have been confided to it, and it must not falter in the path of duty.

What the construction was at that time, we think can hardly admit of doubt. We have the language of the Declaration of Independence and of the Articles of Confederation, in addition to the plain words of the Constitution itself; we have the legislation of the different states, before, about the time, and since, the Constitution was adopted; we have the legislation of Congress, from the time of its adoption to a recent period; and we have the constant and uniform action of the executive department, all concurring together, and leading to the same result. And if anything in relation to the construction of the Constitution can be regarded as settled, it is that which we now give to the word "citizen" and the word "people."

And upon a full and careful consideration of the subject, the court is of opinion, that, upon the facts stated in the plea in abatement, Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States, and not entitled as such to sue in its courts; and, consequently, that the Circuit Court had no jurisdiction of the case, and that the judgment on the plea in abatement is erroneous.

We are aware that doubts are entertained by some of the members of the court, whether the plea in abatement is legally before the court upon this writ of error; but if that plea is regarded as waived, or out of the case upon any other ground, yet the question as to the jurisdiction of the Circuit Court is presented on the face of the bill of exception itself, taken by the plaintiff at the trial; for he admits that he and his wife were born slaves, but endeavors to make out his title to freedom and citizenship by showing that they were taken by their owner to certain places, hereinafter mentioned, where slavery could not by law exist, and that they thereby became free, and upon their return to Missouri became citizens of that state.

Now, if the removal of which he speaks did not give them their freedom, then by his own admission he is still a slave; and whatever opinions may be entertained in favor of the citizenship of a free person of the African race, no one supposes that a slave is a citizen of the state or of the United States. If, therefore, the acts done by his owner did not make them free persons, he is still a slave, and certainly incapable of suing in the character of a citizen.

The principle of law is too well settled to be disputed, that a court can give no judgment for either party, where it has no jurisdiction; and if, upon the showing of Scott himself, it appeared that he was still a slave, the case ought to have been dismissed, and the judg-

ment against him and in favor of the defendant for costs, is, like that on the plea in abatement, erroneous, and the suit ought to have been dismissed by the Circuit Court for want of jurisdiction in that court.

But, before we proceed to examine this part of the case, it may be proper to notice an objection taken to the judicial authority of this court to decide it; and it has been said, that as this court has decided against the jurisdiction of the Circuit Court on the plea in abatement, it has no right to examine any question presented by the exception; and that anything it may say upon that part of the case will be extra judicial, and mere obiter dicta.

This is a manifest mistake; there can be no doubt as to the jurisdiction of this court to revise the judgment of a Circuit Court, and to reverse it for any error apparent on the record, whether it be the error of giving judgment in a case over which it had no jurisdiction, or any other material error; and this too whether there is a plea in abatement or not.

The objection appears to have arisen from confounding writs of error to a state court, with writs of error to a Circuit Court of the United States. Undoubtedly, upon a writ of error to a state court, unless the record shows a case that gives jurisdiction, the case must be dismissed for want of jurisdiction in *this court*. And if it is dismissed on that ground, we have no right to examine and decide upon any question presented by the bill of exceptions, or any other part of the record. But writs of error to a state court, and to a Circuit Court of the United States, are regulated by different laws, and stand upon entirely different principles. And in a writ of error to a Circuit Court of the United States, the whole record is before this court for examination and decision; and if the sum in controversy is large enough to give jurisdiction, it is not only the right, but it is the judicial duty of the court, to examine the whole case as presented by the record; and if it appears upon its face that any material error or errors have been committed by the court below, it is the duty of this court to reverse the judgment and remand the case. And certainly an error in passing a judgment upon the merits in favor of either party, in a case which it was not authorized to try, and over which it had no jurisdiction, is as grave an error as a court can commit.

The plea in abatement is not a plea to the jurisdiction of this court, but to the jurisdiction of the Circuit Court. And it appears by the record before us, that the Circuit Court committed an error in deciding that it had jurisdiction upon the facts in the case, admitted by the pleadings. It is the duty of the appellate tribunal to correct this error; but that could not be done by dismissing the case for want of jurisdiction here—for that would leave the erroneous judgment in full force, and the injured party without remedy. And the appellate court therefore exercises the power for which alone appellate courts are constituted, by reversing the judgment of the court below for this error. It exercises its proper and appropriate jurisdiction over the judgment and proceedings of the Circuit Court, as they appear upon the record brought up by the writ of error.

The correction of one error in the court below does not deprive the appellate court of the power of examining further into the record, and correcting any other material errors which may have been committed by the inferior court. There is certainly no rule of law—nor any practice—nor any decision of a court—which even questions this power in the appellate tribunal. On the contrary, it is the daily practice of this court, and of all appellate courts where they reverse the judgment of an inferior court for error, to correct by its opinions whatever errors may appear on the record material to the case; and they have always held it to be their duty to do so where the silence of the court might lead to misconstruction or future controversy, and the point has been relied on by either side, and argued before the court.

In the case before us, we have already decided that the Circuit Court erred in deciding that it had jurisdiction upon the facts admitted by the pleadings. And it appears that, in the further progress of the case, it acted upon the erroneous principle it had decided on the pleadings, and gave judgment for the defendant, where, upon the facts admitted in the exception, it had no jurisdiction.

We are at a loss to understand upon what principle of law, applicable to appellate jurisdiction, it can be supposed that this court has not judicial authority to correct the last-mentioned error, because they had before corrected the former; or by what process of reasoning it can be made out, that the error of an inferior court in actually pronouncing judgment for one of the parties, in a case in which it had no jurisdiction, cannot be looked into or corrected by this court, because we have decided a similar question presented in the pleadings. The last point is distinctly presented by the facts contained in the plaintiff's own bill of exceptions, which he himself brings here by this writ of error. It was the point which chiefly occupied the attention of the counsel on both sides in the argument—and the judgment which this court must render upon both errors is precisely the same. It must, in each of them, exercise jurisdiction over the judgment, and reverse it for the errors committed by the court below; and issue a mandate to the Circuit Court to conform its judgment to the opinion pronounced by this court, by dismissing the case for want of jurisdiction in the Circuit Court. This is the constant and invariable practice of this court, where it reverses a judgment for want of jurisdiction in the Circuit Court.

It can scarcely be necessary to pursue such a question further. The want of jurisdiction in the court below may appear on the record without any plea in abatement. This is familiarly the case where a court of chancery has exercised jurisdiction in a case where the

plaintiff had a plain and adequate remedy at law, and it so appears by the transcript when brought here by appeal. So also where it appears that a court of admiralty has exercised jurisdiction in a case belonging exclusively to a court of common law. In these cases there is no plea in abatement. And for the same reason, and upon the same principles, where the defect of jurisdiction is patent on the record, this court is bound to reverse the judgment, although the defendant has not pleaded in abatement to the jurisdiction of the inferior court.

The cases of Jackson *v.* Ashton and of Capron *v.* Van Noorden, to which we have referred in a previous part of this opinion, are directly in point. In the last-mentioned case, Capron brought an action against Van Noorden in a Circuit Court of the United States, without showing, by the usual averments of citizenship, that the court had jurisdiction. There was no plea in abatement put in, and the parties went to trial upon the merits. The court gave judgment in favor of the defendant with costs. The plaintiff thereupon brought his writ of error, and this court reversed the judgment given in favor of the defendant, and remanded the case with directions to dismiss it, because it did not appear by the transcript that the Circuit Court had jurisdiction.

The case before us still more strongly imposes upon this court the duty of examining whether the court below has not committed an error, in taking jurisdiction and giving a judgment for costs in favor of the defendant; for in Capron *v.* Van Noorden the judgment was reversed, because it did *not appear* that the parties were citizens of different states. They might or might not be. But in this case it *does appear* that the plaintiff was born a slave; and if the facts upon which he relies have not made him free, then it appears affirmatively on the record that he is not a citizen, and consequently his suit against Sandford was not a suit between citizens of different states, and the court had no authority to pass any judgment between the parties. The suit ought, in this view of it, to have been dismissed by the Circuit Court, and its judgment in favor of Sandford is erroneous, and must be reversed.

It is true that the result either way, by dismissal or by a judgment for the defendant, makes very little, if any, difference in a pecuniary or personal point of view to either party. But the fact that the result would be very nearly the same to the parties in either form of judgment, would not justify this court in sanctioning an error in the judgment which is patent on the record, and which, if sanctioned, might be drawn into precedent, and lead to serious mischief and injustice in some future suit.

We proceed, therefore, to inquire whether the facts relied on by the plaintiff entitled him to his freedom.

The case, as he himself states it, on the record brought here by his writ of error, is this:

The plaintiff was a negro slave, belonging to Dr. Emerson, who was a surgeon in the army of the United States. In the year 1834, he took the plaintiff from the state of Missouri to the military post at Rock Island, in the state of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of thirty-six degrees thirty minutes north, and north of the state of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave, at said Fort Snelling, unto the said Dr. Emerson hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and Harriet intermarried at Fort Snelling, with the consent of Dr. Emerson, who then claimed to be their master and owner. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the state of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the state of Missouri, at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet, and their said daughter Eliza, from said Fort Snelling to the state of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, and Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them, and each of them, as slaves.

In considering this part of the controversy, two questions arise: I. Was he, together with his family, free in Missouri by reason of the stay in the territory of the United States hereinbefore mentioned? And 2. If they were not, is Scott himself free by reason of his removal to Rock Island, in the state of Illinois, as stated in the above admissions?

We proceed to examine the first question.

The act of Congress, upon which the plaintiff relies, declares that slavery and involun-

tary servitude, except as a punishment for crime, shall be for ever prohibited in all that part of the territory ceded by France, under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude, and not included within the limits of Missouri. And the difficulty which meets us at the threshold of this part of the inquiry is, whether Congress was authorized to pass this law under any of the powers granted to it by the Constitution; for if the authority is not given by that instrument, it is the duty of this court to declare it void and inoperative, and incapable of conferring freedom upon any one who is held as a slave under the laws of any one of the states.

The counsel for the plaintiff has laid much stress upon that article in the Constitution which confers on Congress the power to "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;" but, in the judgment of the court, that provision has no bearing on the present controversy, and the power there given, whatever it may be, is confined, and was intended to be confined, to the territory which at that time belonged to, or was claimed by, the United States, and was within their boundaries as settled by the treaty with Great Britain, and can have no influence upon a territory afterwards acquired from a foreign government. It was a special provision for a known and particular territory, and to meet a present emergency, and nothing more.

A brief summary of the history of the times, as well as the careful and measured terms in which the article is framed, will show the correctness of this proposition.

It will be remembered that, from the commencement of the Revolutionary war, serious difficulties existed between the states, in relation to the disposition of large and unsettled territories which were included in the chartered limits of some of the states. And some of the other states, and more especially Maryland, which had no unsettled lands, insisted that as the unoccupied lands, if wrested from Great Britain, would owe their preservation to the common purse and the common sword, the money arising from them ought to be applied in just proportion among the several states to pay the expenses of the war, and ought not to be appropriated to the use of the state in whose chartered limits they might happen to lie, to the exclusion of the other states, by whose combined efforts and common expense the territory was defended and preserved against the claim of the British government.

These difficulties caused much uneasiness during the war, while the issue was in some degree doubtful, and the future boundaries of the United States yet to be defined by treaty, if we achieved our independence.

The majority of the Congress of the Confederation obviously concurred in opinion with the state of Maryland, and desired to obtain from the states which claimed it a cession of this territory, in order that Congress might raise money on this security to carry on the war. This appears by the resolution passed on the 6th of September, 1780, strongly urging the states to cede these lands to the United States, both for the sake of peace and union among themselves, and to maintain the public credit; and this was followed by the resolution of October 10th, 1780, by which Congress pledged itself, that if the lands were ceded, as recommended by the resolution above mentioned, they should be disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, which should become members of the Federal Union, and have the same rights of sovereignty, and freedom, and independence, as other states.

But these difficulties became much more serious after peace took place, and the boundaries of the United States were established. Every state, at that time, felt severely the pressure of its war debt; but in Virginia, and some other states, there were large territories of unsettled lands, the sale of which would enable them to discharge their obligations without much inconvenience; while other states, which had no such resource, saw before them many years of heavy and burdensome taxation; and the latter insisted, for the reasons before stated, that these unsettled lands should be treated as the common property of the states, and the proceeds applied to their common benefit.

The letters from the statesmen of that day will show how much this controversy occupied their thoughts, and the dangers that were apprehended from it. It was the disturbing element of the time, and fears were entertained that it might dissolve the Confederation by which the states were then united.

These fears and dangers were, however, at once removed, when the state of Virginia, in 1784, voluntarily ceded to the United States the immense tract of country lying north-west of the river Ohio, and which was within the acknowledged limits of the state. The only object of the state, in making this cession, was to put an end to the threatening and exciting controversy, and to enable the Congress of that time to dispose of the lands, and appropriate the proceeds as a common fund for the common benefit of the states. It was not ceded, because it was inconvenient to the state to hold and govern it, nor from any expectation that it could be better or more conveniently governed by the United States.

The example of Virginia was soon afterwards followed by other states, and, at the time of the adoption of the Constitution, all of the states, similarly situated, had ceded their unappropriated lands, except North Carolina and Georgia. The main object for which these cessions were desired and made, was on account of their money value, and to put an end to a dangerous controversy, as to who was justly entitled to the proceeds when the

lands should be sold. It is necessary to bring this part of the history of these cessions thus distinctly into view, because it will enable us the better to comprehend the phraseology of the article in the Constitution, so often referred to in the argument.

Undoubtedly the powers of sovereignty and the eminent domain were ceded with the land. This was essential, in order to make it effectual, and to accomplish its objects. But it must be remembered that, at that time, there was no government of the United States in existence with enumerated and limited powers; what was then called the United States, were thirteen separate, sovereign, independent states, which had entered into a league or confederation for their mutual protection and advantage, and the Congress of the United States was composed of the representatives of these separate sovereignties, meeting together, as equals, to discuss and decide on certain measures which the states, by the Articles of Confederation, had agreed to submit to their decision. But this confederation had none of the attributes of sovereignty in legislative, executive, or judicial power. It was little more than a congress of ambassadors, authorized to represent separate nations, in matters in which they had a common concern.

It was this Congress that accepted the cession from Virginia. They had no power to accept it under the Articles of Confederation. But they had an undoubted right, as independent sovereignties, to accept any cession of territory for their common benefit, which all of them assented to; and it is equally clear, that as their common property, and having no superior to control them, they had the right to exercise absolute dominion over it, subject only to the restrictions which Virginia had imposed in her act of cession. There was, as we have said, no government of the United States then in existence with special enumerated and limited powers. The territory belonged to sovereignties, who, subject to the limitations above mentioned, had a right to establish any form of government they pleased, by compact or treaty among themselves, and to regulate rights of person and rights of property in the territory, as they might deem proper. It was by a congress, representing the authority of these several and separate sovereignties, and acting under their authority and command (but not from any authority derived from the Articles of Confederation), that the instrument usually called the ordinance of 1787 was adopted; regulating in much detail the principles and the laws by which this territory should be governed; and among other provisions, slavery is prohibited in it. We do not question the power of the states, by agreement among themselves, to pass this ordinance, nor its obligatory force in the territory, while the confederation or league of the states in their separate sovereign character continued to exist.

This was the state of things when the Constitution of the United States was formed. The territory ceded by Virginia belonged to several confederated states as common property, and they had united in establishing in it a system of government and jurisprudence, in order to prepare it for admission as states, according to the terms of the cession. They were about to dissolve this federative Union, and to surrender a portion of their independent sovereignty to a new government, which, for certain purposes, would make the people of the several states one people, and which was to be supreme and controlling within its sphere of action throughout the United States; but this government was to be carefully limited in its powers, and to exercise no authority beyond those expressly granted by the Constitution, or necessarily to be implied from the language of the instrument, and the objects it was intended to accomplish; and as this league of states would, upon the adoption of the new government, cease to have any power over the territory, and the ordinance they had agreed upon be incapable of execution, and a mere nullity, it was obvious that some provision was necessary to give the new government sufficient power to enable it to carry into effect the objects for which it was ceded, and the compacts and agreements which the states had made with each other in the exercise of their powers of sovereignty. It was necessary that the lands should be sold to pay the war debt; that a government and system of jurisprudence should be maintained in it, to protect the citizens of the United States who should migrate to the territory, in their rights of person and of property. It was also necessary that the new government, about to be adopted, should be authorized to maintain the claim of the United States to the unappropriated lands in North Carolina and Georgia, which had not then been ceded, but the cession of which was confidently anticipated upon some terms that would be arranged between the general government and these two states. And, moreover, there were many articles of value besides this property in land, such as arms, military stores, munitions, and ships of war, which were the common property of the states, when acting in their independent characters as confederates, which neither the new government nor any one else would have a right to take possession of, or control, without authority from them; and it was to place these things under the guardianship and protection of the new government, and to clothe it with the necessary powers, that the clause was inserted in the Constitution, which gives Congress the power to "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." It was intended for a specific purpose, to provide for the things we have mentioned. It was to transfer to the new government the property then held in common by the states, and to give to that government power to apply it to

the objects for which it had been destined by mutual agreement among the states before their league was dissolved. It applied only to the property which the states held in common at that time, and has no reference whatever to any territory or other property which the new sovereignty might afterwards itself acquire.

The language used in the clause, the arrangement and combination of the powers, and the somewhat unusual phraseology it uses, when it speaks of the political power to be exercised in the government of the territory, all indicate the design and meaning of the clause to be such as we have mentioned. It does not speak of any territory, nor of territories, but uses language which, according to its legitimate meaning, points to a particular thing. The power is given in relation only to the territory of the United States; that is, to a territory then in existence, and then known or claimed as the territory of the United States. It begins its enumeration of powers by that of disposing, in other words, making sale of the lands, or raising money from them, which, as we have already said, was the main object of the cession, and which is accordingly the first thing provided for in the article. It then gives the power which was necessarily associated with the disposition and sale of the lands; that is, the power of making needful rules and regulations respecting the territory. And whatever construction may now be given to these words, every one, we think, must admit that they are not the words usually employed by statesmen in giving supreme power of legislation. They are certainly very unlike the words used in the power granted to legislate over territory which the new government might afterwards itself obtain by cession from a state, either for its seat of government, or for forts, magazines, arsenals, dock yards, and other needful buildings.

And the same power of making needful rules respecting the territory is, in precisely the same language, applied to the *other* property belonging to the United States—associating the power over the territory in this respect with the power over movable or personal property—that is, the ships, arms, and munitions of war, which then belonged in common to the state sovereignties. And it will hardly be said that this power, in relation to the last-mentioned objects, was deemed necessary to be thus specially given to the new government, in order to authorize it to make needful rules and regulations respecting the ships it might itself build, or arms and munitions of war it might itself manufacture or provide for the public service.

No one, it is believed, would think a moment of deriving the power of Congress to make needful rules and regulations in relation to property of this kind from this clause of the Constitution. Nor can it, upon any fair construction, be applied to any property but that which the new government was about to receive from the confederated states. And if this be true as to this property, it must be equally true and limited as to the territory, which is so carefully and precisely coupled with it—and like it, referred to as property in the power granted. The concluding words of the clause appear to render this construction irresistible; for, after the provisions we have mentioned, it proceeds to say, "that nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state."

Now, as we have before said, all of the states, except North Carolina and Georgia, had made the cession before the Constitution was adopted, according to the resolution of Congress of October 10, 1780. The claims of other states, that the unappropriated lands in these two states should be applied to the common benefit, in like manner was still insisted on, but refused by the states. And this member of the clause in question evidently applies to them, and can apply to nothing else. It was to exclude the conclusion that either party, by adopting the Constitution, would surrender what they deemed their rights. And when the latter provision relates so obviously to the unappropriated lands not yet ceded by the states, and the first clause makes provision for those then actually ceded, it is impossible, by any just rule of construction, to make the first provision general, and extend to all territories which the federal government might in any way afterwards acquire, when the latter is plainly and unequivocally confined to a particular territory; which was a part of the same controversy, and involved in the same dispute, and depended upon the same principles. The union of the two provisions in the same clause shows that they were kindred subjects; and that the whole clause is local, and relates only to lands within the limits of the United States, which had been or then were claimed by a state; and that no other territory was in the mind of the framers of the Constitution, or intended to be embraced in it. Upon any other construction it would be impossible to account for the insertion of the last provision in the place where it is found, or to comprehend why or for what object it was associated with the previous provision.

This view of the subject is confirmed by the manner in which the present government of the United States dealt with the subject as soon as it came into existence. It must be borne in mind that the same states that formed the Confederation also formed and adopted the new government, to which so large a portion of their former sovereign powers were surrendered. It must also be borne in mind that all of these same states which had then ratified the new Constitution were represented in the Congress which passed the first law for the government of this territory; and many of the members of that legislative body had been deputies from the states under the Confederation—had united in adopting the

ordinance of 1787, and assisted in forming the new government under which they were then acting, and whose powers they were then exercising. And it is obvious, from the law they passed to carry into effect the principles and provisions of the ordinance, that they regarded it as the act of the states done in the exercise of their legitimate powers at the time. The new government took the territory as it found it, and in the condition in which it was transferred, and did not attempt to undo anything that had been done. And, among the earliest laws passed under the new government, is one reviving the ordinance of 1787, which had become inoperative, and a nullity upon the adoption of the Constitution. This law introduces no new form or principles for its government, but recites, in the preamble, that it is passed in order that this ordinance may continue to have full effect, and proceeds to make only those rules and regulations which were needful to adapt it to the new government, into whose hands the power had fallen. It appears, therefore, that this Congress regarded the purposes to which the land in this territory was to be applied, and the form of government and principles of jurisprudence which were to prevail there, while it remained in the territorial state, as already determined on by the states when they had full power and right to make the decision; and that the new government, having received it in this condition, ought to carry substantially into effect the plans and principles which had been previously adopted by the states, and which no doubt the states anticipated when they surrendered their power to the new government. And if we regard this clause of the Constitution as pointing to this territory, with a territorial government already established in it, which had been ceded to the states for the purposes hereinbefore mentioned—every word in it is perfectly appropriate, and easily understood, and the provisions it contains are in perfect harmony with the objects for which it was ceded, and with the condition of its government as a territory at the time. We can, then, easily account for the manner in which the first Congress legislated on the subject—and can also understand why this power over the territory was associated in the same clause with the other property of the United States, and subjected to the like power of making needful rules and regulations. But if the clause is construed in the expanded sense contended for, so as to embrace any territory acquired from a foreign nation by the present government, and to give it in such territory a despotic and unlimited power over persons and property, such as the confederated states might exercise in their common property, it would be difficult to account for the phraseology used, when compared with other grants of power—and also for its association with the other provisions in the same clause.

The Constitution has always been remarkable for the felicity of its arrangement of different subjects, and the perspicuity and appropriateness of the language it uses. But if this clause is construed to extend to territory acquired by the present government from a foreign nation, outside of the limits of any charter from the British government to a colony, it would be difficult to say, why it was deemed necessary to give the government the power to sell any vacant lands belonging to the sovereignty which might be found within it; and if this was necessary, why the grant of this power should precede the power to legislate over it and establish a government there; and still more difficult to say, why it was deemed necessary so specially and particularly to grant the power to make needful rules and regulations in relation to any personal or movable property it might acquire there. For the words *other property*, necessarily, by every known rule of interpretation, must mean property of a different description from territory or land. And the difficulty would perhaps be insurmountable in endeavoring to account for the last member of the sentence, which provides that "nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular state," or to say how any particular state could have claims in or to a territory ceded by a foreign government, or to account for associating this provision with the preceding provisions of the clause, with which it would appear to have no connexion.

The words "needful rules and regulations" would seem, also, to have been cautiously used for some definite object. They are not the words usually employed by statesmen, when they mean to give the powers of sovereignty, or to establish a government, or to authorize its establishment. Thus, in the law to renew and keep alive the ordinance of 1787, and to re-establish the government, the title of the law is: "An act to provide for the government of the territory northwest of the river Ohio." And in the Constitution, when granting the power to legislate over the territory that may be selected for the seat of government independently of a state, it does not say Congress shall have power "to make all needful rules and regulations respecting the territory;" but it declares that "Congress shall have power to exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States.

The words "rules and regulations" are usually employed in the Constitution in speaking of some particular specified power which it means to confer on the government, and not, as we have seen, when granting general powers of legislation. As, for example, in the particular power to Congress "to make rules for the government and regulation of the land and naval forces, or the particular and specific power to regulate commerce;" "to establish an uniform rule of naturalization;" "to coin

money and regulate the value thereof." And to construe the words of which we are speaking as a general and unlimited grant of sovereignty over territories which the government might afterwards acquire, is to use them in a sense and for a purpose for which they were not used in any other part of the instrument. But if confined to a particular territory, in which a government and laws had already been established, but which would require some alterations to adapt it to the new government, the words are peculiarly applicable and appropriate for that purpose.

The necessity of this special provision in relation to property and the rights or property held in common by the confederated states, is illustrated by the first clause of the sixth article. This clause provides that "all debts, contracts, and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this government as under the Confederation." This provision, like the one under consideration, was indispensable if the new Constitution was adopted. The new government was not a mere change in a dynasty, or in a form of government, leaving the nation or sovereignty the same, and clothed with all the rights, and bound by all the obligations, of the preceding one. But, when the present United States came into existence under the new government, it was a new political body, a new nation, then for the first time taking its place in the family of nations. It took nothing by succession from the Confederation. It had no right, as its successor, to any property or rights of property which it had acquired, and was not liable for any of its obligations. It was evidently viewed in this light by the framers of the Constitution. And as the several states would cease to exist in their former confederated character upon the adoption of the Constitution, and could not, in that character, again assemble together, special provisions were indispensable to transfer to the new government the property and rights which at that time they held in common; and at the same time to authorize it to lay taxes and appropriate money to pay the common debt which they had contracted; and this power could only be given to it by special provisions in the Constitution. The clause in relation to the territory end other property of the United States provided for the first, and the clause last quoted provided for the other. They have no connexion with the general powers and rights of sovereignty delegated to the new government, and can neither enlarge nor diminish them. They were inserted to meet a present emergency, and not to regulate its powers as a government.

Indeed, a similar provision was deemed necessary, in relation to treaties made by the Confederation; and when in the clause next succeeding the one of which we have last spoken, it is declared that treaties shall be the supreme law of the land, care is taken to include, by express words, the treaties made by the confederated states. The language is: "and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

Whether, therefore, we take the particular clause in question, by itself, or in connexion with the other provisions of the Constitution, we think it clear, that it applies only to the particular territory of which we have spoken, and cannot, by any just rule of interpretation, be extended to territory which the new government might afterwards obtain from a foreign nation. Consequently, the power which Congress may have lawfully exercised in this territory, while it remained under a territorial government, and which may have been sanctioned by judicial decision, can furnish no justification and no argument to support a similar exercise of power over territory afterwards acquired by the federal government. We put aside, therefore, any argument, drawn from precedents, showing the extent of the power which the general government exercised over slavery in this territory, as altogether inapplicable to the case before us.

But the case of the American and Ocean Insurance Companies *v.* Canter (1 Pet., 511) has been quoted as establishing a different construction of this clause of the Constitution. There is, however, not the slightest conflict between the opinion now given and the one referred to; and it is only by taking a single sentence out of the latter and separating it from the context, that even an appearance of conflict can be shown. We need not comment on such a mode of expounding an opinion of the court. Indeed it most commonly misrepresents instead of expounding it. And this is fully exemplified in the case referred to, where, if one sentence is taken by itself, the opinion would appear to be in direct conflict with that now given; but the words which immediately follow that sentence show that the court did not mean to decide the point, but merely affirmed the power of Congress to establish a government in the territory, leaving it an open question, whether that power was derived from this clause in the Constitution, or was to be necessarily inferred from a power to acquire territory by cession from a foreign government. The opinion on this part of the case is short, and we give the whole of it to show how well the selection of a single sentence is calculated to mislead.

The passage referred to is in page 542, in which the court, in speaking of the power of Congress to establish a territorial government in Florida until it should become a state, uses the following language:—

"In the mean time Florida continues to be a territory of the United States, governed by that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property of the United States. Perhaps the power of governing a territory belonging to the United States, which has not, by be-

coming a state, acquired the means of self-government, may result, necessarily, from the facts that it is not within the jurisdiction of any particular state, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. *Whichever may be the source from which the power is derived, the possession of it is unquestionable.*"

It is thus clear, from the whole opinion on this point, that the court did not mean to decide whether the power was derived from the clause in the Constitution, or was the necessary consequence of the right to acquire. They do decide that the power in Congress is unquestionable, and in this we entirely concur, and nothing will be found in this opinion to the contrary. The power stands firmly on the latter alternative put by the court—that is, as "the inevitable consequence of the right to acquire territory."

And what still more clearly demonstrates that the court did not mean to decide the question, but leave it open for future consideration, is the fact that the case was decided in the Circuit Court by Mr. Justice Johnson, and his decision was affirmed by the Supreme Court. His opinion at the circuit is given in full in a note to the case, and in that opinion he states, in explicit terms, that the clause of the Constitution applies only to the territory then within the limits of the United States, and not to Florida, which had been acquired by cession from Spain. This part of his opinion will be found in the note in page 517 of the report. But he does not dissent from the opinion of the Supreme Court; thereby showing that, in his judgment, as well as that of the court, the case before them did not call for a decision on that particular point, and the court abstained from deciding it. And in a part of its opinion subsequent to the passage we have quoted, where the court speak of the legislative power of Congress in Florida, they still speak with the same reserve. And in page 546, speaking of the power of Congress to authorize the territorial legislature to establish courts there, the court say: "They are legislative courts, created in virtue of the general right of sovereignty which exists in the government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States."

It has been said that the construction given to this clause is new, and now for the first time brought forward. The case of which we are speaking, and which has been so much discussed, shows that the fact is otherwise. It shows that precisely the same question came before Mr. Justice Johnson, at his circuit, thirty years ago—was fully considered by him, and the same construction given to the clause in the Constitution which is now given by this court. And that upon an appeal from his decision the same question was brought before this court, but was not decided because a decision upon it was not required by the case before the court.

There is another sentence in the opinion which has been commented on, which even in a still more striking manner shows how one may mislead or be misled by taking out a single sentence from the opinion of a court, and leaving out of view what precedes and follows. It is in page 546, near the close of the opinion, in which the court say: "In legislating for them" (the territories of the United States), "Congress exercises the combined powers of the general and of a state government." And it is said, that as a state may unquestionably prohibit slavery within its territory, this sentence decides in effect that Congress may do the same in a territory of the United States, exercising there the powers of a state, as well as the power of the general government.

The examination of this passage in the case referred to, would be more appropriate when we come to consider in another part of this opinion what power Congress can constitutionally exercise in a territory, over the rights of person or rights of property of a citizen. But, as it is in the same case with the passage we have before commented on, we dispose of it now, as it will save the court from the necessity of referring again to the case. And it will be seen upon reading the page in which this sentence is found, that it has no reference whatever to the power of Congress over rights of person or rights of property—but relates altogether to the power of establishing judicial tribunals to administer the laws constitutionally passed, and defining the jurisdiction they may exercise.

The law of Congress establishing a territorial government in Florida, provided that the legislature of the territory should have legislative powers over "all rightful objects of legislation; but no law should be valid which was inconsistent with the laws and Constitution of the United States."

Under the power thus conferred, the legislature of Florida passed an act, erecting a tribunal at Key West to decide cases of salvage. And in the case of which we are speaking, the question arose whether the territorial legislature could be authorized by Congress to establish such a tribunal, with such powers; and one of the parties, among other objections, insisted that Congress could not under the Constitution authorize the legislature of the territory to establish such a tribunal with such powers, but that it must be established by Congress itself; and that a sale of cargo made under its order, to pay salvors, was void, as made without legal authority, and passed no property to the purchaser.

It is in disposing of this objection that the sentence relied on occurs, and the court begin that part of the opinion by stating with great precision the point which they are about to decide.

They say: "It has been contended that by the Constitution of the United States, the judicial power of the United States extends

to all cases of admiralty and maritime jurisdiction; and that the whole of the judicial power must be vested 'in one Supreme Court, and in such inferior courts as Congress shall from time to time ordain and establish.' Hence it has been argued that Congress cannot vest admiralty jurisdiction in courts created by the territorial legislature."

And after thus clearly stating the point before them, and which they were about to decide, they proceed to show that these territorial tribunals were not constitutional courts, but merely legislative, and that Congress might, therefore, delegate the power to the territorial government to establish the court in question; and they conclude that part of the opinion in the following words: "Although admiralty jurisdiction can be exercised in the states in those courts only which are established in pursuance of the third article of the Constitution, the same limitation does not extend to the territories. In legislating for them, Congress exercises the combined powers of the general and state governments."

Thus it will be seen by these quotations from the opinion, that the court, after stating the question it was about to decide in a manner too plain to be misunderstood, proceeded to decide it, and announced, as the opinion of the tribunal, that in organizing the judicial department of the government in a territory of the United States, Congress does not act under, and is not restricted by, the third article in the Constitution, and is not bound, in a territory, to ordain and establish courts in which the judges hold their offices during good behavior, but may exercise the discretionary power which a state exercises in establishing its judicial department, and regulating the jurisdiction of its courts, and may authorize the territorial government to establish, or may itself establish, courts in which the judges hold their offices for a term of years only; and may vest in them judicial power upon subjects confided to the judiciary of the United States. And in doing this, Congress undoubtedly exercises the combined power of the general and a state government. It exercises the discretionary power of a state government in authorizing the establishment of a court in which the judges hold their appointments for a term of years only, and not during good behavior; and it exercises the power of the general government in investing that court with admiralty jurisdiction, over which the general government had exclusive jurisdiction in the territory.

No one, we presume, will question the correctness of that opinion; nor is there anything in conflict with it in the opinion now given. The point decided in the case cited has no relation to the question now before the court. That depended on the construction of the third article of the Constitution, in relation to the judiciary of the United States, and the power which Congress might exercise in a territory in organizing the judicial department of the government. The case before us depends upon other and different provisions of the Constitution, altogether separate and apart from the one above mentioned. The question as to what courts Congress may ordain or establish in a territory to administer laws which the Constitution authorizes it to pass, and what laws it is or is not authorized by the Constitution to pass, are widely different—are regulated by different and separate articles of the Constitution, and stand upon different principles. And we are satisfied that no one who reads attentively the page in Peters' Reports to which we have referred, can suppose that the attention of the court was drawn for a moment to the question now before this court, or that it meant in that case to say that Congress had a right to prohibit a citizen of the United States from taking any property which he lawfully held into a territory of the United States.

This brings us to examine by what provision of the Constitution the present federal government, under its delegated and restricted powers, is authorized to acquire territory outside of the original limits of the United States, and what powers it may exercise therein over the person or property of a citizen of the United States, while it remains a territory, and until it shall be admitted as one of the states of the Union.

There is certainly no power given by the Constitution to the federal government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new states. That power is plainly given; and if a new state is admitted, it needs no further legislation by Congress, because the Constitution itself defines the relative rights and powers, and duties of the state, and the citizens of the state, and the federal government. But no power is given to acquire a territory to be held and governed permanently in that character.

And indeed the power exercised by Congress to acquire territory and establish a government there, according to its own unlimited discretion, was viewed with great jealousy by the leading statesmen of the day. And in the Federalist, (No. 38), written by Mr. Madison, he speaks of the acquisition of the Northwestern Territory by the confederated states, by the cession from Virginia, and the establishment of a government there, as an exercise of power not warranted by the Articles of Confederation, and dangerous to the liberties of the people. And he urges the adoption of the Constitution as a security and safeguard against such an exercise of power.

We do not mean, however, to question the power of Congress in this respect. The power to expand the territory of the United States, by the admission of new states, is plainly given; and in the construction of this power by all the departments of the government, it has been held to authorize the acquisition of

territory, not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a state, and not to be held as a colony and governed by Congress with absolute authority; and as the propriety of admitting a new state is committed to the sound discretion of Congress, the power to acquire territory for that purpose, to be held by the United States until it is in a suitable condition to become a state upon an equal footing with the other states, must rest upon the same discretion. It is a question for the political department of the government, and not the judicial; and whatever the political department of the government shall recognise as within the limits of the United States, the judicial department is also bound to recognise, and to administer in it the laws of the United States, so far as they apply, and to maintain in the territory the authority and rights of the government, and also the personal rights and rights of property of individual citizens, as secured by the Constitution. All we mean to say on this point is, that, as there is no express regulation in the Constitution defining the power which the general government may exercise over the person or property of a citizen in a territory thus acquired, the court must necessarily look to the provisions and principles of the Constitution, and its distribution of powers, for the rules and principles by which its decision must be governed.

Taking this rule to guide us, it may be safely assumed that citizens of the United States who migrate to a territory belonging to the people of the United States, cannot be ruled as mere colonists, dependent upon the will of the general government, and to be governed by any laws it may think proper to impose. The principle upon which our governments rest, and upon which alone they continue to exist, is the union of states, sovereign and independent within their own limits in their internal and domestic concerns, and bound together as one people by a general government, possessing certain enumerated and restricted powers, delegated to it by the the people of the several states, and exercising supreme authority within the scope of the powers granted to it throughout the dominion of the United States. A power, therefore, in the general government to obtain and hold colonies and dependent territories, over which they might legislate without restriction, would be inconsistent with its own existence in its present form. Whatever it acquires, it acquires for the benefit of the people of the several states who created it. It is their trustee acting for them, and charged with the duty of promoting the interests of the whole people of the Union in the exercise of the powers specifically granted.

At the time when the territory in question was obtained by cession from France, it contained no population fit to be associated together and admitted as a state; and it therefore was absolutely necessary to hold possession of it, as a territory belonging to the United States, until it was settled and inhabited by a civilized community capable of self-government, and in a condition to be admitted on equal terms with the other states as a member of the Union. But, as we have before said, it was acquired by the general government, as the representative and trustee of the people of the United States, and it must therefore be held in that character for their common and equal benefit; for it was the people of the several states, acting through their agent and representative, the federal government, who in fact acquired the territory in question, and the government holds it for their common use until it shall be associated with the other states as a member of the Union.

But until that time arrives, it is undoubtedly necessary that some government should be established, in order to organize society, and to protect the inhabitants in their persons and property; and as the people of the United States could act in this matter only through the government which represented them, and through which they spoke and acted when the territory was obtained, it was not only within the scope of its powers, but it was its duty to pass such laws and establish such a government as would enable those, by whose authority they acted, to reap the advantages anticipated from its acquisition, and to gather there a population which would enable it to assume the position to which it was destined among the states of the Union. The power to acquire necessarily carries with it the power to preserve and apply to the purposes for which it was acquired. The form of government to be established necessarily rested in the discretion of Congress. It was their duty to establish the one that would be best suited for the protection and security of the citizens of the United States, and other inhabitants who might be authorized to take up their abode there, and that must always depend upon the existing condition of the territory, as to the number and character of its inhabitants, and their situation in the territory. In some cases a government, consisting of persons appointed by the federal government, would best subserve the interests of the territory, when the inhabitants were few and scattered, and new to one another. In other instances, it would be more advisable to commit the powers of self-government to the people who had settled in the territory, as being the most competent to determine what was best for their own interests. But some form of civil authority would be absolutely necessary to organize and preserve civilized society, and prepare it to become a state; and what is the best form must always depend on the condition of the territory at the time, and the choice of the mode must depend upon the exercise of a discretionary power by Congress, acting within the scope of its constitutional authority, and not infringing upon the rights of person or rights of property of the citizen who might go there to reside, or for any other lawful purpose. It was acquired by the exercise of this

discretion, and it must be held and governed in like manner, until it is fitted to be a state.

But the power of Congress over the person or property of a citizen can never be a mere discretionary power under our Constitution and form of government. The powers of the government and the rights and privileges of the citizen are regulated and plainly defined by the Constitution itself. And when the territory becomes a part of the United States, the federal government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen strictly defined, and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a territory of the United States, put off its character, and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separated from the citizens of the United States, and the duties it owes them under the provisions of the Constitution. The territory being a part of the United States, the government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the federal government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved.

A reference to a few of the provisions of the Constitution will illustrate this proposition.

For example, no one, we presume, will contend that Congress can make any law in a territory respecting the establishment of religion, or the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people of the territory peaceably to assemble, and to petition the government for the redress of grievances.

Nor can Congress deny to the people the right to keep and bear arms, nor the right to trial by jury, nor compel any one to be a witness against himself in a criminal proceeding.

These powers, and others, in relation to rights of person, which it is not necessary here to enumerate, are, in express and positive terms, denied to the general government; and the rights of private property have been guarded with equal care. Thus the rights of property are united with the rights of person, and placed on the same ground by the fifth amendment to the Constitution, which provides that no person shall be deprived of life, liberty, and property, without due process of law. And an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offence against the laws, could hardly be dignified with the name of due process of law.

So, too, it will hardly be contended that Congress could by law quarter a soldier in a house in a territory without the consent of the owner, in time of peace; nor in time of war, but in a manner prescribed by law. Nor could they by law forfeit the property of a citizen in a territory who was convicted of treason, for a longer period than the life of the person convicted; nor take private property for public use without just compensation.

The powers over person and property of which we speak are not only not granted to Congress, but are in express terms denied, and they are forbidden to exercise them. And this prohibition is not confined to the states, but the words are general, and extend to the whole territory over which the Constitution gives it power to legislate, including those portions of it remaining under territorial government, as well as that covered by states. It is a total absence of power everywhere within the dominion of the United States, and places the citizens of a territory, so far as these rights are concerned, on the same footing with citizens of the states, and guards them as firmly and plainly against any inroads which the general government might attempt, under the plea of implied or incidental powers. And if Congress itself cannot do this—if it is beyond the powers conferred on the federal government—it will be admitted, we presume, that it could not authorize a territorial government to exercise them. It could confer no power on any local government, established by its authority, to violate the provisions of the Constitution.

It seems, however, to be supposed, that there is a difference between property in a slave and other property, and that different rules may be applied to it in expounding the Constitution of the United States. And the laws and usages of nations, and the writings of eminent jurists upon the relation of master and slave and their mutual rights and duties, and the powers which governments may exercise over it, have been dwelt upon in the argument.

But in considering the question before us, it must be borne in mind that there is no law of nations standing between the people of the United States and their government, and interfering with their relation to each other. The powers of the government, and the rights of the citizen under it, are positive and practical regulations plainly written down. The people of the United States have delegated to it certain enumerated powers, and forbidden it to exercise others. It has no power over the person or property of a citizen but what the citizens of the United States have granted. And no laws or usages of other nations, or reasoning of statesmen or jurists upon the relations of master and slave, can enlarge the powers of the government, or take from the citizens the rights they have reserved. And if the Constitution recognises the right of property of the master in a slave, and makes no distinction between that description of property and other property owned by a citizen,

no tribunal, acting under the authority of the United States, whether it be legislative, executive, or judicial, has a right to draw such a distinction, or deny to it the benefit of the provisions and guarantees which have been provided for the protection of private property against the encroachments of the government.

Now, as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guarantied to the citizens of the United States, in every state that might desire it, for twenty years. And the government in express terms is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

Upon these considerations, it is the opinion of the court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned, is not warranted by the Constitution, and is therefore void; and that neither Dred Scott himself, nor any of his family, were made free by being carried into this territory; even if they had been carried there by the owner, with the intention of becoming a permanent resident.

We have so far examined the case, as it stands under the Constitution of the United States, and the powers thereby delegated to the federal government.

But there is another point in the case which depends on state power and state law. And it is contended, on the part of the plaintiff, that he is made free by being taken to Rock Island, in the state of Illinois, independently of his residence in the territory of the United States; and being so made free, he was not again reduced to a state of slavery by being brought back to Missouri.

Our notice of this part of the case will be very brief; for the principle on which it depends was decided in this court, upon much consideration, in the case of Strader et al. *v.* Graham, reported in 10th Howard, 82. In that case, the slaves had been taken from Kentucky to Ohio, with the consent of the owner, and afterwards brought back to Kentucky. And this court held that their *status* or condition, as free or slave, depended upon the laws of Kentucky, when they were brought back into that state, and not of Ohio; and that this court had no jurisdiction to revise the judgment of a state court upon its own laws. This was the point directly before the court, and the decision that this court had not jurisdiction turned upon it, as will be seen by the report of the case.

So in this case. As Scott was a slave when taken into the state of Illinois by his owner, and was there held as such, and brought back in that character, his *status*, as free or slave, depended on the laws of Missouri, and not of Illinois.

It has, however, been urged in the argument, that by the laws of Missouri he was free on his return, and that this case, therefore, cannot be governed by the case of Strader et al. *v.* Graham, where it appeared, by the laws of Kentucky, that the plaintiffs continued to be slaves on their return from Ohio. But whatever doubts or opinions may, at one time, have been entertained upon this subject, we are satisfied, upon a careful examination of all the cases decided in the state courts of Missouri referred to, that it is now firmly settled by the decisions of the highest court in the state, that Scott and his family upon their return were not free, but were, by the laws of Missouri, the property of the defendant; and that the Circuit Court of the United States had no jurisdiction, when, by the laws of the state, the plaintiff was a slave, and not a citizen.

Moreover, the plaintiff, it appears, brought a similar action against the defendant in the state court of Missouri, claiming the freedom of himself and his family upon the same grounds and the same evidence upon which he relies in the case before the court. The case was carried before the Supreme Court of the state; was fully argued there; and that court decided that neither the plaintiff nor his family were entitled to freedom, and were still the slaves of the defendant; and reversed the judgment of the inferior state court, which had given a different decision. If the plaintiff supposed that this judgment of the Supreme Court of the state was erroneous, and that this court had jurisdiction to revise and reverse it, the only mode by which he could legally bring it before this court was by writ of error directed to the Supreme Court of the state, requiring it to transmit the record to this court. If this had been done, it is too plain for argument that the writ must have been dismissed for want of jurisdiction in this court. The case of Strader and others *v.* Graham is directly in point; and, indeed, independent of any decision, the language of the 25th section of the act of 1789 is too clear and precise to admit of controversy.

But the plaintiff did not pursue the mode prescribed by law for bringing the judgment of a state court before this court for revision, but suffered the case to be remanded to the inferior state court, where it is still continued, and is, by agreement of parties, to await the judgment of this court on the point. All of this appears on the record before us, and by the printed report of the case.

And while the case is yet open and pending in the inferior state court, the plaintiff goes

into the Circuit Court of the United States, upon the same case and the same evidence, and against the same party, and proceeds to judgment, and then brings here the same case from the Circuit Court, which the law would not have permitted him to bring directly from the state court. And if this court takes jurisdiction in this form, the result, so far as the rights of the respective parties are concerned, is in every respect substantially the same as if it had in open violation of law entertained jurisdiction over the judgment of the state court upon a writ of error, and revised and reversed its judgment upon the ground that its opinion upon the question of law was erroneous. It would ill become this court to sanction such an attempt to evade the law, or to exercise an appellate power in this circuitous way, which it is forbidden to exercise in the direct and regular and invariable forms of judicial proceedings.

Upon the whole, therefore, it is the judgment of this court, that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States, for that reason, had no jurisdiction in the case, and could give no judgment in it. Its judgment for the defendant must, consequently, be reversed, and a mandate issued, directing the suit to be dismissed for want of jurisdiction.

Mr. Justice WAYNE.

Concurring as I do entirely in the opinion of the court, as it has been written and read by the Chief Justice—without any qualification of its reasoning or its conclusions—I shall neither read nor file an opinion of my own in this case, which I prepared when I supposed it might be necessary and proper for me to do so.

The opinion of the court meets fully and decides every point which was made in the argument of the case by the counsel on either side of it. Nothing belonging to the case has been left undecided, nor has any point been discussed and decided which was not called for by the record, or which was not necessary for the judicial disposition of it, in the way that it has been done, by more than a majority of the court.

In doing this, the court neither sought nor made the case. It was brought to us in the course of that administration of the laws which Congress has enacted for the review of cases from the Circuit Courts by the Supreme Court.

In our action upon it, we have only discharged our duty as a distinct and efficient department of the government, as the framers of the Constitution meant the judiciary to be, and as the states of the Union and the people of those states intended it should be, when they ratified the Constitution of the United States.

The case involves private rights of value, and constitutional principles of the highest importance, about which there had become such a difference of opinion, that the peace and harmony of the country required the settlement of them by judicial decision.

It would certainly be a subject of regret, that the conclusions of the court have not been assented to by all of its members, if I did not know from its history and my own experience how rarely it has happened that the judges have been unanimous upon constitutional questions of moment, and if our decision in this case had not been made by as large a majority of them as has been usually had on constitutional questions of importance.

Two of the judges, Mr. Justices McLean and Curtis, dissent from the opinion of the court. A third, Mr. Justice Nelson, gives a separate opinion upon a single point in the case with which I concur, assuming that the Circuit Court had jurisdiction; but he abstains altogether from expressing any opinion upon the eighth section of the act of 1820, known commonly as the Missouri Compromise law, and six of us declare that it was unconstitutional.

But it has been assumed, that this court has acted extra-judicially in giving an opinion upon the eighth section of the act of 1820, because, as it has decided that the Circuit Court had no jurisdiction of the case, this court had no jurisdiction to examine the case upon its merits.

But the error of such an assertion has arisen in part from a misapprehension of what has been heretofore decided by the Supreme Court, in cases of a like kind with that before us; in part, from a misapplication to the Circuit Courts of the United States, of the rules of pleading concerning pleas to the jurisdiction which prevail in common-law courts; and from its having been forgotten that this case was not brought to this court by appeal or writ of error from a state court, but by a writ of error to the Circuit Court of the United States.

The cases cited by the Chief Justice to show that this court has now only done what it has repeatedly done before in other cases, without any question of its correctness, speak for themselves. The differences between the rules concerning pleas to the jurisdiction in the courts of the United States and common-law courts have been stated and sustained by reasoning and adjudged cases; and it has been shown that writs of error to a state court and to the Circuit Courts of the United States are to be determined by different laws and principles. In the first, it is our duty to ascertain if this court has jurisdiction, under the twenty-fifth section of the judiciary act, to review the case *from the state court;* and if it shall be found that it has not, the case is at end, so far as this court is concerned; for our power to review the case upon its merits has been made, by the twenty-fifth section, to depend upon its having jurisdiction; when it has

not, this court cannot criticise, controvert, or give any opinion upon the merits of a case from a state court.

But in a case brought to this court, by appeal or by writ of error from *a Circuit Court of the United States*, we begin a review of it, *not by inquiring if this court has jurisdiction*, but if that court has it. If the case has been decided by that court upon its merits, but the record shows it to be deficient in those averments which by the law of the United States must be made by the plaintiff in the action, to give the court jurisdiction of his case, we send it back to the court from which it was brought, with directions to be dismissed, though it has been decided there upon its merits.

So, in a case containing the averments by the plaintiff which are necessary to give the Circuit Court jurisdiction, if the defendant shall file his plea in abatement denying the truth of them, and the plaintiff shall demur to it, and the court should *erroneously sustain the plaintiff's demurrer, or declare the plea to be insufficient, and by doing so require the defendant to answer over by a plea to the merits, and shall decide the case upon such pleading*, this court has the same authority to inquire into the jurisdiction of that court to do so, and to correct its error in that regard, that it had in the other case to correct its error, in trying a case in which the plaintiff had not made those averments which were necessary to give the court jurisdiction. In both cases the record is resorted to, to determine the point of jurisdiction; but, as the power of review of cases from a federal court, by this court, is not limited by the law to a part of the case, this court may correct an error upon the merits; and there is the same reason for correcting an erroneous judgment of the Circuit Court, where the want of jurisdiction appears from any part of the record, that there is for declaring a want of jurisdiction for a want of necessary averments. Any attempt to control the court from doing so by the technical common-law rules of pleading in cases of jurisdiction, when a defendant has been denied his plea to it, would tend to enlarge the jurisdiction of the Circuit Court, by limiting this court's review of its judgments in that particular. But I will not argue a point already so fully discussed. I have every confidence in the opinion of the court upon the point of jurisdiction, and do not allow myself to doubt that the error of a contrary conclusion will be fully understood by all who shall read the argument of the Chief Justice.

I have already said that the opinion of the court has my unqualified assent.

Mr. Justice Nelson.

I shall proceed to state the grounds upon which I have arrived at the conclusion, that the judgment of the court below should be affirmed. The suit was brought in the court below by the plaintiff, for the purpose of asserting his freedom, and that of Harriet his wife, and two children.

The defendant pleaded, in abatement to the suit, that the cause of action, if any, accrued to the plaintiff out of the jurisdiction of the court, and exclusively within the jurisdiction of the courts of the state of Missouri; for, that the said plaintiff is not a citizen of the state of Missouri, as alleged in the declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.

To this plea the plaintiff demurred, and the defendant joined in demurrer. The court below sustained the demurrer, holding that the plea was insufficient in law to abate the suit.

The defendant then pleaded over in bar of the action:—

1. The general issue. 2. That the plaintiff was a negro slave, the lawful property of the defendant. And 3. That Harriet, the wife of said plaintiff, and the two children, were the lawful slaves of the said defendant. Issue was taken upon these pleas, and the cause went down to trial before the court and jury, and an agreed state of facts was presented, upon which the trial proceeded, and resulted in a verdict for the defendant, under the instructions of the court.

The facts agreed upon were substantially as follows:—

That in the year 1834, the plaintiff, Scott, was a negro slave of Dr. Emerson, who was a surgeon in the army of the United States; and in that year he took the plaintiff from the state of Missouri to the military post at Rock Island, in the state of Illinois, and held him there as a slave until the month of April or May, 1836. At this date, Dr. Emerson removed, with the plaintiff, from the Rock Island post to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory of Upper Louisiana, and north of the latitude thirty-six degrees thirty minutes, and north of the state of Missouri. That he held the plaintiff in slavery, at Fort Snelling, from the last-mentioned date until the year 1838.

That in the year 1835, Harriet, mentioned in the declaration, was a negro slave of Major Taliaferro, who belonged to the army of the United States; and in that year he took her to Fort Snelling, already mentioned, and kept her there as a slave until the year 1836, and then sold and delivered her to Dr. Emerson, who held her in slavery, at Fort Snelling, until the year 1838. That in the year 1836, the plaintiff and Harriet were married, at Fort Snelling, with the consent of their master. The two children, Eliza and Lizzie, are the fruit of this marriage. The first is about fourteen years of age, and was born on board the steamboat Gipsey, north of the state of Missouri, and upon the Mississippi river; the other, about seven years of age, was born in the state of Missouri, at the military post called Jefferson Barracks.

In 1838, Dr. Emerson removed the plaintiff,

Harriet, and their daughter Eliza, from Fort Snelling to the state of Missouri, where they have ever since resided. And that, before the commencement of this suit, they were sold by the Doctor to Sandford, the defendant, who has claimed and held them as slaves ever since.

The agreed case also states that the plaintiff brought a suit for his freedom, in the Circuit Court of the state of Missouri, on which a judgment was rendered in his favor; but that, on a writ of error from the Supreme Court of the state, the judgment of the court below was reversed, and the cause remanded to the circuit for a new trial.

On closing the testimony in the court below, the counsel for the plaintiff prayed the court to instruct the jury, upon the agreed state of facts, that they ought to find for the plaintiff; when the court refused, and instructed them that, upon the facts, the law was with the defendant.

With respect to the plea in abatement, which went to the citizenship of the plaintiff, and his competency to bring a suit in the federal courts, the common-law rule of pleading is, that upon a judgment against the plea on demurrer, and that the defendant answer over, and the defendant submits to the judgment, and pleads over to the merits, the plea in abatement is deemed to be waived, and is not afterwards to be regarded as a part of the record in deciding upon the rights of the parties. There is some question, however, whether this rule of pleading applies to the peculiar system and jurisdiction of the federal courts. As, in these courts, if the facts appearing on the record show that the Circuit Court had no jurisdiction, its judgment will be reversed in the appellate court for that cause, and the case remanded with directions to be dismissed.

In the view we have taken of the case, it will not be necessary to pass upon this question, and we shall therefore proceed at once to an examination of the case upon its merits. The question upon the merits, in general terms, is, whether or not the removal of the plaintiff, who was a slave, with his master, from the state of Missouri to the state of Illinois, with a view to a temporary residence, and after such residence and return to the slave state, such residence in the free state works an emancipation.

As appears from an agreed statement of facts, this question has been before the highest court of the state of Missouri, and a judgment rendered that this residence in the free state has no such effect; but, on the contrary, that his original condition continued unchanged.

The court below, the Circuit Court of the United States for Missouri, in which this suit was afterwards brought, followed the decision of the state court, and rendered a like judgment against the plaintiff.

The argument against these decisions is, that the laws of Illinois, forbidding slavery within her territory, had the effect to set the slave free while residing in that state, and to impress upon him the condition and status of a freeman; and that, by force of these laws, this status and condition accompanied him on his return to the slave state, and of consequence he could not be there held as a slave.

This question has been examined in the courts of several of the slaveholding states, and different opinions expressed and conclusions arrived at. We shall hereafter refer to some of them, and to the principles upon which they are founded. Our opinion is, that the question is one which belongs to each state to decide for itself, either by its legislature or courts of justice; and hence, in respect to the case before us, to the state of Missouri—a question exclusively of Missouri law, and which, when determined by that state, it is the duty of the federal courts to follow it. In other words, except in cases where the power is restrained by the Constitution of the United States, the law of the state is supreme over the subject of slavery within its jurisdiction.

As a practical illustration of the principle, we may refer to the legislation of the free states in abolishing slavery, and prohibiting its introduction into their territories. Confessedly, except as restrained by the Federal Constitution, they exercised, and rightfully, complete and absolute power over the subject. Upon what principle, then, can it be denied to the state of Missouri? The power flows from the sovereign character of the states of this Union; sovereign, not merely as respects the federal government—except as they have consented to its limitation—but sovereign as respects each other. Whether, therefore, the state of Missouri will recognise or give effect to the laws of Illinois within her territories on the subject of slavery, is a question for her to determine. Nor is there any constitutional power in this government that can rightfully control her.

Every state or nation possesses an exclusive sovereignty and jurisdiction within her own territory; and, her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and state, of all persons therein; and, also, the remedy and modes of administering justice. And it is equally true, that no state or nation can affect or bind property out of its territory, or persons not residing within it. No state, therefore, can enact laws to operate beyond its own dominions, and, if it attempts to do so, it may be lawfully refused obedience. Such laws can have no inherent authority extra-territorially. This is the necessary result of the independence of distinct and separate sovereignties.

Now, it follows from these principles, that whatever force or effect the laws of one state or nation may have in the territories of another, must depend solely upon the laws and municipal regulations of the latter, upon its own jurisprudence and polity, and upon its own express or tacit consent.

Judge Story observes, in his Conflict of Laws (p. 24), "that a state may prohibit the operation of all foreign laws, and the rights growing out of them, within its territories." "And that when its code speaks positively on the subject, it must be obeyed by all persons who are within reach of its sovereignty; when its customary unwritten or common law speaks directly on the subject, it is equally to be obeyed."

Nations, from convenience and comity, and from mutual interest, and a sort of moral necessity to do justice, recognise and administer the laws of other countries. But, of the nature, extent, and utility, of them, respecting property, or the state and condition of persons within her territories, each nation judges for itself; and is never bound, even upon the ground of comity, to recognise them, if prejudicial to her own interests. The recognition is purely from comity, and not from any absolute or paramount obligation.

Judge Story again observes (398), "that the true foundation and extent of the obligation of the laws of one nation within another is the voluntary consent of the latter, and is inadmissible when they are contrary to its known interests." And he adds, "in the silence of any positive rule affirming or denying or restraining the operation of the foreign laws, courts of justice presume the tacit adoption of them by their own government, unless they are repugnant to its policy or prejudicial to its interests." (See also 2 Kent Com., p. 457; 13 Peters, 519, 589.)

These principles fully establish, that it belongs to the sovereign state of Missouri to determine by her laws the question of slavery within her jurisdiction, subject only to such limitations as may be found in the Federal Constitution; and, further, that the laws of other states of the Confederacy, whether enacted by their legislatures or expounded by their courts, can have no operation within her territory, or affect rights growing out of her own laws on the subject. This is the necessary result of the independent and sovereign character of the state. The principle is not peculiar to the state of Missouri, but is equally applicable to each state belonging to the Confederacy. The laws of each have no extra-territorial operation within the jurisdiction of another, except such as may be voluntarily conceded by her laws or courts of justice. To the extent of such concession upon the rule of comity of nations, the foreign law may operate, as it then becomes a part of the municipal law of the state. When determined that the foreign law shall have effect, the municipal law of the state retires, and gives place to the foreign law.

In view of these principles, let us examine a little more closely the doctrine of those who maintain that the law of Missouri is not to govern the status and condition of the plaintiff. They insist that the removal and temporary residence with his master in Illinois, where slavery is inhibited, had the effect to set him free, and that the same effect is to be given to the law of Illinois, within the state of Missouri, after his return. Why was he set free in Illinois? Because the law of Missouri, under which he was held as a slave, had no operation by its own force extra-territorially; and the state of Illinois refused to recognise its effect within her limits, upon principles of comity, as a state of slavery was inconsistent with her laws, and contrary to her policy. But, how is the case different on the return of the plaintiff to the state of Missouri? Is she bound to recognise and enforce the law of Illinois? For, unless she is, the status and condition of the slave upon his return remains the same as originally existed. Has the law of Illinois any greater force within the jurisdiction of Missouri, than the laws of the latter within that of the former? Certainly not. They stand upon an equal footing. Neither has any force extra-territorially, except what may be voluntarily conceded to them.

It has been supposed by the counsel for the plaintiff, that a rule laid down by Huberus had some bearing upon this question. Huberus observes that "Personal qualities, impressed by the laws of any place, surround and accompany the person wherever he goes, with this effect; that in every place he enjoys and is subject to the same law which other persons of his class elsewhere enjoy or are subject to." (De Confl. Leg., lib. I, tit. 3, sec. 12; 4 Dallas, 375 n.; 1 Story Con. Laws, pp. 59, 60).

The application sought to be given to the rule was this: that as Dred Scott was free while residing in the state of Illinois, by the laws of that state, on his return to the state of Missouri he carried with him the personal qualities of freedom, and that the same effect must be given to his status there as in the former state. But the difficulty in the case is in the total misapplication of the rule.

These personal qualities, to which Huberus refers, are those impressed upon the individual by the law of the domicil; it is this that the author claims should be permitted to accompany the person into whatever country he might go, and should supersede the law of the place where he had taken up a temporary residence.

Now, as the domicil of Scott was in the state of Missouri, where he was a slave, and from whence he was taken by his master into Illinois for a temporary residence, according to the doctrine of Huberus, the law of his domicil would have accompanied him, and during his residence there he would remain in the same condition as in the state of Missouri. In order to have given effect to the rule, as claimed in the argument, it should have been first shown that a domicil had been acquired in a free state, which cannot be pretended upon the agreed facts in the case. But the true answer to the doctrine of Huberus is, that the rule, in any aspect in which it may be viewed, has no bearing upon either side of the question before us, even if con-

ceded to the extent laid down by the author: for he admits that foreign governments give effect to these laws of the domicil no further than they are consistent with their own laws, and not prejudical to their own subjects; in other words, their force and effect depend upon the law of comity of the foreign government. We should add, also, that this general rule of Huberus, referred to, has not been admitted in the practice of nations, nor is it sanctioned by the most approved jurists of international law. (Story Con., sec. 91, 96, 103, 104; 2 Kent. Com., p. 457, 458; 1 Burge Con. Laws, pp. 12, 127).

We come now to the decision of this court in the case of Strader et al. *v.* Graham (10 How., p. 2). The case came up from the Court of Appeals, in the state of Kentucky. The question in the case was, whether certain slaves of Graham, a resident of Kentucky, who had been employed temporarily at several places in the state of Ohio, with their master's consent, and had returned to Kentucky into his service, had thereby become entitled to their freedom. The Court of Appeals held that they had not. The case was brought to this court under the twenty-fifth section of the judiciary act. This court held that it had no jurisdiction, for the reason, the question was one that belonged exclusively to the state of Kentucky. The Chief Justice, in delivering the opinion of the court, observed that "Every state has an undoubted right to determine the status or domestic and social condition of the persons domiciled within its territory, except in so far as the powers of the states in this respect are restrained, or duties and obligations imposed upon them, by the Constitution of the United States. There is nothing in the Constitution of the United States, he observes, that can in any degree control the law of Kentucky upon this subject. And the condition of the negroes, therefore, as to freedom or slavery, after their return, depended altogether upon the laws of that state, and could not be influenced by the laws of Ohio. It was exclusively in the power of Kentucky to determine, for herself, whether their employment in another state should or should not make them free on their return."

It has been supposed, in the argument on the part of the plaintiff, that the eighth section of the act of Congress passed March 6, 1820 (3 St. at Large, p. 544), which prohibited slavery north of thirty-six degrees thirty minutes, within which the plaintiff and his wife temporarily resided at Fort Snelling, possessed some superior virtue and effect, extra-territorially, and within the state of Missouri, beyond that of the laws of Illinois, or those of Ohio in the case of Strader et al. *v.* Graham. A similar ground was taken and urged upon the court in the case just mentioned, under the ordinance of 1787, which was enacted during the time of the Confederation, and re-enacted by Congress after the adoption of the Constitution, with some amendments adapting it to the new government. (1 St. at Large, p. 50.)

In answer to this ground, the Chief Justice, in delivering the opinion of the court, observed: "The argument assumes that the six articles which that ordinance declares to be perpetual, are still in force in the states since formed within the territory, and admitted into the Union. If this proposition could be maintained, it would not alter the question; for the regulations of Congress, under the old Confederation or the present Constitution, for the government of a particular territory, could have no force beyond its limits. It certainly could not restrict the power of the states, within their respective territories, nor in any manner interfere with their laws and institutions, nor give this court control over them.

"The ordinance in question, he observes, if still in force, could have no more operation than the laws of Ohio in the state of Kentucky, and could not influence the decision upon the rights of the master or the slaves in that state."

This view, thus authoritatively declared, furnishes a conclusive answer to the distinction attempted to be set up between the extra-territorial effect of a state law and the act of Congress in question.

It must be admitted that Congress possesses no power to regulate or abolish slavery within the states; and that, if this act had attempted any such legislation, it would have been a nullity. And yet the argument here, if there be any force in it, leads to the result, that effect may be given to such legislation; for it is only by giving the act of Congress operation within the state of Missouri, that it can have any effect upon the question between the parties. Having no such effect directly, it will be difficult to maintain, upon any consistent reasoning, that it can be made to operate indirectly upon the subject.

The argument, we think, in any aspect in which it may be viewed, is utterly destitute of support upon any principles of constitutional law, as, according to that, Congress has no power whatever over the subject of slavery within the state; and is also subversive of the established doctrine of international jurisprudence, as, according to that, it is an axiom that the laws of one government have no force within the limits of another, or extra-territorially, except from the consent of the latter.

It is perhaps not unfit to notice, in this connexion, that many of the most eminent statesmen and jurists of the country entertain the opinion that this provision of the act of Congress, even within the territory to which it relates, was not authorized by any power under the Constitution. The doctrine here contended for, not only upholds its validity in the territory, but claims for it effect beyond and within the limits of a sovereign state—an effect, as insisted, that displaces the laws of the state, and substitutes its own provisions in their place.

The consequences of any such construction are apparent. If Congress possesses the power, under the Constitution, to abolish slavery in a territory, it must necessarily possess the like power to establish it. It cannot be a one-sided power, as may suit the convenience or particular views of the advocates. It is a power, if it exists at all, over the whole subject; and then, upon the process of reasoning which seeks to extend its influence beyond the territory, and within the limits of a state, if Congress should establish, instead of abolish, slavery, we do not see but that if a slave should be removed from the territory into a free state, his status would accompany him, and continue, notwithstanding its laws against slavery. The laws of the free state, according to the argument, would be displaced, and the act of Congress, in its effect, be substituted in their place. We do not see how this conclusion could be avoided, if the construction against which we are contending should prevail. We are satisfied, however, it is unsound, and that the true answer to it is, that even conceding, for the purposes of the argument, that this provision of the act of Congress is valid within the territory for which it was enacted, it can have no operation or effect beyond its limits, or within the jurisdiction of a state. It can neither displace its laws, nor change the status or condition of its inhabitants.

Our conclusion, therefore, is, upon this branch of the case, that the question involved is one depending solely upon the law of Missouri, and that the federal court sitting in the state, and trying the case before us, was bound to follow it.

The remaining question for consideration is, What is the law of the state of Missouri on this subject? And it would be a sufficient answer to refer to the judgment of the highest court of the state in the very case, were it not due to that tribunal to state somewhat at large the course of decision and the principles involved, on account of some diversity of opinion in the cases. As we have already stated, this case was originally brought in the Circuit Court of the state, which resulted in a judgment for the plaintiff. The case was carried up to the Supreme Court for revision. That court reversed the judgment below, and remanded the cause to the circuit, for a new trial. In that state of the proceeding, a new suit was brought by the plaintiff in the Circuit Court of the United States, and tried upon the issues and agreed case before us, and a verdict and judgment for the defendant, that court following the decision of the Supreme Court of the state. The judgment of the Supreme Court is reported in the 15 Misso. R., p. 576. The court placed the decision upon the temporary residence of the master with the slaves in the state and territory to which they removed, and their return to the slave state; and upon the principles of international law, that foreign laws have no extra-territorial force, except such as the state within which they are sought to be enforced may see fit to extend to them, upon the doctrine of comity of nations.

This is the substance of the grounds of the decision.

The same question has been twice before that court since, and the same judgment given (15 Misso. R., 595; 17 Ib., 434). It must be admitted, therefore, as the settled law of the state, and, according to the decision in the case of Strader et al. *v.* Graham, is conclusive of the case in this court.

It is said, however, that the previous cases and course of decision in the state of Missouri on this subject were different, and that the courts had held the slave to be free on his return from a temporary residence in the free state. We do not see, were this to be admitted, that the circumstance would show that the settled course of decision, at the time this case was tried in the court below, was not to be considered the law of the state. Certainly, it must be, unless the first decision of a principle of law by a state court is to be permanent and irrevocable. The idea seems to be, that the courts of a state are not to change their opinions, or, if they do, the first decision is to be regarded by this court as the law of the state. It is certain, if this be so, in the case before us, it is an exception to the rule governing this court in all other cases. But what court has not changed its opinions? What judge has not changed his?

Waiving, however, this view, and turning to the decisions of the courts of Missouri, it will be found that there is no discrepancy between the earlier and the present cases upon this subject. There are some eight of them reported previous to the decision in the case before us, which was decided in 1852. The last of the earlier cases was decided in 1836. In each one of these, with two exceptions, the master or mistress removed into the free state with the slave, with a view to a permanent residence—in other words, to make that his or her domicil. And in several in the cases, this removal and permanent residence were relied on, as the ground of the decision in favor of the plaintiff. All these cases, therefore, are not necessarily in conflict with the decision in the case before us, but consistent with it. In one of the two excepted cases, the master had hired the slave in the state of Illinois from 1817 to 1825. In the other, the master was an officer in the army, and removed with his slave to the military post of Fort Snelling, and at Prairie du Chien, in Michigan, temporarily, while acting under the orders of his government. It is conceded the decision in this case was departed from in the case before us, and in those that have followed it. But it is to be observed that these subsequent cases are in conformity with those in all the slave states bordering on the free—in Kentucky (2 Marsh., 476; 5 B. Munroe, 176; 9 Ib., 565); in Virginia (1 Rand., 15; 1 Leigh, 172; 10 Grattan, 495); in Maryland (4 Harris and McHenry, 295, 322, 325). In con-

formity, also, with the law of England on this subject, Ex parte Grace (2 Hagg. Adm. R., 94), and with the opinions of the most eminent jurists of the country. (Story's Confl., 396 a; 2 Kent Com. 258 n.; 18 Pick. 193, Chief Justice Shaw. See Corresp. between Lord Stowell and Judge Story, 1 vol. Life of Story, p. 552, 558.

Lord Stowell, in communicating his opinion in the case of the slave Grace to Judge Story, states, in his letter, what the question was before him, namely: "Whether the emancipation of a slave brought to England insured a complete emancipation to him ou his return to his own country, or whether it only operated as a suspension of slavery in England, and his original character devolved on him again upon his return." He observed, "the question had never been examined since an end was put to slavery fifty years ago," having reference to the decision of Lord Mansfield in the case of Somersett; but the practice, he observed, "has regularly been, that on his return to his own country, the slave resumed his original character of slave." And so Lord Stowell held in the case.

Judge Story, in his letter in reply, observes: "I have read with great attention your judgment in the slave case, &c. Upon the fullest consideration which I have been able to give the subject, I entirely concur in your views. If I had been called upon to pronounce a judgment in a like case, I should have certainly arrived at the same result." Again he observes: "In my native state (Massachusetts), the state of slavery is not recognised as legal; and yet, if a slave should come hither, and afterwards return to his own home, we should certainly think that the local law attached upon him, and that his servile character would be redintegrated."

We may remark, in this connexion, that the case before the Maryland court, already referred to, and which was decided in 1799, presented the same question as that before Lord Stowell, and received a similar decision. This was nearly thirty years before the decision in that case, which was in 1828. The Court of Appeals observed, in deciding the Maryland case, that "however the laws of Great Britain in such instances, operating upon such persons there, might interfere so as to prevent the exercise of certain acts by the masters, not permitted, as in the case of Somersett, yet, upon the bringing Ann Joice into this state (then the province of Maryland), the relation of master and slave continued in its extent as authorized by the laws of this state." And Luther Martin, one of the counsel in that case, stated, on the argument, that the question had been previously decided the same way in the case of slaves returning from a residence in Pennsylvania, where they had become free under her laws.

The state of Louisiana, whose courts had gone further in holding the slave free on his return from a residence in a free state than the courts of her sister states, has settled the law, by an act of her legislature, in conformity with the law of the court of Missouri in the case before us. (Sess. Law, 1846.)

The case before Lord Stowell presented much stronger features for giving effect to the law of England in the case of the slave Grace than exists in the cases that have arisen in this country, for in that case the slave returned to a colony of England over which the imperial government exercised supreme authority. Yet, on the return of the slave to the colony, from a temporary residence in England, he held that the original condition of the slave attached. The question presented in cases arising here is as to the effect and operation to be given to the laws of a foreign state, on the return of the slave within an independent sovereignty.

Upon the whole, it must be admitted that the current of authority, both in England and in this country, is in accordance with the law as declared by the courts of Missouri in the case before us, and we think the court below was not only right, but bound to follow it.

Some question has been made as to the character of the residence in this case in the free state. But we regard the facts as set forth in the agreed case as decisive. The removal of Dr. Emerson from Missouri to the military posts was in the discharge of his duties as surgeon in the army, and under the orders of his government. He was liable at any moment to be recalled, as he was in 1838, and ordered to another post. The same is also true as it respects Major Taliaferro. In such a case, the officer goes to his post for a temporary purpose, to remain there for an uncertain time, and not for the purpose of fixing his permanent abode. The question we think too plain to require argument. The case of the Attorney General *v.* Napier (6 Welsb., Hurlst. and Gordon Exch. Rep., 217), illustrates and applies the principle in the case of an officer of the English army.

A question has been alluded to, on the argument, namely: the right of the master with his slave of transit into or through a free state, on business or commercial pursuits, or in the exercise of a federal right, or the discharge of a federal duty, being a citizen of the United States, which is not before us. This question depends upon different considerations and principles from the one in hand, and turns upon the rights and privileges secured to a common citizen of the republic under the Constitution of the United States. When that question arises, we shall be prepared to decide it.

Our conclusion is, that the judgment of the court below should be affirmed.

Mr. Justice Grier.

I concur in the opinion delivered by Mr. Justice Nelson on the questions discussed by him.

I also concur with the opinion of the court as delivered by the Chief Justice, that the act of Congress of 6th March, 1820, is unconsti-

tutional and void; and that, assuming the facts as stated in the opinion, the plaintiff cannot sue as a citizen of Missouri in the courts of the United States. But, that the record shows a prima facie case of jurisdiction, requiring the court to decide all the questions properly arising in it; and as the decision of the pleas in bar shows that the plaintiff is a slave, and therefore not entitled to sue in a court of the United States, the form of the judgment is of little importance; for, whether the judgment be affirmed or dismissed for want of jurisdiction, it is justified by the decision of the court, and is the same in effect between the parties to the suit.

Mr. Justice DANIEL.

It may with truth be affirmed, that since the establishment of the several communities now constituting the states of this Confederacy, there never has been submitted to any tribunal within its limits questions surpassing in importance those now claiming the consideration of this court. Indeed it is difficult to imagine, in connexion with the systems of polity peculiar to the United States, a conjuncture of graver import than that must be, within which it is aimed to comprise, and to control, not only the faculties and practical operation appropriate to the American Confederacy as such, but also the rights and powers of its separate and independent members, with reference alike to their internal and domestic authority and interests, and the relations they sustain to their confederates.

To my mind it is evident, that nothing less than the ambitious and far-reaching pretension to compass these objects of vital concern, is either directly essayed or necessarily implied in the positions attempted in the argument for the plaintiff in error.

How far these positions have any foundation in the nature of the rights and relations of separate, equal, and independent governments, or in the provisions of our own federal compact, or the laws enacted under and in pursuance of the authority of that compact, will be presently investigated.

In order correctly to comprehend the tendency and force of those positions, it is proper here succinctly to advert to the facts upon which the questions of law propounded in the argument have arisen.

This was an action of trespass *vi et armis*, instituted in the Circuit Court of the United States for the district of Missouri, in the name of the plaintiff in error, *a negro* held as a slave, for the recovery of freedom for himself, his wife, and two children, *also negroes*.

To the declaration in this case the defendant below, who is also the defendant in error, pleaded in abatement that the court could not take cognisance of the cause, because the plaintiff was not *a citizen* of the state of Missouri, as averred in the declaration, but was a *negro of African descent*, and that his ancestors were of pure African blood, and were brought into this country and sold as *negro slaves;* and hence it followed, from the second section of the third article of the Constitution, which creates the judicial power of the United States, with respect to controversies between citizens of different states, that the Circuit Court could not take cognisance of the action.

To this plea in abatement, a demurrer having been interposed on behalf of the plaintiff, it was sustained by the court. After the decision sustaining the demurrer, the defendant, in pursuance of a previous agreement between counsel, and with the leave of the court, pleaded in bar of the action: *1st, not guilty: 2dly, that the plaintiff was a negro slave, the lawful property of the defendant, and as such the defendant gently laid his hands upon him, and thereby had only restrained him, as the defendant had a right to do; 3dly, that with respect to the wife and daughters of the plaintiff, in the second and third counts of the declaration mentioned, the defendant had, as to them, only acted in the same manner, and in virtue of the same legal right.*

Issues having been joined upon the above pleas in bar, the folowing statement, comprising all the evidence in the cause, was agreed upon and signed by the counsel of the respective parties, viz.:—

"In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, 1834, said Dr. Emerson took the plaintiff from the state of Missouri to the military post at Rock Island, in the state of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of thirty-six degrees thirty minutes north, and north of the state of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last-mentioned date until the year 1838.

"In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at said Fort Snelling unto the said Dr. Emerson, hereinbefore named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

"In the year 1836, the plaintiff and said Harriet, at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old,

and was born on board the steamboat Gipsey, north of the north line of the state of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the state of Missouri, at a military post called Jefferson Barracks.

"In the year 1838, said Dr. Emerson removed the plaintiff, and said Harriet, and their said daughter Eliza, from said Fort Snelling to the state of Missouri, where they have ever since resided.

"Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza, and Lizzie, to the defendant, as slaves, and the defendant has ever since claimed to hold them and each of them as slaves.

"At the times mentioned in the plaintiff's declaration, the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them, doing in this respect, however, no more than what he might lawfully do if they were of right his slaves at such times.

"Further proof may be given on the trial for either party.

"R. M. Field. *for Plaintiff.*

"H. A. Garland, *for Defendant.*

"It is agreed that Dred Scott brought suit for his freedom in the Circuit Court of St. Louis county; that there was a verdict and judgment in his favor; that on a writ of error to the Supreme Court, the judgment below was reversed, and the cause remanded to the Circuit Court, where it has been continued to await the decision of this case.

"Field, *for Plaintiff.*

"Garland, *for Defendant.*"

Upon the aforegoing agreed facts, the plaintiff prayed the court to instruct the jury that they ought to find for the plaintiff, and upon the refusal of the instruction thus prayed for, the plaintiff excepted to the court's opinion. The court then, upon the prayer of the defendant, instructed the jury, that upon the facts of this case agreed as above, the law was with the defendant. To this opinion, also, the plaintiff's counsel excepted, as he did to the opinion of the court denying to the plaintiff a new trial after the verdict of the jury in favor of the defendant.

The question first in order presented by the record in this cause, is that which arises upon the plea in abatement, and the demurrer to that plea; and upon this question it is my opinion that the demurrer should have been overruled, and the plea sustained.

On behalf of the plaintiff it has been urged, that by the pleas interposed in bar of a recovery in the court below (which pleas both in fact and in law are essentially the same with the objections averred in abatement), the defence in abatement has been displaced or waived; that it could therefore no longer be relied on in the Circuit Court, and cannot claim the consideration of this court in reviewing this cause. This position is regarded as wholly untenable. On the contrary, it would seem to follow conclusively from the peculiar character of the courts of the United States, as organized under the Constitution and the statutes, and as defined by numerous and unvarying adjudications from this bench, that there is not one of those courts whose jurisdiction and powers can be deduced from mere custom or tradition; not one, whose jurisdiction and powers must not be traced palpably to, and invested exclusively by, the Constitution and statutes of the United States; not one that is not bound, therefore, at all times, and at all stages of its proceedings, to look to and to regard the special and declared extent and bounds of its commission and authority. There is no such tribunal of the United States as a court of *general jurisdiction*, in the sense in which that phrase is applied to the superior courts under the common law; and even with respect to the courts existing under that system, it is a well settled principle, that *consent* can never give jurisdiction.

The principles above stated, and the consequences regularly deducible from them, have, as already remarked, been repeatedly and unvaryingly propounded from this bench. Beginning with the earliest decisions of this court, we have the cases of Bingham *v.* Cabot et al., (3 Dallas, 382;) Turner *v.* Eurille, (4 Dallas, 7;) Abercrombie *v.* Dupuis et al., (1 Cranch, 343;) Wood *v.* Wagnon, (2 Cranch, 9;) The United States *v.* The brig Union et al., (4 Cranch, 216;) Sullivan *v.* The Fulton Steamboat Company, (6 Wheaton, 450;) Mollan et al. *v.* Torrence, (9 Wheaton, 537;) Brown *v.* Keene, (8 Peters, 112,) and Jackson *v.* Ashton, (8 Peters, 148;) ruling, in uniform and unbroken current, the doctrine that it is essential to the jurisdiction of the courts of the United States, that the facts upon which it is founded should appear upon the record. Nay, to such an extent and so inflexibly has this requisite to the jurisdiction been enforced, that in the case of Capron *v.* Van Noorden, (2 Cranch, 126,) it is declared that the plaintiff in this court may assign for error his own omission in the pleadings in the court below, where they go to the jurisdiction. This doctrine has been, if possible, more strikingly illustrated in a later decision, the case of The State of Rhode Island *v.* The State of Massachusetts, in the 12th of Peters.

In this case, on page 718 of the volume, this court, with reference to a motion to dismiss the cause *for want of jurisdiction*, have said: "*However late this objection has been made, or may be made, in any cause in an inferior or appellate court of the United States*, it must be considered and decided before any court can move one farther step in the cause, as any movement is necessarily to exercise the jurisdiction. Jurisdiction is the power to hear and determine the subject-matter in controversy between the parties to a suit; to adjudicate or exercise any judicial power over them. The question is, whether on the case before the court their action is judicial or extra-judicial; with or without the authority of law to render

a judgment or decree upon the rights of the litigant parties. A motion to dismiss a cause pending in the courts of the United States, is not analogous to a plea to the jurisdiction of a court of common law or equity in England; there, the superior courts have a general jurisdiction over all persons within the realm, and all causes of action between them. It depends on the subject-matter, whether the jurisdiction shall be exercised by a court of law or equity; but that court to which it appropriately belongs can act judicially upon the party and the subject of the suit, unless it shall be made apparent to the court that the judicial determination of the case has been withdrawn from the court of general jurisdiction to an inferior and limited one. It is a necessary presumption that the court of general jurisdiction can act upon the given case, when nothing to the contrary appears; hence has arisen the rule that the party claiming an exemption from its process must set out the reason by a special plea in abatement, and show that some inferior court of law or equity has the exclusive cognisance of the case, otherwise the superior court must proceed in virtue of its general jurisdiction. A motion to dismiss, therefore, cannot be entertained, as it does not disclose a case of exception; and if a plea in abatement is put in, it must not only make out the exception, but point to the particular court to which the case belongs. There are other classes of cases where the objection to the jurisdiction is of a different nature, as on a bill in chancery, that the subject-matter is cognisable only by the king in council, or that the parties defendant cannot be brought before any municipal court on account of their sovereign character or the nature of the controversy; or to the very common cases which present the question, whether the cause belong to a court of law or equity. To such cases, a plea in abatement would not be applicable, because the plaintiff could not sue in an inferior court. The objection goes to a denial of any jurisdiction of a municipal court in the one class of cases, and to the jurisdiction of any court of equity or of law in the other, on which last the court decides according to its discretion.

"An objection to jurisdiction on the ground of exemption from the process of the court in which the suit is brought, or the manner in which a defendant is brought into it, is waived by appearance and pleading to issue; but when the objection goes to the power of the court over the parties or the subject-matter, the defendant need not, for he cannot, give the plaintiff a better writ. Where an inferior court can have no jurisdiction of a case of law or equity, the ground of objection is not taken by plea in abatement, as an exception of the given case from the otherwise general jurisdiction of the court; appearance does not cure the defect of judicial power, and it may be relied on by plea, answer, demurrer, *or at the trial or hearing.* As a denial of jurisdiction over the subject-matter of a suit between parties within the realm, over which and whom the court has power to act, cannot be successful in an English court of general jurisdiction, a motion like the present could not be sustained consistently with the principles of its constitution. *But as this court is one of limited and special original jurisdiction,* its action must be confined to the particular cases, controversies, and parties, over which the Constitution and laws have authorized it to act; any proceeding without the limits prescribed is *coram non judice,* and its action a nullity. And whether the want or excess of power is objected by a party, or is apparent to the court, it must surcease its action or proceed extra-judicially."

In the constructing of pleadings either in abatement or in bar, every fact or position constituting a portion of the public law, or of known or general history, is necessarily implied. Such fact or position need not be specially averred and set forth; it is what the world at large and every individual are presumed to know—nay, are bound to know and to be governed by.

If, on the other hand, there exist facts or circumstances by which a particular case would be withdrawn or exempted from the influence of public law or necessary historical knowledge, such facts and circumstances form an exception to the general principle, and these must be specially set forth and *established* by those who would avail themselves of such exception.

Now, the following are truths which a knowledge of the history of the world, and particularly of that of our own country, compels us to know—that the African negro race never have been acknowledged as belonging to the family of nations; that as amongst them there never has been known or recognised by the inhabitants of other countries anything partaking of the character of nationality, or civil or political polity; that this race has been by all the nations of Europe regarded as subjects of capture or purchase; as subjects of commerce or traffic; and that the introduction of that race into every section of this country was not as members of civil or political society, but as slaves, as *property* in the strictest sense of the term.

In the plea in abatement, the character or capacity of citizen on the part of the plaintiff is denied; and the causes which show the absence of that character or capacity are set forth by averment. The verity of those causes, according to the settled rules of pleading, being admitted by the demurrer, it only remained for the Circuit Court to decide upon their legal sufficiency to abate the plaintiff's action. And it now becomes the province of this court to determine whether the plaintiff below, (and in error here), admitted to be a *negro* of African descent, whose ancestors were of pure African blood, and were brought into this country and sold as negro slaves—such being his *status,* and such the circumstances surrounding his position—whether he can, by

correct legal induction from that *status* and those circumstances, be clothed with the character and capacities of a citizen of the state of Missouri?

It may be assumed as a postulate, that to a slave, as such, there appertains and can appertain no relation, civil or political, with the state or the government. He is himself strictly *property*, to be used in subserviency to the interests, the convenience, or the will of his owner; and to suppose, with respect to the former, the existence of any privilege or discretion, or of any obligation to others incompatible with the magisterial rights just defined, would be by implication, if not directly, to deny the relation of master and slave, since none can possess and enjoy, as his own, that which another has a paramount right and power to withhold. Hence it follows, necessarily, that a slave, the *peculium* or property of a master, and possessing within himself no civil nor political rights or capacities, cannot be a CITIZEN. For who, it may be asked, is a citizen? What do the character and *status* of citizen import? Without fear of contradiction, it does not import the condition of being private property, the subject of individual power and ownership. Upon a principle of etymology alone, the term *citizen*, as derived from *civitas*, conveys the ideas of connexion or identification with the state or government, and a participation of its functions. But beyond this, there is not, it is believed, to be found, in the theories of writers on government, or in any actual experiment heretofore tried, an exposition of the term *citizen*, which has not been understood as conferring the actual possession and enjoyment, or the perfect right of acquisition and enjoyment, of an entire equality of privileges, civil and political.

Thus Vattel, in the preliminary chapter to his Treatise on the Law of Nations, says: "Nations or states are bodies politic; societies of men united together for the purpose of promoting their mutual safety and advantage, by the joint efforts of their mutual strength. Such a society has her affairs and her interests; she deliberates and takes resolutions *in common;* thus becoming a moral person, who possesses an understanding and a will peculiar to herself." Again, in the first chapter of the first book of the Treatise just quoted, the same writer, after repeating his definition of a state, proceeds to remark, that, "from the very design that induces a number of men to form a society, which has its common interests and which is to act in concert, it is necessary that there should be established a public authority, to order and direct what is to be done by each, in relation to the end of the association. This political authority is the *sovereignty*." Again this writer remarks: "The authority of *all* over each member essentially belongs to the body politic or the state."

By this same writer it is also said: "The citizens are the members of the civil society; bound to this society by certain duties, and subject to its authority; they *equally* participate in its advantages. The natives, or natural-born citizens, are those born in the country, of parents who are citizens. As society cannot perpetuate itself otherwise than by the children of the citizens, those children naturally follow the condition of their parents, and succeed to all their rights." Again: "I say, to be *of the country*, it is necessary to be born of a person who is a *citizen;* for if he be born there of a foreigner, it will be only the place of his *birth*, and not his *country*. The inhabitants, as distinguished from citizens, are foreigners who are permitted to settle and stay in the country." (Vattel, Book 1, cap. 19, p. 101.)

From the views here expressed, and they seem to be unexceptionable, it must follow, that with the *slave*, with one devoid of rights or capacities, *civil* or *political*, there could be no pact; that one thus situated could be no party to, or actor in, the association of those possessing free will, power, discretion. He could form no part of the design, no constituent ingredient or portion of a society based upon *common*, that is, upon *equal* interests and powers. He could not, at the same time, be the sovereign and the slave.

But it has been insisted, in argument, that the emancipation of a slave, effected either by the direct act and assent of the master, or by causes operating in contravention of his will, produces a change in the *status* or capacities of the slave, such as will transform him from a mere subject of property, into a being possessing a social, civil, and political equality with a citizen. In other words, will make him a citizen of the state within which he was, previously to his emancipation, a slave.

It is difficult to conceive by what magic the mere *surcease* or renunciation of an interest in a subject of *property*, by an individual possessing that interest, can alter the essential character of that property with respect to persons or communities unconnected with such renunciation. Can it be pretended that an individual in any state, by his single act, though voluntarily or designedly performed, yet without the co-operation or warrant of the government, perhaps in opposition to its policy or its guaranties, can create a citizen of that state? Much more emphatically may it be asked, how such a result could be accomplished by means wholly extraneous, and entirely foreign to the government of the state? The argument thus urged must lead to these extraordinary conclusions. It is regarded at once as wholly untenable, and as unsustained by the direct authority or by the analogies of history.

The institution of slavery, as it exists and has existed from the period of its introduction into the United States, though more humane and mitigated in character than was the same institution, either under the republic or the empire of Rome, bears, both in its tenure and in the simplicity incident to the mode of its

exercise, a closer resemblance to Roman slavery than it does to the condition of *villanage*, as it formerly existed in England. Connected with the latter, there were peculiarities, from custom or positive regulation, which varied it materially from the slavery of the Romans, or from slavery at any period within the United States.

But with regard to slavery among the Romans, it is by no means true that emancipation, either during the republic or the empire, conferred, by the act itself, or implied, the *status* or the rights of citizenship.

The proud title of Roman citizen, with the immunities and rights incident thereto, and as contradistinguished alike from the condition of conquered subjects or of the lower grades of native domestic residents, was maintained throughout the duration of the republic, and until a late period of the eastern empire, and at last was in *effect* destroyed less by an elevation of the inferior classes than by the degradation of the free, and the previous possessors of rights and immunities civil and political, to the indiscriminate abasement incident to absolute and simple despotism.

By the learned and elegant historian of the Decline and Fall of the Roman Empire, we are told that "in the *decline* of the Roman empire, the proud distinctions of the republic were gradually abolished; and the reason or instinct of Justinian completed the simple form of an absolute monarchy. The emperor could not eradicate the popular reverence which always waits on the possession of hereditary wealth or the memory of famous ancestors. He delighted to honor with titles and emoluments his generals, magistrates, and senators, and his precarious indulgence communicated some rays of their glory to their wives and children. But in the eye of the law all Roman citizens were equal, and all subjects of the empire were citizens of Rome. That inestimable character was *degraded* to an obsolete and empty name. The voice of a Roman could no longer enact his laws, or create the annual ministers of his powers; his constitutional rights might have checked the arbitrary will of a master; and the bold adventurer from Germany or Arabia was admitted with equal favor to the civil and military command which the *citizen* alone had been once entitled to assume over the conquests of his fathers. The first Cæsars had scrupulously guarded the distinction of *ingenuous* and *servile* birth, which was decided by the condition of the mother. The slaves who were liberated by a generous master immediately entered into the middle class of *libertini* or freedmen; but they could never be enfranchised from the duties of obedience and gratitude; whatever were the fruits of their industry, their patron and his family inherited the third part, or even the whole of their fortune, if they died without children and without a testament. Justinian respected the rights of patrons, but his indulgence removed the badge of disgrace from the two inferior orders of freedmen; whoever ceased to be a slave, obtained without reserve or delay the station of a citizen; and at length the dignity of an ingenuous birth *was created* or *supposed* by the omnipotence of the emperor."*

The above account of slavery and its modifications will be found in strictest conformity with the Institutes of Justinian. Thus, book 1st, title 3, it is said: "The first general division of persons in respect to their rights is into freemen and slaves." The same title, sec. 4th, "Slaves are born such, or become so. They are born such of bondwomen; they become so either by *the law of nations*, as by capture, or by the civil law." Section 5th: "In the condition of slaves there is no diversity; but among free persons there are many. Thus some are *ingenui* or freemen, others *libertini* or freedmen."

Tit. 4th. De Ingenuis.—"A freeman is one who is born free by being born in matrimony, of parents who both are free, or both freed; or of parents one free and the other freed. But one born of a free mother, although the father be a slave or unknown, is free."

Tit. 5th. De Libertinis.—"Freedmen are those who have been manumitted from just servitude."

Section third of the same title states that "freedmen were formerly distinguished by a threefold division." But the emperor proceeds to say: "Our *piety* leading us to reduce all things into a better state, we have amended our laws, and re-established the ancient usage; for anciently liberty was simple and undivided—that is, was conferred upon the slave as his manumittor possessed it, admitting this single difference, that the person manumitted became only a *freed man*, although his manumittor was a *free* man." And he further declares: "We have made all freed men in general become citizens of Rome, regarding neither the age of the manumitted, nor the manumittor, nor the ancient forms of manumission. We have also introduced many new methods by which *slaves* may become Roman citizens."

By the references above given it is shown, from the nature and objects of civil and political associations, and upon the direct authority of history, that citizenship was not conferred by the simple fact of emancipation, but that such a result was deduced therefrom in violation of the fundamental principles of free political association; by the exertion of despotic will to establish, under a false and misapplied denomination, one equal and universal slavery; and to effect this result required the exertions of absolute power—of a power both in theory and practice, being in its most plenary acceptation the SOVEREIGNTY, THE STATE ITSELF—it could not be produced by a less or inferior authority, much less by the will or the act of one who, with reference to civil and political rights, was himself a

* Vide Gibbon's Decline and Fall of the Roman Empire. London edition of 1825, vol. 3d, chap. 44, p. 183.

slave. The master might abdicate or abandon his interest or ownership in his property, but his act would be a mere abandonment. It seems to involve an absurdity to impute to it the investiture of rights which the sovereignty alone had power to impart. There is not perhaps a community in which slavery is recognised, in which the power of emancipation and the modes of its exercise are not regulated by law—that is, by the sovereign authority; and none can fail to comprehend the necessity for such regulation, for the preservation of order, and even of political and social existence.

By the argument for the plaintiff in error, a power equally despotic is vested in every member of the association, and the most obscure or unworthy individual it comprises may arbitrarily invade and derange its most deliberate and solemn ordinances. At assumptions anomalous as these, so fraught with mischief and ruin, the mind at once is revolted, and goes directly to the conclusions, that to change or to abolish a fundamental principle of the society, must be the act of the society itself—of the *sovereignty;* and that none other can admit to a participation of that high attribute. It may further expose the character of the argument urged for the plaintiff, to point out some of the revolting consequences which it would authorize. If that argument possesses any integrity, it asserts the power in any citizen, or *quasi* citizen, or a resident foreigner of any one of the states, from a motive either of corruption or caprice, not only to infract the inherent and necessary authority of such state, but also materially to interfere with the organization of the federal government, and with the authority of the separate and independent states. He may emancipate his negro slave, by which process he first transforms that slave into a citizen of his own state; he may next, under color of article fourth, section second, of the Constitution of the United States, obtrude him, and on terms of civil and political equality, upon any and every state in this Union, in defiance of all regulations of necessity or policy, ordained by those states for their internal happiness or safety. Nay, more: this manumitted slave may, by a proceeding springing from the will or act of his master alone, be mixed up with the institutions of the federal government, to which he is not a party, and in opposition to the laws of that government which, in authorizing the extension by naturalization of the rights and immunities of citizens of the United States to those not originally parties to the federal compact, have restricted that boon to *free white aliens alone.* If the rights and immunities connected with or practised under the institutions of the United States can by any indirection be claimed or deduced from sources or modes other than the Constitution and laws of the United States, it follows that the power of naturalization vested in Congress is not exclusive—that it has *in effect* no existence, but is repealed or abrogated.

But it has been strangely contended that the jurisdiction of the Circuit Court might be maintained upon the ground that the plaintiff was a *resident* of Missouri, and that, for the purpose of vesting the court with jurisdiction over the parties, *residence* within the state was sufficient.

The first, and to my mind a conclusive reply to this singular argument is presented in the fact, that the language of the Constitution restricts the jurisdiction of the courts to cases in which the parties shall be *citizens,* and is entirely silent with respect to residence. A second answer to this strange and latitudinous notion is, that it so far stultifies the sages by whom the Constitution was framed, as to impute to them ignorance of the material distinction existing between *citizenship* and mere *residence* or *domicil,* and of the well-known facts, that a person confessedly an *alien* may be permitted to reside in a country in which he can possess no civil or political rights, or of which he is neither a citizen nor subject; and that for certain purposes a man may have a *domicil* in different countries, in no one of which he is an actual personal resident.

The correct conclusions upon the question here considered would seem to be these:—

That in the establishment of the several communities now the states of this Union, and in the formation of the federal government, the African was not deemed politically a person. He was regarded and owned in every state in the Union as *property* merely, and as such was not and could not be a party or an actor, much less a *peer* in any compact or form of government established by the states or the United States. That if, since the adoption of the state governments, he has been or could have been elevated to the possession of political rights or powers, this result could have been effected by no authority less potent than that of the sovereignty—the state—exerted to that end, either in the form of legislation, or in some other mode of operation. It could certainly never have been accomplished by the will of an individual operating independently of the sovereign power, and even contravening and controlling that power. That so far as rights and immunities appertaining to citizens have been defined and secured by the Constitution and laws of the United States, the African race is not and never was recognised either by the language or purposes of the former; and it has been expressly excluded by every act of Congress providing for the creation of citizens by *naturalization,* these laws, as has already been remarked, being restricted to *free white aliens* exclusively.

But it is evident that, after the formation of the federal government by the adoption of the Constitution, the highest exertion of state power would be incompetent to bestow a character or status created by the Constitu-

tion, or conferred in virtue of its authority only. Upon those, therefore, who were not originally parties to the federal compact, or who are not admitted and adopted as parties thereto, in the mode prescribed by its paramount authority, no state could have power to bestow the character or the rights and privileges exclusively reserved by the states for the action of the federal government by that compact.

The states, in the exercise of their political power, might, with reference to their peculiar government and jurisdiction, guaranty the rights of person and property, and the enjoyment of civil and political privileges, to those whom they should be disposed to make the objects of their bounty; but they could not reclaim or exert the powers which they had vested exclusively in the government of the United States. They could not add to or change in any respect the class of persons to whom alone the character of citizen of the United States appertained at the time of the adoption of the Federal Constitution. They could not create citizens of the United States by any direct or indirect proceeding.

According to the view taken of the law, as applicable to the demurrer to the plea in abatement in this cause, the questions subsequently raised upon the several pleas in bar might be passed by, as requiring neither a particular examination, nor an adjudication directly upon them. But as these questions are intrinsically of primary interest and magnitude, and have been elaborately discussed in argument, and as with respect to them the opinions of a majority of the court, including my own, are perfectly coincident, to me it seems proper that they should here be fully considered, and, so far as it is practicable for this court to accomplish such an end, finally put to rest.

The questions then to be considered upon the several pleas in bar, and upon the agreed statement of facts between the counsel, are: 1st. Whether the admitted master and owner of the plaintiff, holding him as his slave in the state of Missouri, and in conformity with his rights guarantied to him by the laws of Missouri then and still in force, by carrying with him for his own benefit and accommodation, and as his own slave, the person of the plaintiff into the state of Illinois, within which state slavery had been prohibited by the Constitution thereof, and by retaining the plaintiff during the commorancy of the master within the state of Illinois, had, upon his return with his slave into the state of Missouri, forfeited his rights as master, by reason of any supposed operation of the prohibitory provision in the constitution of Illinois, beyond the proper territorial jurisdiction of the latter state? 2d. Whether a similar removal of the plaintiff by his master from the state of Missouri, and his retention in service at a point included within no state, but situated north of thirty-six degrees thirty minutes of north latitude, worked a forfeiture of the right of property of the master, and the manumission of the plaintiff?

In considering the first of these questions, the acts or declarations of the master, as expressive of his purpose to emancipate, may be thrown out of view, since none will deny the right of the owner to relinquish his interest in any subject of property, at any time or in any place. The inquiry here bears no relation to acts or declarations of the owner as expressive of his intent or purpose to make such a relinquishment; it is simply a question whether, irrespective of such purpose, and in opposition thereto, that relinquishment can be enforced against the owner of property within his own country, in defiance of every guarantee promised by its laws; and this through the instrumentality of a claim to power entirely foreign and extraneous with reference to himself, to the origin and foundation of his title, and to the independent authority of his country. A conclusive negative answer to such an inquiry is at once supplied by announcing a few familiar and settled principles and doctrines of public law.

Vattel, in his chapter on the general principles of the laws of nations, section 15th, tells us that "nations being free and independent of each other in the same manner that men are naturally free and independent, the second general law of their society is, that each nation should be left in the peaceable enjoyment of that liberty which she inherits from nature."

"The natural society of nations," says this writer, "cannot subsist unless the natural rights of each be respected." In section 16th he says, "as a consequence of that liberty and independence, it exclusively belongs to each nation to form her own judgment of what her conscience prescribes for her—of what it is proper or improper for her to do; and of course it rests solely with her to examine and determine whether she can perform any office for another nation without neglecting the duty she owes to herself. In all cases, therefore, in which a nation has the right of judging what her duty requires, no other nation can compel her to act in such or such a particular manner, for any attempt at such compulsion would be an infringement on the liberty of nations." Again, in section 18th, of the same chapter, "nations composed of men, and considered as so many free persons living together in a state of nature, are naturally equal, and inherit from nature the same obligations and rights. Power or weakness does not produce any difference. A small republic is no less a sovereign state than the most powerful kingdom."

So, in section 20: "A nation, then, is mistress of her own actions, so long as they do not affect the proper and *perfect rights* of any other nation—so long as she is only *internally* bound, and does not lie under any *external* and *perfect* obligation. If she makes an ill use of her liberty, she is guilty of a breach of duty; but other nations are bound to acqui-

esce in her conduct, since they have no right to dictate to her. Since nations are *free, independent,* and *equal,* and since each possesses the right of judging, according to the dictates of her conscience, what conduct she is to pursue, in order to fulfil her duties, the effect of the whole is to produce, at least externally, in the eyes of mankind, a perfect equality of rights between nations, in the administration of their affairs, and in the pursuit of their pretensions, without regard to the intrinsic justice of their conduct, of which others have no right to form a definitive judgment."

Chancellor Kent, in the 1st volume of his Commentaries, lecture 2d, after collating the opinions of Grotius, Heineccius, Vattel, and Rutherford, enunciates the following positions as sanctioned by these and other learned publicists, viz.: that "nations are equal in respect to each other, and entitled to claim equal consideration for their rights, whatever may be their relative dimensions or strength, or however greatly they may differ in government, religion, or manners. This perfect equality and entire independence of all distinct states is a fundamental principle of public law. It is a necessary consequence of this equality, that each nation has a right to govern itself as it may think proper, and no one nation is entitled to dictate a form of government or religion, or a course of internal policy, to another." This writer gives some instances of the violation of this great national immunity, and amongst them the constant interference by the ancient Romans, under the pretext of settling disputes between their neighbours, but with the real purpose of reducing those neighbors to bondage; the interference of Russia, Prussia, and Austria, for the dismemberment of Poland; the more recent invasion of Naples by Austria in 1821, and of Spain by the French government in 1823, under the excuse of suppressing a dangerous spirit of internal revolution and reform.

With reference to this right of self-government, in independent sovereign states, an opinion has been expressed, which, whilst it concedes this right as inseparable from and as a necessary attribute of sovereignty and independence, asserts nevertheless some implied and paramount authority of a supposed international law, to which this right of self-government must be regarded and exerted as subordinate; and from which independent and sovereign states can be exempted only by a protest, or by some public and formal rejection of that authority. With all respect for those by whom this opinion has been professed, I am constrained to regard it as utterly untenable, as palpably inconsistent, and as presenting in argument a complete *felo de se.*

Sovereignty, independence, and a perfect right of self-government, can signify nothing less than a superiority to and an exemption from all claims by any extraneous power, however expressly they may be asserted, and render all attempts to enforce such claims merely attempts at usurpation. Again, could such claims from extraneous sources be regarded as legitimate, the effort to resist or evade them, by protest or denial, would be as irregular and unmeaning as it would be futile. It could in no wise affect the question of superior right. For the position here combated, no respectable authority has been, and none it is thought can be adduced. It is certainly irreconcilable with the doctrines already cited from the writers upon public law.

Neither the case of Lewis Somersett (Howell's State Trials, vol. 20,) so often vaunted as the proud evidence of devotion to freedom under a government which has done as much perhaps to extend the reign of slavery as all the world besides; nor does any decision founded upon the authority of Somersett's case, when correctly expounded, assail or impair the principle of national equality enunciated by each and all of the publicists already referred to. In the case of Somersett, although the applicant for the habeas corpus and the individual claiming property in that applicant were both subjects and residents within the British empire, yet the decision cannot be correctly understood as ruling absolutely and under all circumstances against the right of property in the claimant. That decision goes no farther than to determine, that *within the realm of England* there was no authority to justify the detention of an individual in private bondage. If the decision in Somersett's case had gone beyond this point, it would have presented the anomaly of a repeal by laws enacted for and limited in their operation to the realm alone, of other laws and institutions established for places and subjects without the limits of the realm of England; laws and institutions at that very time, and long subsequently, sanctioned and maintained under the authority of the British government, and which the full and combined action of the King and Parliament was required to abrogate.

But could the decision in Somersett's case be correctly interpreted as ruling the doctrine which it has been attempted to deduce from it, still that doctrine must be considered as having been overruled by the lucid and able opinion of Lord Stowell in the more recent case of the slave Grace, reported in the second volume of Haggard, p. 94; in which opinion, whilst it is conceded by the learned judge that there existed no power to coerce the slave whilst in England, that yet, upon her return to the island of Antigua, her *status* as a slave was revived, or, rather, that the title of the owner to the slave as property had never been extinguished, but had always existed in that island. If the principle of this decision be applicable as between different portions of one and the same empire, with how much more force does it apply as between nations or governments entirely separate, and absolutely independent of each other? For in this precise attitude the states of this Union stand with reference to this subject, and with reference to the tenure of every description

of property vested under their laws and held within their territorial jurisdiction.

A strong illustration of the principle ruled by Lord Stowell, and of the effect of that principle even in a case of express contract, is seen in the case of Lewis *v.* Fullerton, decided by the Supreme Court of Virginia, and reported in the first volume of Randolph, p. 15. The case was this: A female slave, the property of a citizen of Virginia, whilst with her master in the state of Ohio, was taken from his possession under a writ of habeas corpus, and set at liberty. Soon, or immediately after, by agreement between this slave and her master, a deed was executed in Ohio by the latter, containing a stipulation that this slave should return to Virginia, and, after a service of two years in that state, should there be free. The law of Virginia regulating emancipation required that deeds of emancipation should, within a given time from their date, be recorded in the court of the county in which the grantor resided, and declared that deeds with regard to which this requisite was not complied with should be void. Lewis, an infant son of this female, under the rules prescribed in such cases, brought an action, *in forma pauperis*, in one of the courts of Virginia, for the recovery of his freedom, claimed in virtue of the transactions above mentioned. Upon an appeal to the Supreme Court from a judgment against the plaintiff, Roane, Justice, in delivering the opinion of the court, after disposing of other questions discussed in that case, remarks:

"As to the deed of emancipation contained in the record, that deed, taken in connexion with the evidence offered in support of it, shows that it had a reference to the state of Virginia; and the testimony shows that it formed a part of this contract, whereby the slave Milly was to be brought back (as she was brought back) into the state of Virginia. Her object was therefore to secure her freedom by the deed within the state of Virginia, after the time should have expired for which she had indented herself, and when she should be found abiding within the state of Virginia.

"If, then, this contract had an eye to the state of Virginia for its operation and effect, the *lex loci* ceases to operate. In that case it must, to have its effect, conform to the laws of Virginia. It is insufficient under those laws to effectuate an emancipation, for want of a due recording in the county court, as was decided in the case of Givens *v.* Mann, in this court. It is also ineffectual within the Commonwealth of Virginia for another reason. The *lex loci* is also to be taken subject to the exception, that it is not to be enforced in another country, when it violates some moral duty or the policy of that country, or is not consistent with a positive right secured to a third person or party by the laws of that country in which it is sought to be enforced. In such a case we are told, '*magis jus nostrum, quam jus alienum servemus.*'" (Huberus, tom. 2, lib. 1, tit. 3; 2 Fontblanque, p. 444.) "That third party in this instance is the Commonwealth of Virginia, and her policy and interests are also to be attended to. These turn the scale against the *lex loci* in the present instance."

The second or last-mentioned position assumed for the plaintiff under the pleas in bar, as it rests mainly if not solely upon the provision of the act of Congress of March 6, 1820, prohibiting slavery in Upper Louisiana north of thirty-six degrees thirty minutes north latitude, popularly called the *Missouri Compromise*, that assumption renews the question, formerly so zealously debated, as to the validity of the provision in the act of Congress, and upon the constitutional competency of Congress to establish it.

Before proceeding, however, to examine the validity of the prohibitory provision of the law, it may, so far as the rights involved in this cause are concerned, be remarked, that conceding to that provision the validity of a legitimate exercise of power, still this concession could by no rational interpretation imply the slightest authority for its operation beyond the territorial limits comprised within its terms; much less could there be inferred from it a power to destroy or in any degree to control rights, either of person or property, entirely within the bounds of a distinct and independent sovereignty—rights invested and fortified by the guarantee of that sovereignty. These surely would remain in all their integrity, whatever effect might be ascribed to the prohibition within the limits defined by its language.

But, beyond and in defiance of this conclusion, inevitable and undeniable as it appears, upon every principle of justice or sound induction, it has been attempted to convert this prohibitory provision of the act of 1820 not only into a weapon with which to assail the inherent—the *necessarily* inherent—powers of independent sovereign governments, but into a means of forfeiting that equality of rights and immunities which are the birthright or the donative from the Constitution of every citizen of the United States within the length and breadth of the nation. In this attempt, there is asserted a power in Congress, whether from incentives of interest, ignorance, faction, partiality, or prejudice, to bestow upon a portion of the citizens of this nation that which is the common property and privilege of all —the power, in fine, of confiscation, in retribution for no offence, or, if for an offence, for that of accidental locality only.

It may be that, with respect to future cases, like the one now before the court, there is felt an assurance of the impotence of such a pretension; still, the fullest conviction of that result can impart to it no claim to forbearance, nor dispense with the duty of antipathy and disgust at its sinister aspect, whenever it may be seen to scowl upon the justice, the order, the tranquillity, and fraternal feeling, which are the surest, nay, the only means, of promoting or preserving the happiness and

prosperity of the nation, and which were the great and efficient incentives to the formation of this government.

The power of Congress to impose the prohibition in the eighth section of the act of 1820 has been advocated upon an attempted construction of the second clause of the third section of the fourth article of the Constitution, which declares that "Congress shall have power to dispose of and to make all needful rules and regulations respecting the *territory* and *other property belonging* to the United States."

In the discussions in both houses of Congress, at the time of adopting this eighth section of the act of 1820, great weight was given to the peculiar language of this clause, viz.: *territory* and *other property belonging* to the United States, as going to show that the power of disposing of and regulating, thereby vested in Congress, was restricted to a *proprietary interest in the territory or land* comprised therein, and did not extend to the personal or political rights of citizens or settlers, inasmuch as this phrase in the Constitution, "*territory or other property*," identified *territory* with *property*, and inasmuch as *citizens* or *persons* could not be property, and especially were not property *belonging* to the United States. And upon every principle of reason or necessity, this power to dispose of and to regulate the *territory* of the nation could be designed to extend no farther than to its preservation and appropriation to the uses of those to whom it belonged, viz.: the nation. Scarcely anything more illogical or extravagant can be imagined than the attempt to deduce from this provision in the Constitution a power to destroy or in any wise to impair the civil and political rights of the citizens of the United States, and much more so the power to establish inequalities amongst those citizens by creating privileges in one class of those citizens, and by the disfranchisement of other portions or classes, by degrading them from the position they previously occupied.

There can exist no rational or natural connexion or affinity between a pretension like this and the power vested by the Constitution in Congress with regard to the territories; on the contrary, there is an absolute incongruity between them.

But whatever the power vested in Congress, and whatever the precise subject to which that power extended, it is clear that the power related to a subject appertaining to the *United States*, and one to be disposed of and regulated for the benefit and under the authority of the *United States*. Congress was made simply the agent or *trustee* for the United States, and could not, without a breach of trust and a fraud, appropriate the subject of the trust to any other beneficiary or *cestui que trust* than the United States, or to the people of the United States, upon equal grounds, legal or equitable. Congress could not appropriate that subject to any one class or portion of the people, to the exclusion of others, politically and constitutionally equals; but every citizen would, if any *one* could claim it, have the like rights of purchase, settlement, occupation, or any other right, in the national territory.

Nothing can be more conclusive to show the equality of this with every other right in all the citizens of the United States, and the iniquity and absurdity of the pretension to exclude or to disfranchise a portion of them because they are the owners of slaves, than the fact that the same instrument which imparts to Congress its very existence and its every function, guaranties to the slaveholder the title to his property, and gives him the right to its reclamation throughout the entire extent of the nation; and, farther, that the only private property which the Constitution has *specifically recognised*, and has imposed it as a direct obligation both on the states and the federal government to protect and *enforce*, is the property of the master in his slave; no other right of property is placed by the Constitution upon the same high ground, nor shielded by a similar guarantee.

Can there be imputed to the sages and patriots by whom the Constitution was framed, or can there be detected in the text of that Constitution, or in any rational construction or implication deducible therefrom, a contradiction so palpable as would exist between a pledge to the slaveholder of an equality with his fellow-citizens, and of the formal and solemn assurance for the security and enjoyment of his property, and a warrant given, as it were *uno flatu*, to another, to rob him of that property, or to subject him to proscription and disfranchisement for possessing or for endeavoring to retain it? The injustice and extravagance necessarily implied in a supposition like this, cannot be rationally imputed to the patriotic or the honest, or to those who were merely sane.

A conclusion in favor of the prohibitory power in Congress, as asserted in the eighth section of the act of 1820, has been attempted, as deducible from the precedent of the ordinance of the Convention of 1787, concerning the cession by Virginia of the territory northwest of the Ohio; the provision in which ordinance, relative to slavery, it has been attempted to impose upon other and subsequently-acquired territory.

The first circumstance which, in the consideration of this provision, impresses itself upon my mind, is its utter futility and want of authority. This court has, in repeated instances, ruled, that whatever may have been the force accorded to this ordinance of 1787 at the period of its enactment, its authority and effect ceased, and yielded to the paramount authority of the Constitution, from the period of the adoption of the latter. Such is the principle ruled in the cases of Pollard's Lessee *v.* Hagan, (3 How., 212,) Parmoli *v.* The First Municipality of New Orleans, (3 How., 589,) Strader *v.* Graham, (16 How., 82.) But apart from the superior control of

the Constitution, and anterior to the adoption of that instrument, it is obvious that the inhibition in question never had and never could have any legitimate and binding force. We may seek in vain for any power in the convention, either to require or to accept a condition or restriction upon the cession like that insisted on; a condition inconsistent with, and destructive of, the object of the grant. The cession was, as recommended by the old Congress in 1780, made originally and completed *in terms* to *the United States*, and for the benefit of the United States, i. e., for *the people, all the people*, of the United States. The condition subsequently sought to be annexed in 1787, (declared, too, to be perpetual and immutable), being contradictory to the terms and destructive of the purposes of the cession, and after the cession was consummated, and the powers of the ceding party terminated, and the rights of the grantees, *the people of the United States*, vested, must necessarily, so far, have been *ab initio* void. With respect to the power of the convention to impose this inhibition, it seems to be pertinent in this place to recur to the opinion of one contemporary with the establishment of the government, and whose distinguished services in the formation and adoption of our national charter, point him out as the *artifex maximus* of our federal system. James Madison, in the year 1819, speaking with reference to the prohibitory power claimed by Congress, then threatening the very existence of the Union, remarks of the language of the second clause of the third section of article fourth of the Constitution, "that it cannot be well extended beyond a power over the territory *as property*, and the power to make provisions really needful or necessary for the government of settlers, until ripe for admission into the Union."

Again he says, "with respect to what has taken place in the Northwest territory, it may be observed that the ordinance giving it its distinctive character on the subject of slaveholding proceeded from the old Congress, acting with the best intentions, but under a charter which contains no shadow of the authority exercised; and it remains to be decided how far the states formed within that territory, and admitted into the Union, are on a different footing from its other members as to their legislative sovereignty. As to the power of admitting new states into the federal compact, the questions offering themselves are, whether Congress can attach conditions, or the new states concur in conditions, which after admission would *abridge* or *enlarge* the constitutional rights of legislation common to other states; whether Congress can, by a compact with a new state, take power either to or from itself, or place the new member above or below the equal rank and rights possessed by the others; whether all such stipulations expressed or implied would not be nullities, and be so pronounced when brought to a practical test. It falls within the scope of your inquiry to state the fact, that there was a proposition in the convention to discriminate between the old and the new states by an article in the Constitution. The proposition, happily, was rejected. The effect of such a discrimination is sufficiently evident."*

In support of the ordinance of 1787, there may be adduced the semblance at least of obligation deducible from *compact*, the *form* of assent or agreement between the grantor and grantee; but this form or similitude, as is justly remarked by Mr. Madison, is rendered null by the absence of power or authority in the contracting parties, and by the more intrinsic and essential defect of incompatibility with the rights and avowed purposes of those parties, and with their relative duties and obligations to others. If, then, with the attendant *formalities* of assent or compact, the restrictive power claimed was void as to the immediate subject of the ordinance, how much more unfounded must be the pretension to such a power as derived from that source (viz. the ordinance of 1787), with respect to territory acquired by purchase or conquest under the supreme authority of the Constitution—territory not the subject of *mere donation*, but obtained *in the name of all, by the combined efforts and resources of all*, and with no condition annexed or pretended.

In conclusion, my opinion is, that the decision of the Circuit Court, upon the law arising upon the several pleas in bar, is correct, but that it is erroneous in having sustained the demurrer to the plea in abatement of the jurisdiction; that for this error the decision of the Circuit Court should be reversed, and the cause remanded to that court, with instructions to abate the action, for the reason set forth and pleaded in the plea in abatement.

In the aforegoing examination of this cause, the circumstance that the questions involved therein had been previously adjudged between these parties by the court of the state of Missouri, has not been adverted to; for although it has been ruled by this court, that in instances of concurrent jurisdiction, the court first obtaining possession or cognisance of the controversy should retain and decide it, yet, as in this case there had been no plea, either of a former judgment or of *autre action pendent*, it was thought that the fact of a prior decision, however conclusive it might have been if regularly pleaded, could not be incidentally taken in view.

Mr. Justice Campbell.

I concur in the judgment pronounced by the Chief Justice, but the importance of the cause, the expectation and interest it has awakened, and the responsibility involved in its determination, induce me to file a separate opinion.

The case shows that the plaintiff, in the year 1834, was a negro slave in Missouri, the

* Letter from James Madison to Robert Walsh, November 27th, 1819, on the subject of the Missouri Compromise.

property of Dr. Emerson, a surgeon in the army of the United States. In 1834, his master took him to the military station at Rock Island, on the border of Illinois, and in 1836 to Fort Snelling, in the present Minnesota, then Wisconsin, territory. While at Fort Snelling, the plaintiff married a slave who was there with her master, and two children have been born of this connexion; one during the journey of the family in returning to Missouri, and the other after their return to that state.

Since 1838, the plaintiff and the members of his family have been in Missouri in the condition of slaves. The object of this suit is to establish their freedom. The defendant, who claims the plaintiff and his family, under the title of Dr. Emerson, denied the jurisdiction of the Circuit Court, by the plea that the plaintiff was a negro of African blood, the descendant of Africans who had been imported and sold in this country as slaves, and thus he had no capacity as a citizen of Missouri to maintain a suit in the Circuit Court. The court sustained a demurrer to this plea, a trial was then had upon the general issue, and special pleas to the effect that the plaintiff and his family were slaves belonging to the defendant.

My opinion in this case is not affected by the plea to the jurisdiction, and I shall not discuss the questions it suggests. The claim of the plaintiff to freedom depends upon the effect to be given to his absence from Missouri, in company with his master, in Illinois and Minnesota, and this effect is to be ascertained by a reference to the laws of Missouri. For the trespass complained of was committed upon one claiming to be a freeman and a citizen, in that state, and who had been living for years under the dominion of its laws. And the rule is, that whatever is a justification where the thing is done, must be a justification in the forum where the case is tried. (20 How. St. Tri., 234; Cowp. S. C., 161.)

The constitution of Missouri recognises slavery as a legal condition, extends guarantees to the masters of slaves, and invites immigrants to introduce them, as property, by a promise of protection. The laws of the state charge the master with the custody of the slave, and provide for the maintenance and security of their relation.

The Federal Constitution and the acts of Congress provide for the return of escaping slaves within the limits of the Union. No removal of the slave beyond the limits of the state, against the consent of the master, nor residence there in another condition, would be regarded as an effective manumission by the courts of Missouri, upon his return to the state. "Sicut liberis captis restituitur sic servus domino." Nor can the master emancipate the slave within the state, except through the agency of a public authority. The inquiry arises, whether the manumission of the slave is effected by his removal, with the consent of the master, to a community where the law of slavery does not exist, in a case where neither the master nor slave discloses a purpose to remain permanently, and where both parties have continued to maintain their existing relations. What is the law of Missouri in such a case? Similar inquiries have arisen in a great number of suits, and the discussions in the state courts have relieved the subject of much of its difficulty. (12 B. M. Ky. R., 545; Foster *v.* Foster, 10 Gratt. Va. R., 485; 4 Har. and McH. Md. R., 295; Scott *v.* Emerson, 15 Misso., 576; 4 Rich. S. C. R., 186; 17 Misso., 434; 15 Misso., 596; 5 B. M., 173; 8 B. M., 540, 633; 9 B. M. 565; 5 Leigh, 614; 1 Rand., 15; 18 Pick. 193.)

The result of these discussions is, that in general, the *status* or civil and political capacity of a person, is determined, in the first instance, by the law of the domicil where he is born; that the legal effect on persons, arising from the operation of the law of that domicil, is not indelible, but that a new capacity or *status* may be acquired by a change of domicil. That questions of *status* are closely connected with considerations arising out of the social and political organization of the state where they originate, and each sovereign power must determine them within its own territories.

A large class of cases has been decided upon the second of the propositions above stated, in the Southern and Western courts—cases in which the law of the actual domicil was adjudged to have altered the native condition and *status* of the slave, although he had never actually possessed the *status* of freedom in that domicil. (Rankin *v.* Lydia, 2 A. K. M.; Herny *v.* Decker, Walk., 36; 4 Mart., 385; 1 Misso., 472; Hunter *v.* Fulcher, 1 Leigh.)

I do not impugn the authority of these cases. No evidence is found in the record to establish the existence of a domicil acquired by the master and slave, either in Illinois or Minnesota. The master is described as an officer of the army, who was transferred from one station to another, along the Western frontier, in the line of his duty, and who, after performing the usual tours of service, returned to Missouri; these slaves returned to Missouri with him, and had been there for near fifteen years, in that condition, when this suit was instituted. But absence, in the performance of military duty, without more, is a fact of no importance in determining a question of a change of domicil. Questions of that kind depend upon acts and intentions, and are ascertained from motives, pursuits, the condition of the family, and fortune of the party, and no change will be inferred, unless evidence shows that one domicil was abandoned, and there was an intention to acquire another. (11 L. and Eq., 6; 6 Exch., 217; 6 M. and W. 511; 2 Curt. Ecc. R., 368.)

The cases first cited deny the authority of a foreign law to dissolve relations which have been legally contracted in the state where the parties are, and have their actual domicil—

relations which were never questioned during their absence from that state—relations which are consistent with the native capacity and condition of the respective parties, and with the policy of the state where they reside; but which relations were inconsistent with the policy or laws of the state or territory within which they had been for a time, and from which they had returned, with these relations undisturbed. It is upon the assumption, that the law of Illinois or Minnesota was indelibly impressed upon the slave, and its consequences carried into Missouri, that the claim of the plaintiff depends. The importance of the case entitles the doctrine on which it rests to a careful examination.

It will be conceded, that in countries where no law or regulation prevails, opposed to the existence and consequences of slavery, persons who are born in that condition in a foreign state would not be liberated by the accident of their introgression. The relation of domestic slavery is recognised in the law of nations, and the interference of the authorities of one state with the rights of a master belonging to another, without a valid cause, is a violation of that law. (Wheat. Law of Na., 724; 5 Stats. at Large, 601; Calh. Sp., 378; Reports of the Com. U. S. and G. B., 187, 238, 241.)

The public law of Europe formerly permitted a master to reclaim his bondsman, within a limited period, wherever he could find him, and one of the capitularies of Charlemagne abolishes the rule of prescription. He directs, "that wheresoever, within the bounds of Italy, either the runaway slave of the king, or of the church, or of any other man, shall be found by his master, he shall be restored without any bar or prescription of years; yet upon the provision that the master be a Frank or German, or of any other nation (foreign); but if he be a Lombard or a Roman, he shall acquire or receive his slaves by that law which has been established from ancient times among them." Without referring for precedents abroad, or to the colonial history, for similar instances, the history of the Confederation and Union affords evidence to attest the existence of this ancient law. In 1783, Congress directed General Washington to continue his remonstrances to the commander of the British forces respecting the permitting negroes belonging to the citizens of these states to leave New York, and to insist upon the discontinuance of that measure. In 1788, the resident minister of the United States at Madrid was instructed to obtain from the Spanish Crown orders to its Governors in Louisiana and Florida, "to permit and facilitate the apprehension of fugitive slaves from the states, promising that the states would observe the like conduct respecting fugitives from Spanish subjects." The committee that made the report of this resolution consisted of Hamilton, Madison, and Sedgwick, (2 Hamilton's Works, 473;) and the clause in the Federal Constitution providing for the restoration of fugitive slaves is a recognition of this ancient right, and of the principle that a change of place does not effect a change of condition. The diminution of the power of a master to reclaim his escaping bondsman in Europe commenced in the enactment of laws of prescription in favor of privileged communes. Bremen, Spire, Worms, Vienna, and Ratisbon, in Germany; Carcassonne, Béziers, Toulouse, and Paris, in France, acquired privileges on this subject at an early period. The ordinance of William the Conqueror, that a residence of any of the servile population of England, for a year and a day, without being claimed, in any city, burgh, walled town, or castle of the King, should entitle them to perpetual liberty, is a specimen of these laws.

The earliest publicist who has discussed this subject is Bodin, a jurist of the sixteeenth century, whose work was quoted in the early discussions of the courts in France and England on this subject. He says: "In France, although there be some remembrance of old servitude, yet it is not lawful here to make a slave or to buy any one of others, insomuch as the slaves of strangers, so soon as they set their foot within France, become frank and free, as was determined by an old decree of the court of Paris against an ambassador of Spain, who had brought a slave with him into France." He states another case, which arose in the city of Toulouse, of a Genoese merchant, who had carried a slave into that city on his voyage from Spain; and when the matter was brought before the magistrates, the "procureur of the city, out of the records, showed certain ancient privileges given unto them of Tholouse, wherein it was granted that slaves, so soon as they should come into Tholouse, should be free." These cases were cited with much approbation in the discussion of the claims of the West India slaves of Verdelin for freedom, in 1738, before the judges in admiralty, (15 Causes Célèbres, p. 1; 2 Masse Droit Com., sec. 58,) and were reproduced before Lord Mansfield, in the cause of Somerset, in 1772. Of the cases cited by Bodin, it is to be observed that Charles V. of France exempted all the inhabitants of Paris from serfdom, or other feudal incapacities, in 1371, and this was confirmed by several of his successors, (3 Dulaire Hist. de Par. 546; Broud. Cout. de Par. 21,) and the ordinance of Toulouse is preserved as follows: "*Civitas Tholosana fuit et erit sine fine libera, adeo ut servi et ancillæ, sclavi et sclavæ, dominus sive dominas habentes, cum rebus vel sine rebus suis, ad Tholosam vel infrà terminos extra urbem terminatos accedentes acquirant libertatem.*" (Hist. de Langue, tome 3, p. 69; Ibid. 6, p. 8; Loysel Inst. b. 1, sec. 6.)

The decisions were made upon special ordinances, or charters, which contained positive prohibitions of slavery, and where liberty had been granted as a privilege; and the history of Paris furnishes but little support for the boast that she was a "*sacro sancta civitas,*" where liberty always had an asylum, or for the

"self-complacent rhapsodies" of the French advocates in the case of Verdelin, which amused the grave lawyers who argued the case of Somersett. The case of Verdelin was decided upon a special ordinance, which prescribed the conditions on which West India slaves might be introduced into France, and which had been disregarded by the master.

The case of Somersett was that of a Virginia slave carried to England by his master in 1770, and who remained there two years. For some cause, he was confined on a vessel destined to Jamaica, where he was to be sold. Lord Mansfield, upon a return to a *habeas corpus*, states the question involved. "Here, the person of the slave himself," he says, "is the immediate subject of inquiry, Can any dominion, authority, or coercion, be exercised in this country, according to the American laws?" He answers: "The difficulty of adopting the relation, without adopting it in all its consequences, is indeed extreme, and yet many of those consequences are absolutely contrary to the municipal law of England." Again, he says: "The return states that the slave departed, and refused to serve; whereupon, he was kept to be sold abroad." "So high an act of dominion must be recognised by the law of the country where it is used. The power of the master over his slave has been extremely different in different countries." "The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself, from whence it was created, are erased from the memory. It is so odious, that nothing can be suffered to support it but positive law." That there is a difference in the systems of states, which recognise and which do not recognise the institution of slavery, cannot be disguised. Constitutional law, punitive law, police, domestic economy, industrial pursuits, and amusements, the modes of thinking and of belief of the population of the respective communities, all show the profound influence exerted upon society by this single arrangement. This influence was discovered in the Federal Convention, in the deliberations on the plan of the Constitution. Mr. Madison observed, "that the states were divided into different interests, not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having or not having slaves. These two causes concur in forming the great division of interests in the United States."

The question to be raised with the opinion of Lord Mansfield, therefore, is not in respect to the incongruity of the two systems, but whether slavery was absolutely contrary to the law of England; for if it was so, clearly, the American laws could not operate there. Historical research ascertains that at the date of the Conquest the rural population of England were generally in a servile condition, and under various names, denoting slight variances in condition, they were sold with the land like cattle, and were a part of its living money. Traces of the existence of African slaves are to be found in the early chronicles. Parliament in the time of Richard II., and also of Henry VIII., refused to adopt a general law of emancipation. Acts of emancipation by the last-named monarch and by Elizabeth are preserved.

The African slave trade had been carried on, under the unbounded protection of the crown, for near two centuries, when the case of Somersett was heard, and no motion for its suppression had ever been submitted to Parliament; while it was forced upon and maintained in unwilling colonies by the Parliament and crown of England at that moment. Fifteen thousand negro slaves were then living in that island, where they had been introduced under the counsel of the most illustrious jurists of the realm, and such slaves had been publicly sold for near a century in the markets of London. In the northern part of the kingdom of Great Britain there existed a class of from 30,000 to 40,000 persons, of whom the Parliament said, in 1775, (15 George III. chap. 28,) "many colliers, coal-heavers, and salters, are in a state of slavery or bondage, bound to the collieries and salt works, where they work for life, transferrable with the collieries and salt works when their original masters have no use for them; and whereas the emancipating or setting free the colliers, coal-heavers, and salters, in Scotland, who are now in a state of servitude, gradually and upon reasonable conditions, would be the means of increasing the number of colliers, coal-heavers, and salters, to the great benefit of the public, without doing any injury to the present masters, and would remove the reproach of allowing such a state of servitude to exist in a free country," &c.; and again, in 1799, "they declare that many colliers and coal-heavers still continue in a state of bondage." No statute, from the Conquest till the 15 George III., had been passed upon the subject of personal slavery. These facts have led the most eminent civilian of England to question the accuracy of this judgment, and to insinuate that in this judgment the offence of *ampliare jurisdictionem* by private authority was committed by the eminent magistrate who pronounced it.

This sentence is distinguishable from those cited from the French courts in this: that there positive prohibitions existed against slavery, and the right to freedom was conferred on the immigrant slave by positive law; whereas here the consequences of slavery merely—that is, the public policy—were found to be contrary to the law of slavery. The case of the slave Grace (2 Hagg.), with four others, came before Lord Stowell in 1827, by appeals from the West India vice admiralty courts. They were cases of slaves who had returned to those islands, after a residence in Great Britain, and where the claim to freedom was first presented in the colonial forum. The

learned judge in that case said: "This suit fails in its foundation. She (Grace) was not a free person; no injury is done her by her continuance in slavery, and she has no pretensions to any other station than that which was enjoyed by every slave of a family. If she depends upon such freedom conveyed by a mere residence in England, she complains of a violation of right which she possessed no longer than whilst she resided in England, but which totally expired when that residence ceased, and she was imported into Antigua."

The decision of Lord Mansfield was, "that so high an act of dominion" as the master exercises over his slave, in sending him abroad for sale, could not be exercised in England under the American laws, and contrary to the spirit of their own.

The decision of Lord Stowell is, that the authority of the English laws terminated when the slave departed from England. That the laws of England were not imported into Antigua, with the slave, upon her return, and that the colonial forum had no warrant for applying a foreign code to dissolve relations which had existed between persons belonging to that island, and which were legal according to its own system. There is no distinguishable difference between the case before us and that determined in the admiralty of Great Britain.

The complaint here, in my opinion, amounts to this: that the judicial tribunals of Missouri have not denounced as odious the Constitution and laws under which they are organized, and have not superseded them on their own private authority, for the purpose of applying the laws of Illinois, or those passed by Congress for Minnesota, in their stead. The eighth section of the act of Congress of the 6th of March, 1820 (3 Statutes at Large, 545), entitled, "An act to authorize the people of Missouri to form a state government," &c., &c., is referred to, as affording the authority to this court to pronounce the sentence which the Supreme Court of Missouri felt themselves constrained to refuse. That section of the act prohibits slavery in the district of country west of the Mississippi, north of thirty-six degrees thirty minutes north latitude, which belonged to the ancient province of Louisiana, not included in Missouri.

It is a settled doctrine of this court, that the federal government can exercise no power over the subject of slavery within the states, nor control the intermigration of slaves, other than fugitives, among the states. Nor can that government affect the duration of slavery within the states, other than by a legislation over the foreign slave trade. The power of Congress to adopt the section of the act above cited must therefore depend upon some condition of the territories which distinguishes them from states, and subjects them to a control more extended. The third section of the fourth article of the Constitution is referred to as the only and all-sufficient grant to support this claim. It is, that "new states may be admitted by the Congress to this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state."

It is conceded, in the decisions of this court, that Congress may secure the rights of the United States in the public domain, provide for the sale or lease of any part of it, and establish the validity of the titles of the purchasers, and may organize territorial governments, with powers of legislation. (3 How. 212; 12 How. 1; 1 Pet. 511; 13 P. 436; 16 H. 164.)

But the recognition of a plenary power in Congress to dispose of the public domain, or to organize a government over it, does not imply a corresponding authority to determine the internal polity, or to adjust the domestic relations, or the persons who may lawfully inhabit the territory in which it is situated. A supreme power to make needful rules respecting the public domain, and a similar power of framing laws to operate upon persons and things within the territorial limits where it lies, are distinguished by broad lines of demarcation in American history. This court has assisted us to define them. In Johnson *v.* McIntosh (8 Wheat. 595—543), they say: "According to the theory of the British Constitution, all vacant lands are vested in the Crown; and the exclusive power to grant them is admitted to reside in the Crown, as a branch of the royal prerogative.

"All the lands we hold were originally granted by the Crown, and the establishment of a royal government has never been considered as impairing its right to grant lands within the chartered limits of such colony."

And the British Parliament did claim a supremacy of legislation coextensive with the absoluteness of the dominion of the sovereign over the Crown lands. The American doctrine, to the contrary, is embodied in two brief resolutions of the people of Pennsylvania, in 1774: 1st. "That the inhabitants of these colonies are entitled to the same rights and liberties, within the colonies, that the subjects born in England are entitled within the realm." 2d. "That the power assumed by Parliament to bind the people of these colonies by statutes, in all cases whatever, is unconstitutional, and therefore the source of these unhappy difficulties." The Congress of 1774, in their statement of rights and grievances, affirm "a free and exclusive power of legislation" in their several provincial legislatures, "in all cases of taxation and internal polity, subject only to the negative of their sovereign,

in such manner as has been heretofore used and accustomed." (1 Jour. Cong. 32.)

The unanimous consent of the people of the colonies, then, to the power of their sovereign, "to dispose of and make all needful rules and regulations respecting the territory" of the Crown, in 1774, was deemed by them as entirely consistent with opposition, remonstrance, the renunciation of allegiance, and proclamation of civil war, in preference to submission to his claim of supreme power in the territories.

I pass now to the evidence afforded during the Revolution and Confederation. The American Revolution was not a social revolution. It did not alter the domestic condition or capacity of persons within the colonies, nor was it designed to disturb the domestic relations existing among them. It was a political revolution, by which thirteen dependent colonies became thirteen independent states. "The Declaration of Independence was not," says Justice Chase, "a declaration that the united colonies jointly, in a collective capacity, were independent states, &c., &c., &c., but that each of them was a sovereign and independent state; that is, that each of them had a right to govern itself by its own authority and its own laws, without any control from any other power on earth. (3 Dall. 199; 4 Cr. 212.)

These sovereign and independent states, being united as a confederation, by various public acts of cession, became jointly interested in territory, and concerned to dispose of and make all needful rules and regulations respecting it. It is a conclusion not open to discussion in this court, "that there was no territory within the (original) United States, that was claimed by them in any other right than that of some of the confederate states." (Harcourt *v.* Gaillord, 12 Wh. 523.) "The question whether the vacant lands within the United States," says Chief Justice Marshall, "became joint property, or belonged to the separate states, was a momentous question, which threatened to shake the American confederacy to its foundations. This important and dangerous question has been compromised, and the compromise is not now to be contested." (6 C. R. 87.)

The cessions of the states to the Confederation were made on the condition that the territory ceded should be laid out and formed into distinct republican states, which should be admitted as members to the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other states. The first effort to fulfil this trust was made in 1785, by the offer of a charter or compact to the inhabitants who might come to occupy the land.

Those inhabitants were to form for themselves temporary state governments, founded on the constitutions of any of the states, but to be alterable at the will of their legislature; and permanent governments were to succeed these, whenever the population became sufficiently numerous to authorize the state to enter the confederacy; and Congress assumed to obtain powers from the states to facilitate this object. Neither in the deeds of cession of the states, nor in this compact, was a sovereign power for Congress to govern the territories asserted. Congress retained power, by this act, "to dispose of and to make rules and regulations respecting the public domain," but submitted to the people to organize a government harmonious with those of the confederate states.

The next stage in the progress of colonial government was the adoption of the ordinance of 1787, by eight states, in which the plan of a territorial government, established by act of Congress, is first seen. This was adopted while the Federal Convention to form the Constitution was sitting. The plan placed the government in the hands of a governor, secretary, and judges, appointed by Congress, and conferred power on them to select suitable laws from the codes of the states, until the population should equal 5000. A legislative council, elected by the people, was then to be admitted to a share of the legislative authority, under the supervision of Congress; and states were to be formed whenever the number of the population should authorize the measure.

This ordinance was addressed to the inhabitants as a fundamental compact, and six of its articles define the conditions to be observed in their constitution and laws. These conditions were designed to fulfil the trust in the agreements of cession, that the states to be formed of the ceded territories should be "distinct republican states." This ordinance was submitted to Virginia in 1788, and the 5th article, embodying as it does a summary of the entire act, was specifically ratified and confirmed by that state. This was an incorporation of the ordinance into her act of cession. It was conceded, in the argument, that the authority of Congress was not adequate to the enactment of the ordinance, and that it cannot be supported upon the Articles of Confederation. To a part of the engagements, the assent of nine states was required, and for another portion no provision had been made in those articles. Mr. Madison said, in a writing nearly contemporary, but before the confirmatory act of Virginia, "Congress have proceeded to form new states, to erect temporary governments, to appoint officers for them, and to prescribe the conditions on which such states shall be admitted into the confederacy; all this has been done, and done without the least color of constitutional authority." (Federalist, No. 38.) Richard Henry Lee, one of the committee who reported the ordinance to Congress, transmitted it to General Washington (15th July, 1787), saying, "It seemed necessary, for the security of property among uninformed and perhaps licentious people, as the greater part of those who go there are, that a strong-toned government should exist, and the rights of property be clearly defined." The consent of all the states represented in Congress, the consent of the legislature of Virginia, the con-

sent of the inhabitants of the territory, all concur to support the authority of this enactment. It is apparent, in the frame of the Constitution, that the convention recognised its validity, and adjusted parts of their work with reference to it. The authority to admit new states into the Union, the omission to provide distinctly for territorial governments, and the clause limiting the foreign slave trade to states then existing, which might not prohibit it, show that they regarded this territory as provided with a government, and organized permanently with a restriction on the subject of slavery. Justice Chase, in the opinion already cited, says of the government before, and it is in some measure true during the Confederation, that "the powers of Congress originated from necessity, and arose out of and were only limited by events, or, in other words, they were revolutionary in their very nature. Their extent depended upon the exigencies and necessities of public affairs;" and there is only one rule of construction, in regard to the acts done, which will fully support them, viz.: that the powers actually exercised were rightfully exercised, wherever they were supported by the implied sanction of the state legislatures, and by the ratifications of the people.

The clauses in the 3d section of the 4th article of the Constitution, relative to the admission of new states, and the disposal and regulation of the territory of the United States, were adopted without debate in the convention.

There was a warm discussion on the clauses that relate to the subdivision of the states, and the reservation of the claims of the United States and each of the states from any prejudice. The Maryland members revived the controversy in regard to the crown lands of the southwest. There was nothing to indicate any reference to a government of territories not included within the limits of the Union; and the whole discussion demonstrates that the convention was consciously dealing with a territory whose condition, as to government, had been arranged by a fundamental and unalterable compact.

An examination of this clause of the Constitution, by the light of the circumstances in which the convention was placed, will aid us to determine its significance. The first clause is, "that new states may be admitted by the Congress to this Union." The condition of Kentucky, Vermont, Rhode Island, and the new states to be formed in the northwest, suggested this, as a necessary addition to the powers of Congress. The next clause, providing for the subdivision of states, and the parties to consent to such an alteration, was required, by the plans on foot, for changes in Massachusetts, New York, Pennsylvania, North Carolina, and Georgia. The clause which enables Congress to dispose of and make regulations respecting the public domain, was demanded by the exigencies of an exhausted treasury, and a disordered finance, for relief by sales, and the preparation for sales, of the public lands; and the last clause, that nothing in the Constitution should prejudice the claims of the United States or a particular state, was to quiet the jealousy and irritation of those who had claimed for the United States all the unappropriated lands. I look in vain, among the discussions of the time, for the assertion of a supreme sovereignty for Congress over the territory then belonging to the United States, or that they might thereafter acquire. I seek in vain for an annunciation that a consolidated power had been inaugurated, whose subject comprehended an empire, and which had no restriction but the discretion of Congress. This disturbing element of the Union entirely escaped the apprehensive provisions of Samuel Adams, George Clinton, Luther Martin, and Patrick Henry; and, in respect to dangers from power vested in a central government over distant settlements, colonies, or provinces, their instincts were always alive. Not a word escaped them, to warn their countrymen, that here was a power to threaten the landmarks of this federative Union, and with them the safeguards of popular and constitutional liberty; or that under this article there might be introduced, on our soil, a single government over a vast extent of country—a government foreign to the persons over whom it might be exercised, and capable of binding those not represented, by statutes, in all cases whatever. I find nothing to authorize these enormous pretensions, nothing in the expositions of the friends of the Constitution, nothing in the expressions of alarm by its opponents—expressions which have since been developed as prophecies. Every portion of the United States was then provided with a municipal government, which this Constitution was not designed to supersede, but merely to modify as to its conditions.

The compacts of cession by North Carolina and Georgia are subsequent to the Constitution. They adopt the ordinance of 1787, except the clause respecting slavery. But the precautionary repudiation of that article forms an argument quite as satisfactory to the advocates for federal power, as its introduction would have done. The refusal of a power to Congress to legislate in one place, seems to justify the seizure of the same power when another place for its exercise is found.

This proceeds from a radical error, which lies at the foundation of much of this discussion. It is, that the federal government may lawfully do whatever is not directly prohibited by the Constitution. This would have been a fundamental error, if no amendments to the Constitution had been made. But the final expression of the will of the people of the states, in the 10th amendment, is, that the powers of the federal government are limited to the grants of the Constitution.

Before the cession of Georgia was made, Congress asserted rights, in respect to a part of her territory, which require a passing

notice. In 1798 and 1800, acts for the settlement of limits with Georgia, and to establish a government in the Mississippi territory, were adopted. A territorial government was organized, between the Chattahoochee and Mississippi rivers. This was within the limits of Georgia. These acts dismembered Georgia. They established a separate government upon her soil, while they rather derisively professed, "that the establishment of that government shall in no respects impair the rights of the state of Georgia, either to the jurisdiction or soil of the territory." The Constitution provided that the importation of such persons as any of the existing states shall think proper to admit, shall not be prohibited by Congress before 1808. By these enactments, a prohibition was placed upon the importation of slaves into Georgia, although her legislature had made none.

This court have repeatedly affirmed the paramount claim of Georgia to this territory. They have denied the existence of any title in the United States. (6 C. R. 87; 12 Wh. 523; 3 How. 212; 13 How. 381.) Yet these acts were cited in the argument as precedents to show the power of Congress in the territories. These statutes were the occasion of earnest expostulation and bitter remonstrance on the part of the authorities of the state, and the memory of their injustice and wrong remained long after the legal settlement of the controversy by the compact of 1802. A reference to these acts terminates what I have to say upon the constitutions of the territory within the original limits of the United States. These constitutions were framed by the concurrence of the states making the cessions, and Congress, and were tendered to immigrants who might be attracted to the vacant territory. The legislative powers of the officers of this government were limited to the selection of laws from the states; and provision was made for the introduction of popular institutions, and their emancipation from federal control, whenever a suitable opportunity occurred. The limited reservation of legislative power to the officers of the federal government was excused, on the plea of *necessity;* and the probability is, that the clauses respecting slavery embody some compromise among the statesmen of that time; beyond these, the distinguishing features of the system which the patriots of the Revolution had claimed as their birthright, from Great Britain, predominated in them.

The acquisition of Louisiana, in 1803, introduced another system into the United States. This vast province was ceded by Napoleon, and its population had always been accustomed to a viceroyal government, appointed by the Crowns of France or Spain. To establish a government constituted on similar principles, and with like conditions, was not an unnatural proceeding.

But there was great difficulty in finding constitutional authority for the measure. The third section of the fourth article of the Constitution was introduced into the Constitution, on the motion of Mr. Gouverneur Morris. In 1803, he was appealed to for information in regard to its meaning. He answers: "I am very certain I had it not in contemplation to insert a decree *de coercendo imperio* in the Constitution of America. * * * I knew then, as well as I do now, that all North America must at length be annexed to us. Happy indeed, if the lust of dominion stop here. It would therefore have been perfectly utopian to oppose a paper restriction to the violence of popular sentiment, in a popular government." (3 Mor. Writ. 185.) A few days later, he makes another reply to his correspondent. "I perceive," he says, "I mistook the drift of your inquiry, which substantially is, whether Congress can admit, as a new state, territory which did not belong to the United States when the Constitution was made. In my opinion, they cannot. I always thought, when we should acquire Canada and Louisiana, it would be proper to GOVERN THEM AS PROVINCES, AND ALLOW THEM NO VOICE *in our councils. In wording the third* SECTION OF THE *fourth article, I went as far as circumstances would permit, to establish the exclusion.* CANDOR OBLIGES ME TO ADD MY BELIEF, THAT HAD IT BEEN MORE POINTEDLY EXPRESSED, A STRONG OPPOSITION WOULD HAVE BEEN MADE." (3 Mor. Writ. 192.) The first territorial government of Louisiana was an Imperial one, founded upon a French or Spanish model. For a time, the governor, judges, legislative council, marshal, secretary, and officers of the militia, were appointed by the President.*

Besides these anomalous arrangements, the acquisition gave rise to jealous inquiries, as to the influence it would exert in determining the men and states that were to be "the arbiters and rulers" of the destinies of the Union; and unconstitutional opinions, having for their aim to promote sectional divisions, were announced and developed. "Something," said an eminent statesman, "something has suggested to the members of Congress the policy of acquiring geographical majorities. This is a very direct step towards disunion, for it must foster the geographical enmities by which alone it can be effected. This something must be a contemplation of particular advantages to be derived from such majorities; and is it not notorious that they consist of nothing else but usurpations over persons and property, by which they can regulate the in-

* Mr. Varnum said: "The bill provided such a government as had never been known in the United States." Mr. Eustis: "The government laid down in this bill is certainly a new thing in the United States." Mr. Lucas: "It has been remarked, that this bill establishes elementary principles never previously introduced in the government of any territory of the United States. Granting the truth of this observation," &c., &c. Mr. Macon: "My first objection to the principle contained in this section is, that it establishes a species of government unknown to the United States." Mr. Boyle: "Were the President an angel instead of a man, I would not clothe him with this power." Mr. G. W. Campbell: "On examining the section, it will appear that it really establishes a complete despotism." Mr. Sloan: "Can anything be more repugnant to the principles of just government? Can anything be more despotic?"—*Annals of Congress*, 1803–4.

ternal *wealth and prosperity of states and individuals?*"

The most dangerous of the efforts to employ a geographical political power, to perpetuate a geographical preponderance in the Union, is to be found in the deliberations upon the act of the 6th of March, 1820, before cited. The attempt consisted of a proposal to exclude Missouri from a place in the Union, unless her people would adopt a Constitution containing a prohibition upon the subject of slavery, according to a prescription of Congress. The sentiment is now general, if not universal, that Congress had no constitutional power to impose the restriction. This was frankly admitted at the bar, in the course of this argument. The principles which this court have pronounced condemn the pretension then made on behalf of the legislative department. In Groves *v.* Slaughter (15 Pet.), the Chief Justice said: "The power over this subject is exclusively with the several states, and each of them has a right to decide for itself whether it will or will not allow persons of this description to be brought within its limits." Justice McLean said: "The Constitution of the United States operates alike in all the states, and one state has the same power over the subject of slavery as every other state." In Pollard's Lessee *v.* Hagan (3 How. 212), the court say: "The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a state or elsewhere, except in cases where it is delegated, and the court denies the faculty of the federal government to add to its powers by treaty or compact."

This is a necessary consequence, resulting from the nature of the Federal Constitution, which is a federal compact among the states, establishing a limited government, with powers delegated by the people of distinct and independent communities, who reserved to their state governments, and to themselves, the powers they did not grant. This claim to impose a restriction upon the people of Missouri involved a denial of the constitutional relations between the people of the states and Congress, and affirmed a concurrent right for the latter, with their people, to constitute the social and political system of the new states. A successful maintenance of this claim would have altered the basis of the Constitution. The new states would have become members of a Union defined in part by the Constitution and in part by Congress. They would not have been admitted to "this Union." Their sovereignty would have been restricted by Congress as well as the Constitution. The demand was unconstitutional and subversive, but was prosecuted with an energy, and aroused such animosities among the people, that patriots, whose confidence had not failed during the Revolution, began to despair for the Constitution.* Amid the utmost violence of this extraordinary contest, the expedient contained in the eighth section of this act was proposed, to moderate it, and to avert the catastrophe it menaced. It was not seriously debated, nor were its constitutional aspects severely scrutinized by Congress. For the first time, in the history of the country, has its operation been embodied in a case at law, and been presented to this court for their judgment. The inquiry is, whether there are conditions in the constitutions of the territories which subject the capacity and *status* of persons within their limits to the direct action of Congress. Can Congress determine the condition and *status* of persons who inhabit the territories?

The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the territory or other property belonging to the United States. This power applies as well to territory belonging to the United States within the states, as beyond them. It comprehends all the public domain, wherever it may be. The argument is, that the power to make "ALL needful rules and regulations" "is a power of legislation," "a full legislative power;" "that it includes all subjects of legislation in the territory," and is without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress may then regulate or prohibit slavery upon the public domain within the new states, and such a prohibition would permanently affect the capacity of a slave whose master might carry him to it. And why not? Because no power has been conferred on Congress. This is a conclusion universally admitted. But the power to "make rules and regulations respecting the territory" is not restrained by state lines, nor are there any constitutional prohibitions upon its exercise in the domain of the United States within the states; and whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and are not dependent on the *situs* of "the territory."

The author of the Farmer's Letters, so famous in the ante-revolutionary history, thus states the argument made by the American loyalists in favor of the claim of the British Parliament to legislate in all cases whatever over the colonies: "It has been urged with great vehemence against us," he says, "and it seems to be thought their FORT by our adversaries, that a power of regulation is a power of legislation; and a power of legislation, if constitutional, must be universal and supreme, in the utmost sense of the word. It is therefore concluded that the colonies, by acknowledging the power of regulation, acknowledged every other power."

This sophism imposed upon a portion of the patriots of that day. Chief Justice Marshall, in his life of Washington, says, "that many of the best informed men in Massachusetts had perhaps adopted the opinion of the par-

* Mr. Jefferson wrote: "The Missouri question is the most portentous one that ever threatened our Union. In the gloomiest moments of the Revolutionary War, I never had any apprehension equal to that I feel from this source."

liamentary right of internal government over the colonies;" "that the English statute book furnishes many instances of its exercise;" "that in no case recollected, was their authority openly controverted;" and "that the General Court of Massachusetts, on a late occasion, openly recognised the principle." (Marsh. Wash. v. 2, p. 75, 76.)

But the more eminent men of Massachusetts rejected it; and another patriot of the time employs the instance to warn us of "the stealth with which oppression approaches," and "the enormities towards which precedents travel." And the people of the United States, as we have seen, appealed to the last argument, rather than acquiesce in their authority. Could it have been the purpose of Washington and his illustrious associates, by the use of ambiguous, equivocal, and expansive words, such as "rules," "regulations," "territory," to re-establish in the Constitution of their country that *fort* which had been prostrated amid the toils and with the sufferings and sacrifices of seven years of war? Are these words to be understood as the Norths, the Grenvilles, Hillsboroughs, Hutchinsons, and Dunmores—in a word, as George III. would have understood them—or are we to look for their interpretation to Patrick Henry or Samuel Adams, to Jefferson, and Jay, and Dickinson; to the sage Franklin, or to Hamilton, who from his early manhood was engaged in combating British constructions of such words? We know that the resolution of Congress of 1780 contemplated that the new states to be formed under their recommendation were to have the same rights of sovereignty, freedom, and independence, as the old. That every resolution, cession, compact, and ordinance, of the states, observed the same liberal principle. That the Union of the Constitution is a union formed of equal states; and that new states, when admitted, were to enter "this Union." Had another union been proposed in "any pointed manner," it would have encountered not only "strong," but successful opposition. The disunion between Great Britain and her colonies originated in the antipathy of the latter to "rules and regulations" made by a remote power respecting their internal policy. In forming the Constitution, this fact was ever present in the minds of its authors. The people were assured by their most trusted statesmen "that the jurisdiction of the federal government is limited to certain enumerated objects, which concern all members of the republic," and "that the local or municipal authorities form distinct portions of supremacy, no more subject within their respective spheres to the general authority, than the general authority is subject to them within its own sphere." Still, this did not content them. Under the lead of Hancock and Samuel Adams, of Patrick Henry and George Mason, they demanded an explicit declaration that no more power was to be exercised than they had delegated. And the ninth and tenth amendments to the Constitution were designed to include the reserved rights of the states, and the people within all the sanctions of that instrument, and to bind the authorities, state and federal, by the judicial oath it prescribes, to their recognition and observance. Is it probable, therefore, that the supreme and irresponsible power, which is now claimed for Congress over boundless territories, the use of which cannot fail to react upon the political system of the states, to its subversion, was ever within the contemplation of the statesmen who conducted the counsels of the people in the formation of this Constitution? When the questions that came to the surface upon the acquisition of Louisiana were presented to the mind of Jefferson, he wrote: "I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written Constitution. Let us not make it blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution. If it has bounds, they can be no others than the definitions of the powers which that instrument gives. It specifies and delineates the operations permitted to the federal government, and gives the powers necessary to carry them into execution." The publication of the journals of the Federal Convention in 1819, of the debates reported by Mr. Madison in 1840, and the mass of private correspondence of the early statesmen before and since, enable us to approach the discussion of the aims of those who made the Constitution, with some insight and confidence.

I have endeavored, with the assistance of these, to find a solution for the grave and difficult question involved in this inquiry. My opinion is, that the claim for Congress of supreme power in the territories, under the grant to "dispose of and make all needful rules and regulations respecting *territory*," is not supported by the historical evidence drawn from the Revolution, the Confederation, or the deliberations which preceded the ratification of the Federal Constitution. The ordinance of 1787 depended upon the action of the Congress of the Confederation, the assent of the state of Virginia, and the acquiescence of the people who recognised the validity of that plea of necessity which supported so many of the acts of the governments of that time; and the federal government accepted the ordinance as a recognised and valid engagement of the Confederation.

In referring to the precedents of 1798 and 1800, I find the Constitution was plainly violated by the invasion of the rights of a sovereign state, both of soil and jurisdiction; and in reference to that of 1804, the wisest statesmen protested against it, and the President more than doubted its policy and the power of the government.

Mr. John Quincy Adams, at a later period, says of the last act, "that the President found

Congress mounted to the pitch of passing those acts, without inquiring where they acquired the authority, and he conquered his own scruples as they had done theirs." But this court cannot undertake for themselves the same conquest. They acknowledge that our peculiar security is in the possession of a written Constitution, and they cannot make it blank paper by construction.

They look to its delineation of the operations of the federal government, and they must not exceed the limits it marks out in their administration. The court have said "that Congress cannot exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a state or elsewhere, beyond what has been delegated." We are then to find the authority for supreme power in the territories in the Constitution. What are the limits upon the operations of a government invested with legislative, executive, and judiciary powers, and charged with the power to dispose of and to make all needful rules and regulations respecting a vast public domain? The feudal system would have recognised the claim made on behalf of the federal government for supreme power over persons and things in the territories, as an incident to this title; that is, the title to dispose of and make rules and regulations respecting it.

The Norman lawyers of William the Conqueror would have yielded an implicit assent to the doctrine, that a supreme sovereignty is an inseparable incident to a grant to dispose of and to make all needful rules and regulations respecting the public domain. But an American patriot, in contrasting the European and American systems, may affirm, "that European sovereigns give lands to their colonists, but reserve to themselves a power to control their property, liberty, and privileges; but the American government sells the lands belonging to the people of the several states (i. e., United States) to their citizens, who are already in the possession of personal and political rights, which the government did not give, and cannot take away." And the advocates for government sovereignty in the territories have been compelled to abate a portion of the pretensions originally made in its behalf, and to admit that the constitutional prohibitions upon Congress operate in the territories. But a constitutional prohibition is not requisite to ascertain a limitation upon the authority of the several departments of the federal government. Nor are the states or people restrained by any enumeration or definition of their rights or liberties.

To impair or diminish either, the department must produce an authority from the people themselves, in their Constitution; and, as we have seen, a power to make rules and regulations respecting the public domain does not confer a municipal sovereignty over persons and things upon it. But as this is "thought their fort" by our adversaries, I propose a more definite examination of it. We have seen, Congress does not dispose of or make rules and regulations respecting domain belonging to themselves, but belongiug to the United States.

These conferred on their mandatory, Congress, authority to dispose of the territory which belonged to them in common; and to accomplish that object beneficially and effectually, they gave an authority to make suitable rules and regulations respecting it. When the power of disposition is fulfilled, the authority to make rules and regulations terminates, for it attaches only upon territory "belonging to the United States."

Consequently, the power to make rules and regulations, from the nature of the subject, is restricted to such administrative and conservatory acts as are needful for the preservation of the public domain, and its preparation for sale or disposition. The system of land surveys: the reservations for schools, internal improvements, military sites, and public buildings; the pre-emption claims of settlers; the establishment of land offices, and boards of inquiry, to determine the validity of land titles; the modes of entry, and sale, and of conferring titles; the protection of the lands from trespass and waste; the partition of the public domain into municipal subdivisions, having reference to the erection of territorial governments and states; and perhaps the selection, under their authority, of suitable laws for the protection of the settlers, until there may be a sufficient number of them to form a self-sustaining municipal government; these important rules and regulations will sufficiently illustrate the scope and operation of the 3d section of the 4th article of the Constitution. But this clause in the Constitution does not exhaust the powers of Congress within the territorial subdivisions, or over the persons who inhabit them. Congress may exercise there all the powers of government which belong to them as the Legislature of the United States, of which these territories make a part. (Loughborough *v.* Blake, 5 Wheat. 317.) Thus the laws of taxation, for the regulation of foreign, federal, and Indian commerce, and so for the abolition of the slave trade, for the protection of copyrights and inventions, for the establishment of postal communication and courts of justice, and for the punishment of crimes, are as operative there as within the states. I admit that to mark the bounds for the jurisdiction of the government of the United States within the territory, and of its power in respect to persons and things within the municipal subdivisions it has created, is a work of delicacy and difficulty, and, in a great measure, is beyond the cognisance of the judiciary department of that government. How much municipal power may be exercised by the people of the territory, before their admission to the Union, the courts of justice cannot decide. This must depend, for the most part, on political considerations, which cannot enter into the determination of a case of law or equity. I do not feel called upon to define the jurisdiction of Congress. It is sufficient

for the decision of this case to ascertain whether the residuary sovereignty of the states or people has been invaded by the 8th section of the act of 6th March, 1820, I have cited, in so far as it concerns the capacity and *status* of persons in the condition and circumstances of the plaintiff and his family.

These states, at the adoption of the Federal Constitution, were organized communities, having distinct systems of municipal law, which, though derived from a common source, and recognising in the main similar principles, yet in some respects had become unlike, and on a particular subject promised to be antagonistic.

Their systems provided protection for life, liberty, and property, among their citizens, and for the determination of the condition and capacity of the persons domiciled within their limits. These institutions, for the most part, were placed beyond the control of the federal government. The Constitution allows Congress to coin money, and regulate its value; to regulate foreign and federal commerce; to secure, for a limited period, to authors and inventors, a property in their writings and discoveries; and to make rules concerning captures in war; and, within the limits of these powers, it has exercised, rightly, to a greater or less extent, the power to determine what shall and what shall not be property.

But the great powers of war and negotiation, finance, postal communication, and commerce, in general, when employed in respect to the property of a citizen, refer to, and depend upon, the municipal laws of the states, to ascertain and determine what is property, and the rights of the owner, and the tenure by which it is held.

Whatever these Constitutions and laws validly determine to be property, it is the duty of the federal government, through the domain of jurisdiction merely federal, to recognise to be property.

And this principle follows from the structure of the respective governments, state and federal, and their reciprocal relations. They are different agents and trustees of the people of the several states, appointed with different powers and with distinct purposes, but whose acts, within the scope of their respective jurisdictions, are mutually obligatory. They are respectively the depositories of such powers of legislation as the people were willing to surrender, and their duty is to co-operate within their several jurisdictions to maintain the rights of the same citizens under both governments unimpaired. A proscription, therefore, of the Constitution and laws of one or more states, determining property, on the part of the federal government, by which the stability of its social system may be endangered, is plainly repugnant to the conditions on which the Federal Constitution was adopted, or which that government was designed to accomplish. Each of the states surrendered its powers of war and negotiation, to raise armies and to support a navy, and all of these powers are sometimes required to preserve a state from disaster and ruin. The federal government was constituted to exercise these powers for the preservation of the states, respectively, and to secure to all their citizens the enjoyment of the rights which were not surrendered to the federal government. The provident care of the statesmen who projected the Constitution was signalized by such a distribution of the powers of government as to exclude many of the motives and opportunities for promoting provocations and spreading discord among the states, and for guarding against those partial combinations, so destructive of the community of interest, sentiment, and feeling, which are so essential to the support of the Union. The distinguishing features of their system consist in the exclusion of the federal government from the local and internal concerns of, and in the establishment of an independent internal government within, the states. And it is a significant fact in the history of the United States, that those controversies which have been productive of the greatest animosity, and have occasioned most peril to the peace of the Union, have had their origin in the well-sustained opinion of a minority among the people, that the federal government had overstepped its constitutional limits to grant some exclusive privilege, or to disturb the legitimate distribution of property or power among the states or individuals. Nor can a more signal instance of this be found than is furnished by the act before us. No candid or rational man can hesitate to believe, that if the subject of the eighth section of the act of March, 1820, had never been introduced into Congress and made the basis of legislation, no interest common to the Union would have been seriously affected. And, certainly, the creation, within this Union, of large confederacies of unfriendly and frowning states, which has been the tendency, and, to an alarming extent, the result, produced by the agitation arising from it, does not commend it to the patriot or statesman. This court have determined that the intermigration of slaves was not committed to the jurisdiction or control of Congress. Wherever a master is entitled to go within the United States, his slave may accompany him, without any impediment from, or fear of, Congressional legislation or interference. The question then arises, whether Congress, which can exercise no jurisdiction over the relations of master and slave within the limits of the Union, and is bound to recognise and respect the rights and relations that validly exist under the constitutions and laws of the states, can deny the exercise of those rights, and prohibit the continuance of those relations, within the territories.

And the citation of state statutes prohibiting the immigration of slaves, and of the decisions of state courts enforcing the forfeiture of the master's title in accordance with their

rule, only darkens the discussion. For the question is, have Congress the municipal sovereignty in the territories which the state legislatures have derived from the authority of the people, and exercise in the states?

And this depends upon the construction of the article in the Constitution before referred to.

And, in my opinion, that clause confers no power upon Congress to dissolve the relations of the master and slave on the domain of the United States, either within or without any of the states.

The eighth section of the act of Congress of the 6th of March, 1820, did not, in my opinion, operate to determine the domestic condition and *status* of the plaintiff and his family during their sojourn in Minnesota territory, or after their return to Missouri.

The question occurs as to the judgment to be given in this case. It appeared upon the trial that the plaintiff, in 1834, was in a state of slavery in Missouri, and he had been in Missouri for near fifteen years in that condition when this suit was brought. Nor does it appear that he at any time possessed another state or condition, *de facto*. His claim to freedom depends upon his temporary elocation, from the domicil of his origin, in company with his master, to communities where the law of slavery did not prevail. My examination is confined to the case, as it was submitted upon uncontested evidence, upon appropriate issues to the jury, and upon the instructions given and refused by the court upon that evidence. My opinion is, that the opinion of the Circuit Court was correct upon all the claims involved in those issues, and that the verdict of the jury was justified by the evidence and instructions.

The jury have returned that the plaintiff and his family are slaves.

Upon this record, it is apparent that this is not a controversy between citizens of different states; and that the plaintiff, at no period of the life which has been submitted to the view of the court, has had a capacity to maintain a suit in the courts of the United States. And in so far as the argument of the Chief Justice upon the plea in abatement has a reference to the plaintiff or his family, in any of the conditions or circumstances of their lives, as presented in the evidence, I concur in that portion of his opinion. I concur in the judgment which expresses the conclusion that the Circuit Court should not have rendered a general judgment.

The capacity of the plaintiff to sue is involved in the pleas in bar, and the verdict of the jury discloses an incapacity under the Constitution. Under the Constitution of the United States, his is an incapacity to sue in their courts, while, by the laws of Missouri, the operation of the verdict would be more extensive. I think it a safe conclusion to enforce the lesser disability imposed by the Constitution of the United States, and leave to the plaintiff all his rights in Missouri. I think the judgment should be affirmed, on the ground that the Circuit Court had no jurisdiction, or that the case should be reversed and remanded, that the suit may be dismissed.

Mr. Justice Catron.

The defendant pleaded to the jurisdiction of the Circuit Court, that the plaintiff was a negro of African blood; the descendant of Africans, who had been imported and sold in this country as slaves, and thus had no capacity as a citizen of Missouri to maintain a suit in the Circuit Court. The court sustained a demurrer to this plea, and a trial was had upon the pleas, of the general issue, and also that the plaintiff and his family were slaves, belonging to the defendant. In this trial, a verdict was given for the defendant.

The judgment of the Circuit Court upon the plea in abatement is not open, in my opinion, to examination in this court upon the plaintiff's writ.

The judgment was given for him conformably to the prayer of his demurrer. He cannot assign an error in such a judgment. (Tidd's Pr. 1163; 2 Williams's Saund. 46 a; 2 Iredell N. C. 87; 2 W. and S. 391.) Nor does the fact that the judgment was given on a plea to the jurisdiction, avoid the application of this rule. (Capron *v.* Van Noorden, 2 Cr. 126; 6 Wend. 465; 7 Met. 598; 5 Pike, 1005.)

The declaration discloses a case within the jurisdiction of the court—a controversy between citizens of different states. The plea in abatement, impugning these jurisdictional averments, was waived when the defendant answered to the declaration by pleas to the merits. The proceedings on that plea remain a part of the technical record, to show the history of the case, but are not open to the review of this court by a writ of error. The authorities are very conclusive on this point. Shepherd *v.* Graves, 14 How. 505; Bailey *v.* Dozier, 6 How. 23; 1 Stewart (Alabama), 46; 10 Ben. Monroe (Kentucky), 555; 2 Stewart (Alabama), 370, 443; 2 Scammon (Illinois), 78. Nor can the court assume, as admitted facts, the averments of the plea from the confession of the demurrer. That confession was for a single object, and cannot be used for any other purpose than to test the validity of the plea. Tompkins *v.* Ashley, 1 Moody and Mackin, 32; 33 Maine, 96, 100.

There being nothing in controversy here but the merits, I will proceed to discuss them.

The plaintiff claims to have acquired property in himself, and become free, by being kept in Illinois during two years.

The institution, laws, and policy of Illinois, are somewhat peculiar respecting slavery. Unless the master becomes an inhabitant of that state, the slaves he takes there do not acquire their freedom; and if they return with their master to the slave state of his domicil, they cannot assert their freedom after their return. For the reasons and authorities on this point, I refer to the opinion of my

brother Nelson, with which I not only concur, but think his opinion is the most conclusive argument on the subject within my knowledge.

It is next insisted for the plaintiff, that his freedom (and that of his wife and eldest child) was obtained by force of the act of Congress of 1820, usually known as the Missouri Compromise Act, which declares: "That in all that territory ceded by France to the United States, which lies north of thirty-six degrees thirty minutes north latitude, slavery and involuntary servitude shall be, and are hereby, *for ever prohibited.*"

From this prohibition, the territory now constituting the state of Missouri was excepted; which exception to the stipulation gave it the designation of a compromise.

The first question presented on this act is, whether Congress had power to make such compromise. For, if power was wanting, then no freedom could be acquired by the defendant under the act.

That Congress has no authority to pass laws and bind men's rights beyond the powers conferred by the Constitution, is not open to controversy. But it is insisted that, by the Constitution, Congress has power to legislate for and govern the territories of the United States, and that by force of the power to govern, laws could be enacted, prohibiting slavery in any portion of the Louisiana territory; and, of course, to abolish slavery *in all* parts of it, whilst it was, or is, governed as a territory.

My opinion is, that Congress is vested with power to govern the territories of the United States by force of the third section of the fourth article of the Constitution. And I will state my reasons for this opinion.

Almost every provision in that instrument has a history that must be understood, before the brief and sententious language employed can be comprehended in the relations its authors intended. We must bring before us the state of things presented to the convention, and in regard to which it acted, when the compound provision was made, declaring: 1st. That "new states may be admitted by the Congress into this Union." 2d. "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. And nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or any particular state."

Having ascertained the historical facts giving rise to these provisions, the difficulty of arriving at the true meaning of the language employed will be greatly lessened.

The history of these facts is substantially as follows:—

The King of Great Britain, by his proclamation of 1763, virtually claimed that the country west of the mountains had been conquered from France, and ceded to the Crown of Great Britain by the treaty of Paris of that year, and he says: "We reserve it under our sovereignty, potection, and dominion, for the use of the Indians."

This country was conquered from the Crown of Great Britain, and surrendered to the United States by the treaty of peace of 1783. The colonial charters of Virginia, North Carolina, and Georgia included it. Other states set up pretensions of claim to some portions of the territory north of the Ohio, but they were of no value, as I suppose. (5 Wheat., 375.)

As this vacant country had been won by the blood and treasure of all the states, those whose charters did not reach it, insisted that the country belonged to the states united, and that the lands should be disposed of for the benefit of the whole; and to which end, the western territory should be ceded to the states united. The contest was stringent and angry, long before the convention convened, and deeply agitated that body. As a matter of justice, and to quiet the controversy, Virginia consented to cede the country north of the Ohio, as early as 1783; and in 1784 the deed of cession was executed, by her delegates in the Congress of the Confederation, conveying to the United States in Congress assembled, for the benefit of said states, "all right, title, and claim, as well of soil as of jurisdiction, which this commonwealth hath to the *territory* or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio." In 1787 (July 13), the ordinance was passed by the old Congress to govern the territory.

Massachusetts had ceded her pretension of claim to western territory in 1785, Connecticut hers in 1786, and New York had ceded hers. In August, 1787, South Carolina ceded to the Confederation her pretension of claim to territory west of that state. And North Carolina was expected to cede hers, which she did do, in April, 1790. And so Georgia was confidently expected to cede her large domain, now constituting the territory of the states of Alabama and Mississippi.

At the time the Constitution was under consideration, there had been ceded to the United States, or was shortly expected to be ceded, all the western country, from the British Canada line to Florida, and from the head of the Mississippi almost to its mouth, except that portion which now constitutes the state of Kentucky.

Although Virginia had conferred on the Congress of the Confederation power to govern the territory north of the Ohio, still, it cannot be denied, as I think, that power was wanting to admit a new state under the Articles of Confederation.

With these facts prominently before the Convention, they proposed to accomplish these ends:—

1st. To give power to admit new states.

2d. To dispose of the public lands in the territories, and such as might remain undisposed of in the new states after they were admitted.

And, thirdly, to give power to govern the different territories as incipient states, not of the Union, and fit them for admission. No one in the Convention seems to have doubted that these powers were necessary. As early as the third day of its session (May 29th), Edmund Randolph brought forward a set of resolutions containing nearly all the germs of the Constitution, the tenth of which is as follows:—

"*Resolved*, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the national legislature less than the whole."

August 18th, Mr. Madison submitted, in order to be referred to the committee of detail, the following powers as proper to be added to those of the general legislature:

"To dispose of the unappropriated lands of the United States." "To institute temporary governments for new states arising therein." (3 Madison Papers, 1353.)

These, with the resolution, that a district for the location of the seat of government should be provided, and some others, were referred, without a dissent, to the committee of detail, to arrange and put them into satisfactory language.

Gouverneur Morris constructed the clauses, and combined the views of a majority on the two provisions, to admit new states; and secondly, to dispose of the public lands, and to govern the territories, in the mean time, between the cessions of the states and the admission into the Union of new states arising in the ceded territory. (3 Madison Papers, 1456 to 1466.)

It was hardly possible to separate the power "to make all needful rules and regulations" respecting the government of the territory and the disposition of the public lands.

North of the Ohio, Virginia conveyed the lands, and vested the jurisdiction in the thirteen original states, before the Constitution was formed. She had the sole title and sole sovereignty, and the same power to cede, on any terms she saw proper, that the King of England had to grant the Virginia colonial charter of 1609, or to grant the charter of Pennsylvania to William Penn. The thirteen states, through their representatives and deputed ministers in the old Congress, had the same right to govern that Virginia had before the cession. (Baldwin's Constitutional Views, 90.) And the sixth article of the Constitution adopted all engagements entered into by the Congress of the Confederation, as valid against the United States; and that the laws, made in pursuance of the new Constitution, to carry out this engagement, should be the supreme law of the land, and the judges bound thereby. To give the compact, and the ordinance, which was part of it, full effect under the new government, the act of August 7th, 1789, was passed, which declares, "Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, may have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States." It is then provided that the governor and other officers should be appointed by the President, with the consent of the Senate; and be subject to removal, &c., in like manner that they were by the old Congress, whose functions had ceased.

By the powers to govern, given by the Constitution, those amendments to the ordinance could be made, but Congress guardedly abstained from touching the compact of Virginia, further than to adapt it to the new Constitution.

It is due to myself to say, that it is asking much of a judge, who has for nearly twenty years been exercising jurisdiction from the western Missouri line to the Rocky Mountains, and, on this understanding of the Constitution, inflicting the extreme penalty of death for crimes committed where the direct legislation of Congress was the only rule, to agree that he had been all the while acting in mistake, and as an usurper.

More than sixty years have passed away since Congress has exercised power to govern the territories, by its legislation directly, or by territorial charters, subject to repeal at all times, and it is now too late to call that power into question, if this court could disregard its own decisions; which it cannot do as I think. It was held in the case of Cross *v.* Harrison (16 How. 193–4), that the sovereignty of California was in the United States, in virtue of the Constitution, by which power had been given to Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, with the power to admit new states into the Union. That decision followed preceding ones, there cited. The question was then presented, how it was possible for the judicial mind to conceive that the United States government, created solely by the Constitution, could, by a lawful treaty, acquire territory over which the acquiring power had no jurisdiction to hold and govern it, by force of the instrument under whose authority the country was acquired; and the foregoing was the conclusion of this court on the proposition. What was there announced was most deliberately done, and with a purpose. The only question here is, as I think, how far the power of Congress is limited.

As to the Northwest Territory, Virginia had the right to abolish slavery there; and she did so agree in 1787, with the other states in the Congress of the Confederation, by assenting to and adopting the ordinance of 1787, for the government of the Northwest Territory. She did this also by an act of her legislature, passed afterwards, which was a treaty in fact.

Before the new Constitution was adopted, she had as much right to treat and agree as

any European government had. And, having excluded slavery, the new government was bound by that engagement by article six of the new Constitution. This only meant that slavery should not exist whilst the United States exercised the power of government, in the territorial form; for, when a new state came in, it might do so, with or without slavery.

My opinion is, that Congress had no power, in face of the compact between Virginia and the twelve other states, to *force* slavery into the Northwest Territory, because there it was bound to that "engagement," and could not break it.

In 1790, North Carolina ceded her western territory, now the state of Tennessee, and stipulated that the inhabitants thereof should enjoy all the privileges and advantages of the ordinance for governing the territory north of the Ohio river, and that Congress should assume the government, and accept the cession, under the express conditions contained in the ordinance: *Provided*, "That no regulation made, or to be made, by Congress, shall tend to emancipate slaves."

In 1802, Georgia ceded her western territory to the United States, with the provision that the ordinance of 1787 should in all its parts extend to the territory ceded, "that article only excepted which forbids slavery." Congress had no more power to legislate slavery *out* from the North Carolina and Georgia cessions than it had power to legislate slavery in, north of the Ohio. No power existed in Congress to legislate at all, affecting slavery, in either case. The inhabitants, as respected this description of property, stood protected whilst they were governed by Congress, in like manner that they were protected before the cession was made, and when they were, respectively, parts of North Carolina and Georgia.

And how does the power of Congress stand west of the Mississippi river? The country there was acquired from France by treaty, in 1803. It declares that the First Consul, in the name of the French Republic, doth hereby cede to the United States, in full sovereignty, the colony or province of Louisiana, with all the rights and appurtenances of the said territory. And, by article third, that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Louisiana was a province where slavery was not only lawful, but where property in slaves was the most valuable of all personal property. The province was ceded as a unit, with an equal right pertaining to all its inhabitants, in every part thereof, to own slaves. It was, to a great extent, a vacant country, having in it few civilized inhabitants. No one portion of the colony, of a proper size for a state of the Union, had a sufficient number of inhabitants to claim admission into the Union. To enable the United States to fulfil the treaty, additional population was indispensable, and obviously desired with anxiety by both sides, so that the whole country should, as soon as possible, become states of the Union. And for this contemplated future population, the treaty as expressly provided as it did for the inhabitants residing in the province when the treaty was made. All these were to be protected "*in the meantime:*" that is to say, at all times, between the date of the treaty and the time when the portion of the territory where the inhabitants resided was admitted into the Union as a state.

At the date of the treaty, each inhabitant had the right to the *free* enjoyment of his property, alike with his liberty and his religion, in every part of Louisiana; the province then being one country, he might go everywhere in it, and carry his liberty, property, and religion, with him, and in which he was to be maintained and protected, until he became a citizen of a state of the Union of the United States. This cannot be denied to the original inhabitants and their descendants. And, if it be true that immigrants were equally protected, it must follow that they can also stand on the treaty.

The settled doctrine in the state courts of Louisiana is, that a French subject coming to the Orleans territory, after the treaty of 1803 was made, and before Louisiana was admitted into the Union, and being an inhabitant at the time of the admission, became a citizen of the United States by that act; that he was one of the inhabitants contemplated by the third article of the treaty, which referred to all the inhabitants embraced within the new state on its admission.

That this is the true construction, I have no doubt.

If power existed to draw a line at thirty-six degrees thirty minutes north, so Congress had equal power to draw the line on the thirtieth degree—that is, due west from the city of New Orleans—and to declare that north of *that line* slavery should never exist. Suppose this had been done before 1812, when Louisiana came into the Union, and the question of infraction of the treaty had then been presented on the present assumption of power to prohibit slavery, who doubts what the decision of this court would have been on such an act of Congress; yet, the difference between the supposed line, and that on thirty-six degrees thirty minutes north, is only in the degree of grossness presented by the lower line.

The Missouri compromise line of 1820 was very aggressive; it declared that slavery was abolished for ever throughout a country reaching from the Mississippi river to the Pacific

Ocean, stretching over thirty-two degrees of longitude, and twelve and a half degrees of latitude on its eastern side, sweeping over four-fifths, to say no more, of the original province of Louisiana.

That the United States government stipulated in favor of the inhabitants to the extent here contended for, has not been seriously denied, as far as I know; but the argument is, that Congress had authority to *repeal* the third article of the treaty of 1803, in so far as it secured the right to hold slave property, in a portion of the ceded territory, leaving the right to exist in other parts. In other words, that Congress could repeal the third article entirely, at its pleasure. This I deny.

The compacts with North Carolina and Georgia were treaties also, and stood on the same footing of the Louisiana treaty; on the assumption of power to repeal the one, it must have extended to all, and Congress could have excluded the slaveholder of North Carolina from the enjoyment of his lands in the territory now the state of Tennessee, where the citizens of the mother state were the principal proprietors.

And so in the case of Georgia. Her citizens could have been refused the right to emigrate to the Mississippi or Alabama territory, unless they left their most valuable and cherished property behind them.

The Constitution was framed in reference to facts then existing or likely to arise: the instrument looked to no theories of government. In the vigorous debates in the convention, as reported by Mr. Madison and others, surrounding facts, and the condition and necessities of the country, gave rise to almost every provision; and among those facts, it was prominently true, that Congress dare not be intrusted with power to provide that, if North Carolina or Georgia ceded her western territory, the citizens of the state (in either case) could be prohibited, at the pleasure of Congress, from removing to their lands, then granted to a large extent, in the country likely to be ceded, unless they left their slaves behind. That such an attempt, in the face of a population fresh from the war of the Revolution, and then engaged in war with the great confederacy of Indians, extending from the mouth of the Ohio to the Gulf of Mexico, would end in open revolt, all intelligent men knew.

In view of these facts, let us inquire how the question stands by the terms of the Constitution, aside from the treaty? How it stood in public opinion when the Georgia cession was made, in 1802, is apparent from the fact that no guarantee was required by Georgia of the United States, for the protection of slave property. The Federal Constitution was relied on, to secure the rights of Georgia and her citizens during the territorial condition of the country. She relied on the indisputable truths, that the states were by the Constitution made equals in political rights, and equals in the right to participate in the common property of all the states united, and held in trust for them. The Constitution having provided that "The citizens of each state shall be entitled to all privileges and immunities of citizens of the several states," the right to enjoy the territory as equals was reserved to the states, and to the citizens of the states, respectively. The cited clause is not that citizens of the United States shall have equal privileges in the territories, but the citizen of each state shall come there in right of his state, and enjoy the common property. He secures his equality through the equality of his state, by virtue of that great fundamental condition of the Union—the equality of the states.

Congress cannot do indirectly what the Constitution prohibits directly. If the slaveholder is prohibited from going to the territory with his slaves, who are parts of his family in name and in fact, it will follow that men owning lawful property in their own states, carrying with them the equality of their state to enjoy the common property, may be told, you cannot come here with your slaves, and he will be held out at the border. By this subterfuge, owners of slave property to the amount of thousands of millions, might be almost as effectually excluded from removing into the territory of Louisiana north of thirty-six degrees thirty minutes, as if the law declared that owners of slaves, as a class, should be excluded, even if their slaves were left behind.

Just as well might Congress have said to those of the North, you shall not introduce into the territory south of said line your cattle or horses, as the country is already overstocked; nor can you introduce your tools of trade, or machines, as the policy of Congress is to encourage the culture of sugar and cotton south of the line, and so to provide that the Northern people shall manufacture for those of the South, and barter for the staple articles slave labor produces. And thus the Northern farmer and mechanic would be held out, as the slaveholder was for thirty years, by the Missouri restriction.

If Congress could prohibit one species of property, lawful throughout Louisiana when it was acquired, and lawful in the state from whence it was brought, so Congress might exclude any or all property.

The case before us will illustrate the construction contended for. Dr. Emerson was a citizen of Missouri; he had an equal right to go to the territory with every citizen of other states. This is undeniable, as I suppose. Scott was Dr. Emerson's lawful property in Missouri; he carried his Missouri title with him; and the precise question here is, whether Congress had the power to annul that title. It is idle to say, that if Congress could not defeat the title *directly*, that it might be done indirectly, by drawing a narrow circle around the slave population of Upper Louisiana, and declaring that if the slave went beyond it, he should be free. Such assumption

is mere evasion, and entitled to no consideration. And it is equally idle to contend, that because Congress has express power to regulate commerce among the Indian tribes, and to prohibit intercourse with the Indians, that therefore Dr. Emerson's title might be defeated within the country ceded by the Indians to the United States as early as 1805, and which embraces Fort Snelling. (Am. State Papers, vol. 1, p. 734). We *must* meet the question, whether Congress had the power to declare that a citizen of a state, carrying with him his equal rights, secured to him through his state, could be stripped of his goods and slaves, and be deprived of any participation in the common property? If this be the true meaning of the Constitution, equality of rights to enjoy a common country (equal to a thousand miles square) may be cut off by a geographical line, and a great portion of our citizens excluded from it.

Ingenious, indirect evasions of the Constitution have been attempted and defeated heretofore. In the passenger cases (7 How. R.), the attempt was made to impose a tax on the masters, crews, and passengers of vessels, the Constitution having prohibited a tax on the vessel itself; but this court held the attempt to be a mere evasion, and pronounced the tax illegal.

I admit that Virginia could, and lawfully did, prohibit slavery northwest of the Ohio, by her charter of cession, and that the territory was taken by the United States with this condition imposed. I also admit that France could, by the treaty of 1803, have prohibited slavery in any part of the ceded territory, and imposed it on the United States as a fundamental condition of the cession, in the mean time, till new states were admitted in the Union.

I concur with Judge Baldwin, that federal power is exercised over all the territory within the United States, pursuant to the Constitution; *and*, the conditions of the cession, whether it was a part of the original territory of a state of the Union, or of a foreign state, ceded by deed or treaty; the right of the United States in or over it depends on the contract of cession, which operates to incorporate as well the territory as its inhabitants into the Union. (Baldwin's Constitutional Views, 84.)

My opinion is, that the third article of the treaty of 1803, ceding Louisiana to the United States, stands protected by the Constitution, and cannot be repealed by Congress.

And, secondly, that the act of 1820, known as the Missouri compromise, violates the most leading feature of the Constitution—a feature on which the Union depends, and which secures to the respective states and their citizens an entire EQUALITY of rights, privileges, and immunities.

On these grounds, I hold the compromise act to have been void; and, consequently, that the plaintiff, Scott, can claim no benefit under it.

For the reasons above stated, I concur with my brother judges that the plaintiff, Scott, is a slave, and was so when this suit was brought.

Mr. Justice McLEAN and Mr. Justice CURTIS dissented.

Mr. Justice McLEAN dissenting.

This case is before us on a writ of error from the Circuit Court for the district of Missouri.

An action of trespass was brought, which charges the defendant with an assault and imprisonment of the plaintiff, and also of Harriet Scott, his wife, Eliza and Lizzie, his two children, on the ground that they were his slaves, which was without right on his part, and against law.

The defendant filed a plea in abatement, "that said causes of action, and each and every of them, if any such accrued to the said Dred Scott, accrued out of the jurisdiction of this court, and exclusively within the jurisdiction of the courts of the state of Missouri, for that, to wit, said plaintiff, Dred Scott, is not a citizen of the state of Missouri, as alleged in his declaration, because he is a negro of African descent, his ancestors were of pure African blood, and were brought into this country and sold as negro slaves; and this the said Sandford is ready to verify; wherefore he prays judgment whether the court can or will take further cognisance of the action aforesaid."

To this a demurrer was filed, which, on argument, was sustained by the court, the plea in abatement being held insufficient; the defendant was ruled to plead over. Under this rule he pleaded: 1. Not guilty; 2. That Dred Scott was a negro slave, the property of the defendant; and 3. That Harriet, the wife, and Eliza and Lizzie, the daughters of the plaintiff, were the lawful slaves of the defendant.

Issue was joined on the first plea, and replications of *de injuria* were filed to the other pleas.

The parties agreed to the following facts: In the year 1834, the plaintiff was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, Dr. Emerson took the plaintiff from the state of Missouri to the post of Rock Island, in the state of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, Dr. Emerson removed the plaintiff from Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situate north of latitude thirty-six degrees thirty minutes north, and north of the state of Missouri. Dr. Emerson held the plaintiff in slavery, at Fort Snelling, from the last-mentioned date until the year 1838.

In the year 1835, Harriet, who is named in

the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, Major Taliaferro took Harriet to Fort Snelling, a military post situated as hereinbefore stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave, at Fort Snelling, unto Dr. Emerson, who held her in slavery, at that place, until the year 1838.

In the year 1836, the plaintiff and Harriet were married at Fort Snelling, with the consent of Dr. Emerson, who claimed to be their master and owner. Eliza and Lizzie, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about fourteen years old, and was born on board the steamboat Gipsey, north of the north line of the state of Missouri, and upon the river Mississippi. Lizzie is about seven years old, and was born in the state of Missouri, at the military post called Jefferson Barracks.

In the year 1838, Dr. Emerson removed the plaintiff and said Harriet and their daughter Eliza from Fort Snelling to the state of Missouri, where they have ever since resided.

Before the commencement of the suit, Dr. Emerson sold and conveyed the plaintiff, Harriet, Eliza, and Lizzie, to the defendant, as slaves, and he has ever since claimed to hold them as slaves.

At the times mentioned in the plaintiff's declaration, the defendant, claiming to be the owner, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzie, and imprisoned them; doing in this respect, however, no more than he might lawfully do, if they were of right his slaves at such times.

In the first place, the plea to the jurisdiction is not before us, on this writ of error. A demurrer to the plea was sustained, which ruled the plea bad, and the defendant, on leave, pleaded over.

The decision on the demurrer was in favor of the plaintiff; and as the plaintiff prosecutes this writ of error, he does not complain of the decision on the demurrer. The defendant might have complained of this decision, as against him, and have prosecuted a writ of error, to reverse it. But as the case, under the instruction of the court to the jury, was decided in his favor, of course he had no ground of complaint.

But it is said, if the court, on looking at the record, shall clearly perceive that the Circuit Court had no jurisdiction, it is a ground for the dismissal of the case. This may be characterized as rather a sharp practice, and one which seldom, if ever, occurs. No case was cited in the argument as authority, and not a single case precisely in point is recollected in our reports. The pleadings do not show a want of jurisdiction. This want of jurisdiction can only be ascertained by a judgment on the demurrer to the special plea. No such case, it is believed, can be cited. But if this rule of practice is to be applied in this case, and the plaintiff in error is required to answer and maintain as well the points ruled in his favor, as to show the error of those ruled against him, he has more than an ordinary duty to perform. Under such circumstances, the want of jurisdiction in the Circuit Court must be so clear as not to admit of doubt. Now, the plea which raises the question of jurisdiction, in my judgment, is radically defective. The gravamen of the plea is this: "That the plaintiff is a negro of African descent, his ancestors being of pure African blood, and were brought into this country, and sold as negro slaves."

There is no averment in this plea which shows or conduces to show an inability in the plaintiff to sue in the Circuit Court. It does not allege that the plaintiff had his domicil in any other state, nor that he is not a free man in Missouri. He is averred to have had a negro ancestry, but this does not show that he is not a citizen of Missouri, within the meaning of the act of Congress authorizing him to sue in the Circuit Court. It has never been held necessary, to constitute a citizen within the act, that he should have the qualifications of an elector. Females and minors may sue in the federal courts, and so may any individual who has a permanent domicil in the state under whose laws his rights are protected, and to which he owes allegiance.

Being born under our Constitution and laws, no naturalization is required, as one of foreign birth, to make him a citizen. The most general and appropriate definition of the term citizen is "a freeman." Being a freeman, and having his domicil in a state different from that of the defendant, he is a citizen within the act of Congress, and the courts of the Union are open to him.

It has often been held, that the jurisdiction, as regards parties, can only be exercised between citizens of different states, and that a mere residence is not sufficient; but this has been said to distinguish a temporary from a permanent residence.

To constitute a good plea to the jurisdiction, it must negative those qualities and rights which enable an individual to sue in the federal courts. This has not been done; and on this ground the plea was defective, and the demurrer was properly sustained. No implication can aid a plea in abatement or in bar; it must be complete in itself; the facts stated, if true, must abate or bar the right of the plaintiff to sue. This is not the character of the above plea. The facts stated, if admitted, are not inconsistent with other facts, which may be presumed, and which bring the plaintiff within the act of Congress.

The pleader has not the boldness to allege that the plaintiff is a slave, as that would assume against him the matter in controversy, and embrace the entire merits of the case in a plea to the jurisdiction. But beyond the facts set out in the plea, the court, to sustain it, must assume the plaintiff to be a slave, which is decisive on the merits. This is a

short and an effectual mode of deciding the cause; but I am yet to learn that it is sanctioned by any known rule of pleading.

The defendant's counsel complain, that if the court take jurisdiction on the ground that the plaintiff is free, the assumption is against the right of the master. This argument is easily answered. In the first place, the plea does not show him to be a slave; it does not follow that a man is not free whose ancestors were slaves. The reports of the Supreme Court of Missouri show that this assumption has many exceptions; and there is no averment in the plea that the plaintiff is not within them.

By all the rules of pleading, this is a fatal defect in the plea. If there be doubt, what rule of construction has been established in the slave States? In Jacob *v.* Sharp (Meigs's Rep., Tennessee, 114), the court held, when there was doubt as to the construction of a will which emancipated a slave, "it must be construed to be subordinate to the higher and more important right of freedom."

No injustice can result to the master, from an exercise of jurisdiction in this cause. Such a decision does not in any degree affect the merits of the case; it only enables the plaintiff to assert his claims to freedom before this tribunal. If the jurisdiction be ruled against him, on the ground that he is a slave, it is decisive of his fate.

It has been argued that, if a colored person be made a citizen of a state, he cannot sue in the federal court. The Constitution declares that federal jurisdiction "may be exercised between citizens of different states," and the same is provided in the act of 1789. The above argument is properly met by saying that the Constitution was intended to be a practical instrument; and where its language is too plain to be misunderstood, the argument ends."

In Chiræ *v.* Chiræ (2 Wheat. 261; 4 Curtis, 99), this court says: "That the power of naturalization is exclusively in Congress does not seem to be, and certainly ought not to be, controverted." No person can legally be made a citizen of a state, and consequently a citizen of the United States, of foreign birth, unless he be naturalized under the acts of Congress. Congress has power "to establish a uniform rule of naturalization."

It is a power which belongs exclusively to Congress, as intimately connected with our federal relations. A state may authorize foreigners to hold real estate within its jurisdiction, but it has no power to naturalize foreigners, and give them the rights of citizens. Such a right is opposed to the acts of Congress on the subject of naturalization, and subversive of the federal powers. I regret that any countenance should be given from this bench to a practice like this in some of the states, which has no warrant in the Constitution.

In the argument, it was said that a colored citizen would not be an agreeable member of society. This is more a matter of taste than of law. Several of the states have admitted persons of color to the right of suffrage, and in this view have recognised them as citizens: and this has been done in the slave as well as the free states. On the question of citizenship, it must be admitted that we have not been very fastidious. Under the late treaty with Mexico, we have made citizens of all grades, combinations, and colors. The same was done in the admission of Louisiana and Florida. No one ever doubted, and no court ever held, that the people of these territories did not become citizens under the treaty. They have exercised all the rights of citizens, without being naturalized under the acts of Congress.

There are several important principles involved in this case, which have been argued, and which may be considered under the following heads:—

1. The locality of slavery, as settled by this court and the courts of the states.

2. The relation which the federal government bears to slavery in the states.

3. The power of Congress to establish territorial governments, and to prohibit the introduction of slavery therein.

4. The effect of taking slaves into a new state or territory, and so holding them, where slavery is prohibited.

5. Whether the return of a slave under the control of his master, after being entitled to his freedom, reduces him to his former condition.

6. Are the decisions of the Supreme Court of Missouri, on the questions before us, binding on this court, within the rule adopted.

In the course of my judicial duties, I have had occasion to consider and decide several of the above points.

1. As to the locality of slavery. The civil law throughout the continent of Europe, it is believed, without an exception, is, that slavery can exist only within the territory where it is established; and that, if a slave escapes, or is carried beyond such territory, his master cannot reclaim him, unless by virtue of some express stipulation. (Grotius, lib. 2, chap. 15, 5, 1; lib. 10, chap. 10, 2, 1; Wicqueposts Ambassador, lib. 1, p. 418; 4 Martin, 385; Case of the Creole in the House of Lords, 1842; 1 Phillimore on International Law, 316, 335.)

There is no nation in Europe which considers itself bound to return to his master a fugitive slave, under the civil law or the law of nations. On the contrary, the slave is held to be free where there is no treaty obligation, or compact in some other form, to return him to his master. The Roman law did not allow freedom to be sold. An ambassador or any other public functionary could not take a slave to France, Spain, or any other country of Europe, without emancipating him. A number of slaves escaped from a Florida plantation, and were received on board of ship by Admiral Cochrane; by the King's Bench, they were held to be free. (2 Barn. and Cres. 440.)

In the great and leading case of Prigg *v.* The State of Pennsylvania, (16 Peters, 594; 14 Curtis, 421), this court say that, by the general law of nations, no nation is bound to recognise the state of slavery, as found within its territorial dominions, where it is in opposition to its own policy and institutions, in favor of the subjects of other nations where slavery is organized. If it does it, it is as a matter of comity, and not as a matter of international right. The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws. This was fully recognised in Somersett's case, (Laffit's Rep. 1; 20 Howell's State Trials, 79), which was decided before the American Revolution.

There was some contrariety of opinion among the judges on certain points ruled in Prigg's case, but there was none in regard to the great principle, that slavery is limited to the range of the laws under which it is sanctioned.

No case in England appears to have been more thoroughly examined than that of Somersett. The judgment pronounced by Ld. Mansfield was the judgment of the Court of King's Bench. The cause was argued at great length, and with great ability, by Hargrave and others, who stood among the most eminent counsel in England. It was held under advisement from term to term, and a due sense of its importance was felt and expressed by the Bench.

In giving the opinion of the court, Lord Mansfield said:

"The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself, from whence it was created, is erased from the memory; it is of a nature that nothing can be suffered to support it but positive law."

He referred to the contrary opinion of Lord Hardwicke, in October, 1749, as Chancellor: "That he and Lord Talbot, when Attorney and Solicitor General, were of opinion that no such claim, as here presented, for freedom, was valid."

The weight of this decision is sought to be impaired, from the terms in which it was described by the exuberant imagination of Curran. The words of Lord Mansfield, in giving the opinion of the court, were such as were fit to be used by a great judge, in a most important case. It is a sufficient answer to all objections to that judgment, that it was pronounced before the Revolution, and that it was considered by this court as the highest authority. For near a century, the decision in Somersett's case has remained the law of England. The case of the slave Grace, decided by Lord Stowell in 1827, does not, as has been supposed, overrule the judgment of Lord Mansfield. Lord Stowell held that, during the residence of the slave in England, "no dominion, authority, or coercion, can be exercised over him." Under another head, I shall have occasion to examine the opinion in the case of Grace.

To the position, that slavery can only exist except under the authority of law, it is objected, that in few if in any instances has it been established by statutory enactment. This is no answer to the doctrine laid down by the court. Almost all the principles of the common law had their foundation in usage. Slavery was introduced into the colonies of this country by Great Britain at an early period of their history, and it was protected and cherished until it became incorporated into the colonial policy. It is immaterial whether a system of slavery was introduced by express law, or otherwise, if it have the authority of law. There is no slave state where the institution is not recognised and protected by statutory enactments and judicial decisions. Slaves are made property by the laws of the slave states, and as such are liable to the claims of creditors; they descend to heirs, are taxed, and in the South they are a subject of commerce.

In the case of Rankin *v.* Lydia (2 A. K. Marshall's Rep.), Judge Mills, speaking for the Court of Appeals of Kentucky, says: "In deciding the question (of slavery), we disclaim the influence of the general principles of liberty, which we all admire, and conceive it ought to be decided by the law as it is, and not as it ought to be. Slavery is sanctioned by the laws of this state, and the right to hold slaves under our municipal regulations is unquestionable. But we view this as a right existing by positive law of a municipal character, without foundation in the law of nature, or the unwritten and common law."

I will now consider the relation which the federal government bears to slavery in the states:—

Slavery is emphatically a state institution. In the ninth section of the first article of the Constitution, it is provided "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

In the convention, it was proposed by a committee of eleven to limit the importation of slaves to the year 1800, when Mr. Pinckney moved to extend the time to the year 1808. This motion was carried—New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, and Georgia, voting in the affirmative; and New Jersey, Pennsylvania, and Virginia, in the negative. In opposition to the motion, Mr. Madison said: "Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves; so long a term will be more dishonorable to the American character than to say nothing about it in the constitution." (Madison Papers.)

The provision in regard to the slave trade

shows clearly that Congress considered slavery a state institution, to be continued and regulated by its individual sovereignty; and to conciliate that interest, the slave trade was continued twenty years, not as a general measure, but for the "benefit of such states as shall think proper to encourage it."

In the case of Groves *v.* Slaughter (15 Peters, 449; 14 Curtis, 137), Messrs. Clay and Webster contended that, under the commercial power, Congress had a right to regulate the slave trade among the several states; but the court held that Congress had no power to interfere with slavery as it exists in the states, or to regulate what is called the slave trade among them. If this trade were subject to the commercial power, it would follow that Congress could abolish or establish slavery in every state of the Union.

The only connexion which the federal government holds with slaves in a state, arises from that provision of the Constitution which declares that "No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due."

This being a fundamental law of the federal government, it rests mainly for its execution, as has been held, on the judicial power of the Union; and so far as the rendition of fugitives from labor has become a subject of judicial action, the federal obligation has been faithfully discharged.

In the formation of the Federal Constitution, care was taken to confer no power on the federal government to interfere with this institution in the states. In the provision respecting the slave trade, in fixing the ratio of representation, and providing for the reclamation of fugitives from labor, slaves were referred to as persons, and in no other respect are they considered in the Constitution.

We need not refer to the mercenary spirit which introduced the infamous traffic in slaves, to show the degradation of negro slavery in our country. This system was imposed upon our colonial settlements by the mother country, and it is due to truth to say that the commercial colonies and states were chiefly engaged in the traffic. But we know, as a historical fact, that James Madison, that great and good man, a leading member in the Federal Convention, was solicitous to guard the language of that instrument, so as not to convey the idea that there could be property in man.

I prefer the lights of Madison, Hamilton, and Jay, as a means of construing the Constitution in all its bearings, rather than to look behind that period, into a traffic which is now declared to be piracy, and punished with death by Christian nations. I do not like to draw the sources of our domestic relations from so dark a ground. Our independence was a great epoch in the history of freedom; and while I admit the government was not made especially for the colored race, yet many of them were citizens of the New England states, and exercised the rights of suffrage when the Constitution was adopted, and it was not doubted by any intelligent person that its tendencies would greatly ameliorate their condition.

Many of the states, on the adoption of the Constitution, or shortly afterward, took measures to abolish slavery within their respective jurisdictions; and it is a well-known fact that a belief was cherished by the leading men, South as well as North, that the institution of slavery would gradually decline, until it would become extinct. The increased value of slave labor, in the culture of cotton and sugar, prevented the realization of this expectation. Like all other communities and states, the South were influenced by what they considered to be their own interests.

But if we are to turn our attention to the dark ages of the world, why confine our view to colored slavery? On the same principles, white men were made slaves. All slavery has its origin in power, and is against right.

The power of Congress to establish territorial governments, and to prohibit the introduction of slavery therein, is the next point to be considered.

After the cession of western territory by Virginia and other states, to the United States, the public attention was directed to the best mode of disposing of it for the general benefit. While in attendance on the Federal Convention, Mr. Madison, in a letter to Edmund Randolph, dated the 22d April, 1787, says: "Congress are deliberating on the plan most eligible for disposing of the western territory not yet surveyed. Some alteration will probably be made in the ordinance on that subject." And in the same letter he says: "The inhabitants of the Illinois complain of the land jobbers, &c., who are purchasing titles among them. Those of St. Vincent's complain of the defective criminal and civil justice among them, as well as of military protection." And on the next day he writes to Mr. Jefferson: "The government of the settlements on the Illinois and Wabash is a subject very perplexing in itself, and rendered more so by our ignorance of the many circumstances on which a right judgment depends. The inhabitants at those places claim protection against the savages, and some provision for both civil and criminal justice."

In May, 1787, Mr. Edmund Randolph submitted to the Federal Convention certain propositions, as the basis of a federal government, among which was the following:—

"*Resolved*, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole."

Afterward, Mr. Madison submitted to the convention, in order to be referred to the com-

mittee of detail, the following powers, as proper to be added to those of general legislation:—

"To dispose of the unappropriated lands of the United States. To institute temporary governments for new states arising therein. To regulate affairs with the Indians, as well within as without the limits of the United States."

Other propositions were made in reference to the same subjects, which it would be tedious to enumerate. Mr. Gouverneur Morris proposed the following:—

"The legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular state."

This was adopted as a part of the Constitution, with two verbal alterations—Congress was substituted for legislature, and the word *either* was stricken out.

In the organization of the new government, but little revenue for a series of years was expected from commerce. The public lands were considered as the principal resource of the country for the payment of the revolutionary debt. Direct taxation was the means relied on to pay the current expenses of the government. The short period that occurred between the cession of western lands to the federal government by Virginia and other states, and the adoption of the Constitution, was sufficient to show the necessity of a proper land system and a temporary government. This was clearly seen by propositions and remarks in the Federal Convention, some of which are above cited, by the passage of the ordinance of 1787, and the adoption of that instrument by Congress, under the Constitution, which gave to it validity.

It will be recollected that the deed of cession of western territory was made to the United States by Virginia in 1784, and that it required the territory ceded to be laid out into states, that the land should be disposed of for the common benefit of the states, and that all right, title, and claim, as well of soil as of jurisdiction, were ceded; and this was the form of cession from other states.

On the 13th of July, the ordinance of 1787 was passed, "for the government of the United States territory northwest of the river Ohio," with but one dissenting vote. This instrument provided there should be organized in the territory not less than three nor more than five states, designating their boundaries. It was passed while the Federal Convention was in session, about two months before the Constitution was adopted by the convention. The members of the convention must therefore have been well acquainted with the provisions of the ordinance. It provided for a temporary government, as initiatory to the formation of state governments. Slavery was prohibited in the territory.

Can any one suppose that the eminent men of the Federal Convention could have overlooked or neglected a matter so vitally important to the country, in the organization of temporary governments for the vast territory northwest of the river Ohio? In the 3d section of the 4th article of the Constitution, they did make provision for the admission of new states, the sale of the public lands, and the temporary government of the territory. Without a temporary government, new states could not have been formed, nor could the public lands have been sold.

If the third section were before us now for consideration for the first time, under the facts stated, I could not hesitate to say there was adequate legislative power given in it. The power to make all needful rules and regulations is a power to legislate. This no one will controvert, as Congress cannot make "rules and regulations," except by legislation. But it is argued that the word territory is used as synonymous with the word land; and that the rules and regulations of Congress are limited to the disposition of lands and other property belonging to the United States. That this is not the true construction of the section appears from the fact that in the first line of the section "the power to dispose of the public lands" is given expressly, and, in addition, to make all needful rules and regulations. The power to dispose of is complete in itself, and requires nothing more. It authorizes Congress to use the proper means within its discretion, and any further provision for this purpose would be a useless verbiage. As a composition, the Constitution is remarkably free from such a charge.

In the discussion of the power of Congress to govern a territory, in the case of the Atlantic Insurance Company *v.* Canter (1 Peters, 511; 7 Curtis, 685), Chief Justice Marshall, speaking for the court, said, in regard to the people of Florida, "they do not, however, participate in political power; they do not share in the government till Florida shall become a state; in the mean time, Florida continues to be a territory of the United States, governed by virtue of that clause in the Constitution which empowers Congress 'to make all needful rules and regulations respecting the territory or other property belonging to the United States.'"

And he adds, "perhaps the power of governing a territory belonging to the United States, which has not, by becoming a state, acquired the means of self-government, may result necessarily from the fact that it is not within the jurisdiction of any particular state, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory; whichever may be the source whence the power is derived, the possession of it is unquestioned." And in the close of

the opinion, the court say, "in legislating for them [the territories] Congress exercises the combined powers of the general and state governments."

Some consider the opinion to be loose and inconclusive; others, that it is *obiter dicta;* and the last sentence is objected to as recognising absolute power in Congress over territories. The learned and eloquent Wirt, who, in the argument of a cause before the court, had occasion to cite a few sentences from an opinion of the Chief Justice, observed, "no one can mistake the style, the words so completely match the thought."

I can see no want of precision in the language of the Chief Justice; his meaning cannot be mistaken. He states, first, the third section as giving power to Congress to govern the territories, and two other grounds from which the power may also be implied. The objection seems to be, that the Chief Justice did not say which of the grounds stated he considered the source of the power. He did not specifically state this, but he did say, "whichever may be the source whence the power is derived, the possession of it is unquestioned." No opinion of the court could have been expressed with a stronger emphasis; the power in Congress is unquestioned. But those who have undertaken to criticise the opinion, consider it without authority, because the Chief Justice did not designate specially the power. This is a singular objection. If the power be unquestioned, it can be a matter of no importance on which ground it is exercised.

The opinion clearly was not *obiter dicta.* The turning point in the case was, whether Congress had power to authorize the territorial legislature of Florida to pass the law under which the territorial court was established, whose decree was brought before this court for revision. The power of Congress, therefore, was the point in issue.

The word "territory," according to Worcester, "means land, country, a district of country under a temporary government." The words "territory or other property," as used, do imply, from the use of the pronoun other, that territory was used as descriptive of land; but does it follow that it was not used also as descriptive of a district of country? In both of these senses it belonged to the United States—as land, for the purpose of sale; as territory, for the purpose of government.

But, if it be admitted that the word territory as used means land, and nothing but land, the power of Congress to organize a temporary government is clear. It has power to make all needful regulations respecting the public lands, and the extent of those "needful regulations" depends upon the direction of Congress, where the means are appropriate to the end, and do not conflict with any of the prohibitions of the Constitution. If a temporary government be deemed needful, necessary, requisite, or is wanted, Congress has power to establish it. This court says, in McCulloch *v.* The State of Maryland, (4 Wheat. 316), "If a certain means to carry into effect any of the powers expressly given by the Constitution to the government of the Union be an appropriate measure, not prohibited by the Constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognisance."

The power to establish post offices and post roads gives power to Congress to make contracts for the transportation of the mail, and to punish all who commit depredations upon it in its transit, or at its places of distribution. Congress has power to regulate commerce, and, in the exercise of its discretion, to lay an embargo, which suspends commerce; so, under the same power, harbors, lighthouses, breakwaters, &c., are constructed.

Did Chief Justice Marshall, in saying that Congress governed a territory, by exercising the combined powers of the federal and state governments, refer to unlimited discretion? A government which can make white men slaves? Surely, such a remark in the argument must have been inadvertently uttered. On the contrary, there is no power in the Constitution by which Congress can make either white or black men slaves. In organizing the government of a territory, Congress is limited to means appropriate to the attainment of the constitutional object. No powers can be exercised which are prohibited by the Constitution, or which are contrary to its spirit; so that, whether the object may be the protection of the persons and property of purchasers of the public lands, or of communities who have been annexed to the Union by conquest or purchase, they are initiatory to the establishment of state governments, and no more power can be claimed or exercised than is necessary to the attainment of the end. This is the limitation of all the federal powers.

But Congress has no power to regulate the internal concerns of a state, as of a territory; consequently, in providing for the government of a territory, to some extent, the combined powers of the federal and state governments are necessarily exercised.

If Congress should deem slaves or free colored persons injurious to the population of a free territory, as conducing to lessen the value of the public lands, or on any other ground connected with the public interest, they have the power to prohibit them from becoming settlers in it. This can be sustained on the ground of a sound national policy, which is so clearly shown in our history by practical results, that it would seem no considerate individual can question it. And, as regards any unfairness of such a policy to our Southern brethren, as urged in the argument, it is only necessary to say that, with one-fourth of the federal population of the Union, they have in the slave states a larger extent of fertile territory than is included in the free states; and it is submitted,

if masters of slaves be restricted from bringing them into free territory, that the restriction on the free citizens of non-slaveholding states, by bringing slaves into free territory, is four times greater than that complained of by the South. But, not only so; some three or four hundred thousand holders of slaves, by bringing them into free territory, impose a restriction on twenty millions of the free states. The repugnancy to slavery would probably prevent fifty or a hundred freemen from settling in a slave territory, where one slaveholder would be prevented from settling in a free territory.

This remark is made in answer to the argument urged, that a prohibition of slavery in the free territories is inconsistent with the continuance of the Union. Where a territorial government is established in a slave territory, it has uniformly remained in that condition until the people form a state constitution; the same course where the territory is free, both parties acting in good faith, would be attended with satisfactory results.

The sovereiguty of the federal government extends to the entire limits of our territory. Should any foreign power invade our jurisdiction, it would be repelled. There is a law of Congress to punish our citizens for crimes committed in districts of country where there is no organized government. Criminals are brought to certain territories or states, designated in the law, for punishment. Death has been inflicted in Arkansas and in Missouri, on individuals, for murders committed beyond the limit of any organized territory or state; and no one doubts that such a jurisdiction was rightfully exercised. If there be a right to acquire territory, there necessarily must be an implied power to govern it. When the military force of the Union shall conquer a country, may not Congress provide for the government of such country? This would be an implied power essential to the acquisition of new territory. This power has been exercised, without doubt of its constitutionality, over territory acquired by conquest and purchase.

And when there is a large district of country within the United States, and not within any state government, if it be necessary to establish a temporary government to carry out a power expressly vested in Congress—as the disposition of the public lands—may not such government be instituted by Congress? How do we read the Constitution? Is it not a practical instrument?

In such cases, no implication of a power can arise which is inhibited by the Constitution, or which may be against the theory of its construction. As my opinion rests on the third section, these remarks are made as an intimation that the power to establish a temporary government may arise, also, on the other two grounds stated in the opinion of the court in the insurance case, without weakening the third section.

I would here simply remark, that the Constitution was formed for our whole country. An expansion or contraction of our territory required no change in the fundamental law. When we consider the men who laid the foundation of our government and carried it into operation, the men who occupied the bench, who filled the halls of legislation and the chief magistracy, it would seem, if any question could be settled clear of all doubt, it was the power of Congress to establish territorial governments. Slavery was prohibited in the entire Northwestern Territory, with the approbation of leading men, South and North; but this prohibition was not retained when this ordinance was adopted for the government of Southern Territories, where slavery existed. In a late republication of a letter of Mr. Madison, dated November 27, 1819, speaking of this power of Congress to prohibit slavery in a territory, he infers there is no such power, from the fact that it has not been exercised. This is not a very satisfactory argument against any power, as there are but few, if any, subjects on which the constitutional powers of Congress are exhausted. It is true, as Mr. Madison states, that Congress, in the act to establish a government in the Mississippi territory, prohibited the importation of slaves into it from foreign parts; but it is equally true, that in the act erecting Louisiana into two territories, Congress declared, "it shall not be lawful for any person to bring into Orleans territory, from any port or place within the limits of the United States, any slave which shall have been imported since 1798, or which may hereafter be imported, except by a citizen of the United States who settles in the territory, under the penalty of the freedom of such slave." The inference of Mr. Madison, therefore, against the power of Congress, is of no force, as it was founded on a fact supposed, which did not exist.

It is refreshing to turn to the early incidents of our history, and learn wisdom from the acts of the great men who have gone to their account. I refer to a report in the House of Representatives, by John Randolph, of Roanoke, as chairman of a committee, in March, 1803—fifty-four years ago. From the Convention held at Vincennes, in Indiana, by their President, and from the people of the territory, a petition was presented to Congress, praying the suspension of the provision which prohibited slavery in that territory. The report stated "that the rapid population of the state of Ohio sufficiently evinces, in the opinion of your committee, that the labor of slaves is not necessary to promote the growth and settlement of colonies in that region. That this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to that quarter of the United States; that the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the Northwestern country, and to give strength

and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants will, at no very distant day, find ample remuneration for a temporary privation of labor and of emigration." (1 vol. State Papers, Public Lands, 160.)

The judicial mind of this country, state and federal, has agreed on no subject, within its legitimate action, with equal unanimity, as on the power of Congress to establish territorial governments. No court, state or federal, no judge or statesman, is known to have had any doubts on this question for nearly sixty years after the power was exercised. Such governments have been established from the sources of the Ohio to the Gulf of Mexico, extending to the Lakes on the north and the Pacific Ocean on the west, and from the lines of Georgia to Texas.

Great interests have grown up under the territorial laws over a country more than five times greater in extent than the original thirteen states; and these interests, corporate or otherwise, have been cherished and consolidated by a benign policy, without any one supposing the law-making power had united with the judiciary, under the universal sanction of the whole country, to usurp a jurisdiction which did not belong to them. Such a discovery at this late date is more extraordinary than anything which has occurred in the judicial history of this or any other country. Texas, under a previous organization, was admitted as a state; but no state can be admitted into the Union which has not been organized under some form of government. Without temporary governments, our public lands could not have been sold, nor our wildernesses reduced to cultivation, and the population protected; nor could our flourishing states, West and South, have been formed.

What do the lessons of wisdom and experience teach, under such circumstances, if the new light, which has so suddenly and unexpectedly burst upon us, be true? Acquiescence; acquiescence under a settled construction of the Constitution for sixty years, though it may be erroneous; which has secured to the country an advancement and prosperity beyond the power of computation.

An act of James Madison, when President, forcibly illustrates this policy. He had made up his opinion that Congress had no power under the Constitution to establish a National Bank. In 1815, Congress passed a bill to establish a bank. He vetoed the bill, on objections other than constitutional. In his message, he speaks as a wise statesman and Chief Magistrate, as follows:—

"Waiving the question of the constitutional authority of the legislature to establish an incorporated bank, as being precluded, in my judgment, by the repeated recognitions under varied circumstances of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications, in different modes, of a concurrence of the general will of the nation."

Has this impressive lesson of practical wisdom become lost to the present generation?

If the great and fundamental principles of our government are never to be settled, there can be no lasting prosperity. The Constitution will become a floating waif on the billows of popular excitement.

The prohibition of slavery north of thirty-six degrees thirty minutes, and of the state of Missouri, contained in the act admitting that state into the Union, was passed by a vote of 134, in the House of Representatives, to 42. Before Mr. Monroe signed the act, it was submitted by him to his Cabinet, and they held the restriction of slavery in a territory to be within the constitutional powers of Congress. It would be singular, if in 1804 Congress had power to prohibit the introduction of slaves in Orleans territory from any other part of the Union, under the penalty of freedom to the slave, if the same power, embodied in the Missouri compromise, could not be exercised in 1820.

But this law of Congress, which prohibits slavery north of Missouri and of thirty-six degrees thirty minutes, is declared to have been null and void by my brethren. And this opinion is founded mainly, as I understand, on the distinction drawn between the ordinance of 1787 and the Missouri compromise line. In what does the distinction consist? The ordinance, it is said, was a compact entered into by the confederated states before the adoption of the Constitution; and that in the cession of territory authority was given to establish a territorial government.

It is clear that the ordinance did not go into operation by virtue of the authority of the Confederation, but by reason of its modification and adoption by Congress under the Constitution. It seems to be supposed, in the opinion of the court, that the articles of cession placed it on a different footing from territories subsequently acquired. I am unable to perceive the force of this distinction. That the ordinance was intended for the government of the Northwestern territory, and was limited to such territory, is admitted. It was extended to the Southern territories, with modifications, by acts of Congress, and to some Northern territories. But the ordinance was made valid by the act of Congress, and without such act could have been of no force. It rested for its validity on the act of Congress, the same, in my opinion, as the Missouri compromise line.

If Congress may establish a territorial government in the exercise of its discretion, it is a clear principle that a court cannot control that discretion. This being the case, I do not see on what ground the act is held to be void. It did not purport to forfeit property, or take it for public purposes. It only prohibited slavery; in doing which, it followed the ordinance of 1787.

I will now consider the fourth head, which

is: "The effect of taking slaves into a state or territory, and so holding them, where slavery is prohibited."

If the principle laid down in the case of Prigg *v.* The State of Pennsylvania is to be maintained, and it is certainly to be maintained until overruled, as the law of this court, there can be no difficulty on this point. In that case, the court says: "The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws." If this be so, slavery can exist nowhere except under the authority of law, founded on usage having the force of law, or by statutory recognition. And the court further says: "It is manifest, from this consideration, that if the Constitution had not contained the clause requiring the rendition of fugitives from labor, every non-slaveholding state in the Union would have been at liberty to have declared free all runaway slaves coming within its limits, and to have given them entire immunity and protection against the claims of their masters."

Now, if a slave abscond, he may be reclaimed; but if he accompany his master into a state or territory where slavery is prohibited, such slave cannot be said to have left the service of his master where his services were legalized. And if slavery be limited to the range of the territorial laws, how can the slave be coerced to serve in a state or territory, not only without the authority of law, but against its express provisions? What gives the master the right to control the will of his slave? The local law, which exists in some form. But where there is no such law, can the master control the will of the slave by force? Where no slavery exists, the presumption, without regard to color, is in favor of freedom. Under such a jurisdiction, may the colored man be levied on as the property of his master by a creditor? On the decease of the master, does the slave descend to his heirs as property? Can the master sell him? Any one or all of these acts may be done to the slave, where he is legally held to service. But where the law does not confer this power, it cannot be exercised.

Lord Mansfield held that a slave brought into England was free. Lord Stowell agreed with Lord Mansfield in this respect, and that the slave could not be coerced in England; but on her voluntary return to Antigua, the place of her slave domicil, her former status attached. The law of England did not prohibit slavery, but did not authorize it. The jurisdiction which prohibits slavery is much stronger in behalf of the slave within it, than where it only does not authorize it.

By virtue of what law is it, that a master may take his slave into free territory, and exact from him the duties of a slave? The law of the territory does not sanction it. No authority can be claimed under the Constitution of the United States, or any law of Congress. Will it be said that the slave is taken as property, the same as other property which the master may own? To this I answer, that colored persons are made property by the law of the state, and no such power has been given to Congress. Does the master carry with him the law of the state from which he removes into the territory? and does that enable him to coerce his slave in the territory? Let us test this theory. If this may be done by a master from one slave state, it may be done by a master from every other slave state. This right is supposed to be connected with the person of the master, by virtue of the local law. Is it transferable? May it be negotiated, as a promissory note or bill of exchange? If it be assigned to a man from a free state, may he coerce the slave by virtue of it? What shall this thing be denominated? Is it personal or real property? Or is it an indefinable fragment of sovereignty, which every person carries with him from his late domicil? One thing is certain, that its origin has been very recent, and it is unknown to the laws of any civilized country.

A slave is brought to England from one of its islands, where slavery was introduced and maintained by the mother country. Although there is no law prohibiting slavery in England, yet there is no law authorizing it; and, for near a century, its courts have declared that the slave there is free from the coercion of the master. Lords Mansfield and Stowell agree upon this point, and there is no dissenting authority.

There is no other description of property which was not protected in England, brought from one of its slave islands. Does not this show that property in a human being does not arise from nature or from the common law, but, in the language of this court, "it is a mere municipal regulation, founded upon and limited to the range of the territorial laws?" This decision is not a mere argument, but it is the end of the law, in regard to the extent of slavery. Until it shall be overturned, it is not a point for argument; it is obligatory on myself and my brethren, and on all judicial tribunals over which this court exercises an appellate power.

It is said the territories are common property of the states, and that every man has a right to go there with his property. This is not controverted. But the court say a slave is not property beyond the operation of the local law which makes him such. Never was a truth more authoritatively and justly uttered by man. Suppose a master of a slave in a British island owned a million of property in England; would that authorize him to take his slaves with him to England? The Constitution, in express terms, recognises the *status* of slavery as founded on the municipal law: "No person held to service or labor in one state, *under the laws thereof*, escaping into another, shall," &c. Now, unless the fugitive escape from a place where, by the municipal law, he is held to labor, this provision affords no remedy to the master. What can be more conclusive than this? Suppose a

slave escape from a territory where slavery is not authorized by law, can he be reclaimed?

In this case, a majority of the court have said that a slave may be taken by his master into a territory of the United States, the same as a horse, or any other kind of property. It is true, this was said by the court, as also many other things, which are of no authority. Nothing that has been said by them, which has not a direct bearing on the jurisdiction of the court, against which they decided, can be considered as authority. I shall certainly not regard it as such. The question of jurisdiction being before the court, was decided by them authoritatively, but nothing beyond that question. A slave is not a mere chattel. He bears the impress of his Maker, and is amenable to the laws of God and man; and he is destined to an endless existence.

Under this head I shall chiefly rely on the decisions of the Supreme Courts of the Southern States, and especially of the state of Missouri.

In the first and second sections of the sixth article of the Constitution of Illinois, it is declared that neither slavery nor involuntary servitude shall hereafter be introduced into this state, otherwise than for the punishment of crimes whereof the party shall have been duly convicted; and in the second section it is declared that any violation of this article shall effect the emancipation of such person from his obligation to service. In Illinois, a right of transit through the state is given the master with his slaves. This is a matter which, as I suppose, belongs exclusively to the state.

The Supreme Court of Illinois, in the case of Jarrot *v.* Jarrot (2 Gilmer, 7), said:

"After the conquest of this territory by Virginia, she ceded it to the United States, and stipulated that the titles and possessions, rights and liberties of the French settlers, should be guarantied to them. This, it has been contended, secured them in the possession of those negroes as slaves which they held before that time, and that neither Congress nor the convention had power to deprive them of it; or, in other words, that the ordinance and Constitution should not be so interpreted and understood as applying to such slaves, when it is therein declared that there shall be neither slavery nor involuntary servitude in the Northwest Territory, nor in the state of Illinois, otherwise than in the punishment of crimes. But it was held that those rights could not be thus protected, but must yield to the ordinance and Constitution."

The first slave case decided by the Supreme Court of Missouri, contained in the reports, was Winny *v.* Whitesides (1 Missouri Rep. 473), at October term, 1824. It appeared that more than twenty-five years before, the defendant, with her husband, had removed from Carolina to Illinois, and brought with them the plaintiff; that they continued to reside in Illinois three or four years, retaining the plaintiff as a slave; after which they removed to Missouri, taking her with them.

The court held, that if a slave be detained in Illinois until he be entitled to freedom, the right of the owner does not revive when he finds the negro in a slave state.

That when a slave is taken to Illinois by his owner, who takes up his residence there, the slave is entitled to freedom.

In the case of Lagrange *v.* Chouteau (2 Missouri Rep. 20, at May term, 1828), it was decided that the ordinance of 1787 was intended as a fundamental law for those who may choose to live under it, rather than as a penal statute.

That any sort of residence contrived or permitted by the legal owner of the slave, upon the faith of secret trusts or contracts, in order to defeat or evade the ordinance, and thereby introduce slavery *de facto*, would entitle such slave to freedom.

In Julia *v.* McKinney (3 Missouri Rep. 279), it was held, where a slave was settled in the state of Illinois, but with an intention on the part of the owner to be removed at some future day, that hiring said slave to a person to labor for one or two days, and receiving the pay for the hire, the slave is entitled to her freedom, under the second section of the sixth article of the Constitution of Illinois.

Rachel *v.* Walker (4 Missouri Rep. 350, June term, 1836) is a case involving, in every particular, the principles of the case before us. Rachel sued for her freedom; and it appeared that she had been bought as a slave in Missouri, by Stockton, an officer of the army, taken to Fort Snelling, where he was stationed, and she was retained there as a slave a year; and then Stockton removed to Prairie du Chien, taking Rachel with him as a slave, where he continued to hold her three years, and then he took her to the state of Missouri, and sold her as a slave.

"Fort Snelling was admitted to be on the west side of the Mississippi river, and north of the state of Missouri, in the territory of the United States. That Prairie du Chien was in the Michigan territory, on the east side of the Mississippi river. Walker, the defendant, held Rachel under Stockton."

The court said, in this case:—

"The officer lived in Missouri territory, at the time he bought the slave; he sent to a slaveholding country and procured her; this was his voluntary act, done without any other reason than that of his convenience; and he and those claiming under him must be holden to abide the consequences of introducing slavery both in Missouri territory and Michigan, contrary to law; and on that ground Rachel was declared to be entitled to freedom."

In answer to the argument that, as an officer of the army, the master had a right to take his slave into free territory, the court said no authority of law or the government compelled him to keep the plaintiff there as a slave.

"Shall it be said, that because an officer of the army owns slaves in Virginia, that when, as officer and soldier, he is required to take the command of a fort in the non-slaveholding states or territories, he thereby has a right to take with him as many slaves as will suit his interests or convenience? It surely cannot be law. If this be true, the court say, then it is also true that the convenience or supposed convenience of the officer repeals, as to him and others who have the same character, the ordinance and the act of 1821, admitting Missouri into the Union, and also the prohibition of the several laws and constitutions of the non-slaveholding states."

In Wilson *v.* Melvin (4 Missouri R. 592), it appeared the defendant left Tennessee with an intention of residing in Illinois, taking his negroes with him. After a month's stay in Illinois, he took his negroes to St. Louis, and hired them, then returned to Illinois. On these facts, the inferior court instructed the jury that the defendant was a sojourner in Illinois. This the Supreme Court held was error, and the judgment was reversed.

The case of Dred Scott *v.* Emerson (15 Missouri R. 682, March term, 1852) will now be stated. This case involved the identical question before us, Emerson having, since the hearing, sold the plaintiff to Sandford, the defendant.

Two of the judges ruled the case, the chief justice dissenting. It cannot be improper to state the grounds of the opinion of the court, and of the dissent.

The court say: "Cases of this kind are not strangers in our court. Persons have been frequently here adjudged to be entitled to their freedom, on the ground that their masters held them in slavery in territories or states in which that institution is prohibited. From the first case decided in our court, it might be inferred that this result was brought about by a presumed assent of the master, from the fact of having voluntarily taken his slave to a place where the relation of master and slave did not exist. But subsequent cases base the right to 'exact the forfeiture of emancipation,' as they term it, on the ground, it would seem, that it was the duty of the courts of this state to carry into effect the constitution and laws of other states and territories, regardless of the rights, the policy, or the institutions, of the people of this state."

And the court say that the states of the Union, in their municipal concerns, are regarded as foreign to each other; that the courts of one state do not take notice of the laws of other states, unless proved as facts, and that every state has the right to determine how far its comity to other states shall extend; and it is laid down, that when there is no act of manumission decreed to the free state, the courts of the slave states cannot be called to give effect to the law of the free state. Comity, it alleges, between states, depends upon the discretion of both, which may be varied by circumstances. And it is declared by the court, "that times are not as they were when the former decisions on this subject were made." Since then, not only individuals but states have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures whose inevitable consequence must be the overthrow and destruction of our government. Under such circumstances, it does not behoove the state of Missouri to show the least countenance to any measure which might gratify this spirit. She is willing to assume her full responsibility for the existence of slavery within her limits, nor does she seek to share or divide it with others.

Chief Justice Gamble dissented from the other two judges. He says:—

"In every slaveholding state in the Union, the subject of emancipation is regulated by statute; and the forms are prescribed in which it shall be effected. Whenever the forms required by the laws of the state in which the master and slave are residents are complied with, the emancipation is complete, and the slave is free. If the right of the person thus emancipated is subsequently drawn in question in another state, it will be ascertained and determined by the law of the state in which the slave and his former master resided; and when it appears that such law has been complied with, the right to freedom will be fully sustained in the courts of all the slaveholding states, although the act of emancipation may not be in the form required by law in the state in which the court sits.

"In all such cases, courts continually administer the law of the country where the right was acquired; and when that law becomes known to the court, it is just as much a matter of course to decide the rights of the parties according to its requirements, as it is to settle the title of real estate situated in our state by its own laws."

This appears to me a most satisfactory answer to the argument of the court. Chief Justice continues:—

"The perfect equality of the different states lies at the foundation of the Union. As the institution of slavery in the states is one over which the Constitution of the United States gives no power to the general government, it is left to be adopted or rejected by the several states, as they think best; nor can any one state, or number of states, claim the right to interfere with any other state upon the question of admitting or excluding this institution.

"A citizen of Missouri, who removes with his slave to Illinois, has no right to complain that the fundamental law of that state to which he removes, and in which he makes his residence, dissolves the relation between him and his slave. It is as much his own voluntary act, as if he had executed a deed of emancipation. No one can pretend ignorance of this constitutional provision, and," he says, "the decisions which have heretofore been made in this state, and in many other slaveholding states, give effect to this and other

similar provisions, on the ground that the master, by making the free state the residence of his slave, has submitted his right to the operation of the law of such state; and this," he says, "is the same in law as a regular deed of emancipation."

He adds:—

"I regard the question as conclusively settled by repeated adjudications of this court, and, if I doubted or denied the propriety of those decisions, I would not feel myself any more at liberty to overturn them, than I would any other series of decisions by which the law of any other question was settled. There is with me," he says, "nothing in the law relating to slavery which distinguishes it from the law on any other subject, or allows any more accommodation to the temporary public excitements which are gathered around it."

"In this state," he says, "it has been recognised from the beginning of the government as a correct position in law, that a master who takes his slave to reside in a state or territory where slavery is prohibited, thereby emancipates his slave." These decisions, which come down to the year 1837, seemed to have so fully settled the question, that since that time there has been no case bringing it before the court for any reconsideration, until the present. In the case of Winny *v.* Whitesides, the question was made in the argument, "whether one nation would execute the penal laws of another," and the court replied in this language (Huberus quoted in 4 Dallas), which says, "personal rights or disabilities obtained or communicated by the laws of any particular place are of a nature which accompany the person wherever he goes;" and the Chief Justice observed, in the case of Rachel *v.* Walker, the act of Congress called the Missouri compromise was held as operative as the ordinance of 1787.

When Dred Scott, his wife and children, were removed from Fort Snelling to Missouri, in 1838, they were free, as the law was then settled, and continued for fourteen years afterwards, up to 1852, when the above decision was made. Prior to this, for nearly thirty years, as Chief Justice Gamble declares, the residence of a master with his slave in the state of Illinois, or in the territory north of Missouri, where slavery was prohibited by the act called the Missouri compromise, would manumit the slave as effectually as if he had executed a deed of emancipation; and that an officer of the army who takes his slave into that state or territory, and holds him there as a slave, liberates him the same as any other citizen—and down to the above time it was settled by numerous and uniform decisions; and that on the return of the slave to Missouri, his former condition of slavery did not attach. Such was the settled law of Missouri until the decision of Scott and Emerson.

In the case of Sylvia *v.* Kirby (17 Misso. Rep. 434), the court followed the above decision, observing it was similar in all respects to the case of Scott and Emerson.

This court follows the established construction of the statutes of a state by its Supreme Court. Such a construction is considered as a part of the statute, and we follow it to avoid two rules of property in the same state. But we do not follow the decisions of the Supreme Court of a state beyond a statutory construction as a rule of decision for this court. State decisions are always viewed with respect and treated as authority; but we follow the settled construction of the statutes, not because it is of binding authority, but in pursuance of a rule of judicial policy.

But there is no pretence that the case of Dred Scott *v.* Emerson turned upon the construction of a Missouri statute; nor was there any established rule of property which could have rightfully influenced the decision. On the contrary, the decision overruled the settled law for near thirty years.

This is said by my brethren to be a Missouri question; but there is nothing which gives it this character, except that it involves the right to persons claimed as slaves who reside in Missouri, and the decision was made by the Supreme Court of that state. It involves a right claimed under an act of Congress and the constitution of Illinois, and which cannot be decided without the consideration and construction of those laws. But the Supreme Court of Missouri held, in this case, that it will not regard either of those laws, without which there was no case before it; and Dred Scott, having been a slave, remains a slave. In this respect it is admitted this is a Missouri question—a case which has but one side, if the act of Congress and the constitution of Illinois are not recognised.

And does such a case constitute a rule of decision for this court—a case to be followed by this court? The course of decision so long and so uniformly maintained established a comity or law between Missouri and the free states and territories where slavery was prohibited, which must be somewhat regarded in this case. Rights sanctioned for twenty-eight years ought not and cannot be repudiated, with any semblance of justice, by one or two decisions, influenced, as declared, by a determination to counteract the excitement against slavery in the free states.

The courts of Louisiana having held, for a series of years, that where a master took his slave to France, or any free state, he was entitled to freedom, and that on bringing him back the status of slavery did not attach, the legislature of Louisiana declared by an act that the slave should not be made free under such circumstances. This regulated the rights of the master from the time the act took effect. But the decision of the Missouri court, reversing a former decision, affects all previous decisions, technically, made on the same principles, unless such decisions are protected by the lapse of time or the statute of limitations. Dred Scott and his family, beyond all controversy, were free under the decisions made for twenty-eight years, before the case of Scott *v.*

Emerson. This was the undoubted law of Missouri for fourteen years after Scott and his family were brought back to that state. And the grave question arises, whether this law may be so disregarded as to enslave free persons. I am strongly inclined to think that a rule of decision so well settled as not to be questioned, cannot be annulled by a single decision of the court. Such rights may be inoperative under the decision in future; but I cannot well perceive how it can have the same effect in prior cases.

It is admitted, that when a former decision is reversed, the technical effect of the judgment is to make all previous adjudications on the same question erroneous. But the case before us was not that the law had been erroneously construed, but that, under the circumstances which then existed, that law would not be recognised; and the reason for this is declared to be the excitement against the institution of slavery in the free states. While I lament this excitement as much as any one, I cannot assent that it shall be made a basis of judicial action.

In 1816, the common law, by statute, was made a part of the law of Missouri; and that includes the great principles of international law. These principles cannot be abrogated by judicial decisions. It will require the same exercise of power to abolish the common law, as to introduce it. International law is founded in the opinions generally received and acted on by civilized nations, and enforced by moral sanctions. It becomes a more authoritative system when it results from special compacts, founded on modified rules, adapted to the exigencies of human society: it is in fact an international morality, adapted to the best interests of nations. And in regard to the states of this Union, on the subject of slavery, it is eminently fitted for a rule of action, subject to the Federal Constitution. "The laws of nations are but the natural rights of man applied to nations." (Vattel.)

If the common law have the force of a statutory enactment in Missouri, it is clear, as it seems to me, that a slave who, by a residence in Illinois in the service of his master, becomes entitled to his freedom, cannot again be reduced to slavery by returning to his former domicil in a slave state. It is unnecessary to say what legislative power might do by a general act in such a case, but it would be singular if a freeman could be made a slave by the exercise of a judicial discretion. And it would be still more extraordinary if this could be done, not only in the absence of special legislation, but in a state where the common law is in force.

It is supposed by some, that the third article in the treaty of cession of Louisiana to this country, by France, in 1803, may have some bearing on this question. The article referred to provides, "that the inhabitants of the ceded territory shall be incorporated into the Union, and enjoy all the advantages of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess."

As slavery existed in Louisiana at the time of the cession, it is supposed this is a guarantee that there should be no change in its condition.

The answer to this is, in the first place, that such a subject does not belong to the treaty-making power; and any such arrangement would have been nugatory. And, in the second place, by no admissible construction can the guarantee be carried further than the protection of property in slaves at that time in the ceded territory. And this has been complied with. The organization of the slave states of Louisiana, Missouri, and Arkansas, embraced every slave in Louisiana at the time of the cession. This removes every ground of objection under the treaty. There is therefore no pretence, growing out of the treaty, that any part of the territory of Louisiana, as ceded, beyond the organized states, is slave territory.

Under the fifth head, we were to consider whether the status of slavery attached to the plaintiff and wife, on their return to Missouri.

This doctrine is not asserted in the late opinion of the Supreme Court of Missouri, and up to 1852 the contrary doctrine was uniformly maintained by that court.

In its late decision, the court say that it will not give effect in Missouri to the laws of Illinois, or the law of Congress called the Missouri compromise. This was the effect of the decision, though its terms were, that the court would not take notice, judicially, of those laws.

In 1851, the Court of Appeals of South Carolina recognised the principle, that a slave, being taken to a free state, became free. (Commonwealth *v.* Pleasants, 10 Leigh Rep. 697.) In Betty *v.* Horton, the Court of Appeals held that the freedom of the slave was acquired by the action of the laws of Massachusetts, by the said slave being taken there. (5 Leigh Rep. 615.)

The slave states have generally adopted the rule, that where the master, by a residence with his slave in a state or territory where slavery is prohibited, the slave was entitled to his freedom everywhere. This was the settled doctrine of the Supreme Court of Missouri. It has been so held in Mississippi, in Virginia, in Louisiana, formerly in Kentucky, Maryland, and in other states.

The law, where a contract is made and is to be executed, governs it. This does not depend upon comity, but upon the law of the contract. And if, in the language of the Supreme Court of Missouri, the master, by taking his slave to Illinois, and employing him there as a slave, emancipates him as effectually as by a deed of emancipation, is it possible that such an act is not matter for adjudication in any slave state where the master may take him?

Does not the master assent to the law, when he places himself under it in a free state?

The states of Missouri and Illinois are bounded by a common line. The one prohibits slavery, the other admits it. This has been done by the exercise of that sovereign power which appertains to each. We are bound to respect the institutions of each, as emanating from the voluntary action of the people. Have the people of either any right to disturb the relations of the other? Each state rests upon the basis of its own sovereignty, protected by the Constitution. Our Union has been the foundation of our prosperity and national glory. Shall we not cherish and maintain it? This can only be done by respecting the legal rights of each state.

If a citizen of a free state shall entice or enable a slave to escape from the service of his master, the law holds him responsible, not only for the loss of the slave, but he is liable to be indicted and fined for the misdemeanor. And I am bound here to say, that I have never found a jury in the four states which constitute my circuit, which have not sustained this law, where the evidence required them to sustain it. And it is proper that I should also say, that more cases have arisen in my circuit, by reason of its extent and locality, than in all other parts of the Union. This has been done to vindicate the sovereign rights of the Southern States, and protect the legal interests of our brethren of the South.

Let these facts be contrasted with the case now before the court. Illinois has declared in the most solemn and impressive form that there shall be neither slavery nor involuntary servitude in that state, and that any slave brought into it, with a view of becoming a resident, shall be emancipated. And effect has been given to this provision of the constitution by the decision of the Supreme Court of that state. With a full knowledge of these facts, a slave is brought from Missouri to Rock Island, in the state of Illinois, and is retained there as a slave for two years, and then taken to Fort Snelling, where slavery is prohibited by the Missouri compromise act, and there he is detained two years longer in a state of slavery. Harriet, his wife, was also kept at the same place four years as a slave, having been purchased in Missouri. They were then removed to the state of Missouri, and sold as slaves, and in the action before us they are not only claimed as slaves, but a majority of my brethren have held that on their being returned to Missouri the status of slavery attached to them.

I am not able to reconcile this result with the respect due to the state of Illinois. Having the same rights of sovereignty as the state of Missouri in adopting a constitution, I can perceive no reason why the institutions of Illinois should not receive the same consideration as those of Missouri. Allowing to my brethren the same right of judgment that I exercise myself, I must be permitted to say that it seems to me the principle laid down will enable the people of a slave state to introduce slavery into a free state, for a longer or shorter time, as may suit their convenience; and by returning the slave to the state whence he was brought, by force or otherwise, the status of slavery attaches, and protects the rights of the master, and defies the sovereignty of the free state. There is no evidence before us that Dred Scott and his family returned to Missouri voluntarily. The contrary is inferable from the agreed case: "In the year 1838, Dr. Emerson removed the plaintiff and said Harriet, and their daughter Eliza, from Fort Snelling to the state of Missouri, where they have ever since resided." This is the agreed case; and can it be inferred from this that Scott and family returned to Missouri voluntarily? He was removed; which shows that he was passive, as a slave, having exercised no volition on the subject. He did not resist the master by absconding or force. But that was not sufficient to bring him within Lord Stowell's decision; he must have acted voluntarily. It would be a mockery of law and an outrage on his rights to coerce his return, and then claim that it was voluntary, and on that ground that his former status of slavery attached.

If the decision be placed on this ground, it is a fact for a jury to decide, whether the return was voluntary, or else the fact should be distinctly admitted. A presumption against the plaintiff in this respect, I say with confidence, is not authorized from the facts admitted.

In coming to the conclusion that by a voluntary return by Grace to her former domicil, slavery attached, Lord Stowell took great pains to show that England forced slavery upon her colonies, and that it was maintained by numerous acts of Parliament and public policy, and, in short, that the system of slavery was not only established by Great Britain in her West Indian colonies, but that it was popular and profitable to many of the wealthy and influential people of England, who were engaged in trade, or owned and cultivated plantations in the colonies. No one can read his elaborate views, and not be struck with the great difference between England and her colonies, and the free and slave states of this Union. While slavery in the colonies of England is subject to the power of the mother country, our states, especially in regard to slavery, are independent, resting upon their own sovereignties, and subject only to international laws, which apply to independent states.

In the case of Williams, who was a slave in Granada, having run away, came to England, Lord Stowell said: "The four judges all concur in this—that he was a slave in Granada, though a free man in England, and he would have continued a free man in all other parts of the world except Granada."

Strader *v.* Graham (10 Howard, 82, and 18 Curtis, 305) has been cited as having a direct

on the case before us. In that case the court say: "It was exclusively in the power of Kentucky to determine, for itself, whether the employment of slaves in another state should or should not make them free on their return." No question was before the court in that case, except that of jurisdiction. And any opinion given on any other point is *obiter dictum*, and of no authority. In the conclusion of his opinion, the Chief Justice said: "In every view of the subject, therefore, this court has no jurisdiction of the case, and the writ of error must on that ground be dismissed."

In the case of Spencer *v.* Negro Dennis (8 Gill's Rep. 321), the court say: "Once free, and always free, is the maxim of Maryland law upon the subject. Freedom having once vested, by no compact between the master and the liberated slave, nor by any condition subsequent, attached by the master to the gift of freedom, can a state of slavery be reproduced."

In Hunter *v.* Bulcher (1 Leigh, 172):—

"By a statute of Maryland of 1796, all slaves brought into that state to reside are declared free; a Virginian-born slave is carried by his master to Maryland; the master settled there, and keeps the slave there in bondage for twelve years, the statute in force all the time; then he brings him as a slave to Virginia and sells him there. Adjudged, in an action brought by the man against the purchaser, that he is free."

Judge Kerr, in the case, says:—

"Agreeing, as I do, with the general view taken in this case by my brother Green, I would not add a word, but to mark the exact extent to which I mean to go. The law of Maryland having enacted that slaves carried into that state for sale or to reside shall be free, and the owner of the slave here having carried him to Maryland, and voluntarily submitting himself and the slave to that law, it governs the case."

In every decision of a slave case prior to that of Dred Scott *v.* Emerson, the Supreme Court of Missouri considered it as turning upon the constitution of Illinois, the ordinance of 1787, or the Missouri compromise act of 1820. The court treated these acts as in force, and held itself bound to execute them, by declaring the slave to be free who had acquired a domicil under them with the consent of his master.

The late decision reversed this whole line of adjudication, and held that neither the constitution and laws of the states, nor acts of Congress in relation to territories, could be judicially noticed by the Supreme Court of Missouri. This is believed to be in conflict with the decisions of all the courts in the Southern States, with some exceptions of recent cases.

In Marie Louise *v.* Morat et al. (9 Louisiana Rep. 475), it was held, where a slave having been taken to the kingdom of France or other country by the owner, where slavery is not tolerated, operates on the condition of the slave, and produces immediate emancipation; and that, where a slave thus becomes free, the master cannot reduce him again to slavery.

Josephine *v.* Poultney (Louisiana Annual Rep. 329), "where the owner removes with a slave into a state in which slavery is prohibited, with the intention of residing there, the slave will be thereby emancipated, and their subsequent return to the state of Louisiana cannot restore the relation of master and slave." To the same import are the cases of Smith *v.* Smith, 13 Louisiana Rep. 441; Thomas *v.* Generis, Louisiana Rep. 483; Harry et al. *v.* Decker and Hopkins, Walker's Mississippi Rep. 36. It was held that, "slaves within the jurisdiction of the Northwestern Territory became freemen by virtue of the ordinance of 1787, and can assert their claim to freedom in the courts of Mississippi." (Griffith *v.* Fanny, 1 Virginia Rep. 143). It was decided that a negro held in servitude in Ohio, under a deed executed in Virginia, is entitled to freedom by the constitution of Ohio.

The case of Rhodes *v.* Bell (2 Howard, 307; 15 Curtis, 152) involved the main principle in the case before us. A person residing in Washton City purchased a slave in Alexandria and brought him to Washington. Washington continued under the law of Maryland, Alexandria under the law of Virginia. The act of Maryland of November, 1796 (2 Maxcy's Laws, 351), declared any one who shall bring any negro, mulatto, or other slave, into Maryland, such slave should be free. The above slave, by reason of his being brought into Washington City, was declared by this court to be free. This, it appears to me, is a much stronger case against the slave than the facts in the case of Scott.

In Bush *v.* White (3 Monroe, 104), the court say:—

"That the ordinance was paramount to the territorial laws, and restrained the legislative power there as effectually as a constitution in an organized state. It was a public act of the Legislature of the Union, and a part of the supreme law of the land; and, as such, this court is as much bound to take notice of it as it can be of any other law."

In the case of Rankin *v.* Lydia, before cited, Judge Mills, speaking for the Court of Appeals of Kentucky, says:—

"If, by the positive provision in our code, we can and must hold our slaves in the one case, and statutory provisions equally positive decide against that right in the other, and liberate the slave, he must, by an authority equally imperious, be declared free. Every argument which supports the right of the master on one side, based upon the force of written law, must be equally conclusive in favor of the slave, when he can point out in the statute the clause which secures his freedom."

And he further said:—

"Free people of color in all the states are, it is believed, quasi citizens, or, at least, denizens. Although none of the states may allow them the privilege of office and suffrage, yet all other civil and conventional rights are secured to them; at least, such rights were evi-

dently secured to them by the ordinance in question for the government of Indiana. If these rights are vested in that or any other portion of the United States, can it be compatible with the spirit of our confederated government to deny their existence in any other part? Is there less comity existing between state and state, or state and territory, than exists between the despotic governments of Europe?"

These are the words of a learned and great judge, born and educated in a slave state.

I now come to inquire, under the sixth and last head, "whether the decisions of the Supreme Court of Missouri, on the question before us, are binding on this court."

While we respect the learning and high intelligence of the state courts, and consider their decisions, with others, as authority, we follow them only where they give a construction to the state statutes. On this head, I consider myself fortunate in being able to turn to the decision of this court, given by Mr. Justice Grier, in Pease *v.* Peck, a case from the state of Michigan (18 Howard, 589), decided in December term, 1855. Speaking for the court, Judge Grier said:—

"We entertain the highest respect for that learned court (the Supreme Court of Michigan), and in any question affecting the construction of their own laws, where we entertain any doubt, would be glad to be relieved from doubt and responsibility by reposing on their decision. There are, it is true, many dicta to be found in our decisions, averring that the courts of the United States are bound to follow the decisions of the state courts on the construction of their own laws. But although this may be correct, yet a rather strong expression of a general rule, it cannot be received as the annunciation of a maxim of universal application. Accordingly, our reports furnish many cases of exceptions to it. In all cases where there is a settled construction of the laws of a state, by its highest judicature established by admitted precedent, it is the practice of the courts of the United States to receive and adopt it, without criticism or further inquiry. When the decisions of the state court are not consistent, we do not feel bound to follow the last, if it is contrary to our own convictions; and much more is this the case where, after a long course of consistent decisions, some new light suddenly springs up, or an excited public opinion has elicited new doctrines subversive of former safe precedent."

These words, it appears to me, have a stronger application to the case before us than they had to the cause in which they were spoken as the opinion of this court; and I regret that they do not seem to be as fresh in the recollection of some of my brethren as in my own. For twenty-eight years, the decisions of the Supreme Court of Missouri were consistent on all the points made in this case. But this consistent course was suddenly terminated, whether by some new light suddenly springing up, or an excited public opinion, or both, it is not necessary to say. In the case of Scott *v.* Emerson, in 1852, they were overturned and repudiated.

This, then, is the very case in which seven of my brethren declared they would not follow the last decision. On this authority I may well repose. I can desire no other or better basis.

But there is another ground which I deem conclusive, and which I will re-state.

The Supreme Court of Missouri refused to notice the act of Congress or the constitution of Illinois, under which Dred Scott, his wife and children, claimed that they are entitled to freedom.

This being rejected by the Missouri court, there was no case before it, or at least it was a case with only one side. And this is the case which, in the opinion of this court, we are bound to follow. The Missouri court disregards the express provisions of an act of Congress and the constitution of a sovereign state, both of which laws for twenty-eight years it had not only regarded, but carried into effect.

If a state court may do this, on a question involving the liberty of a human being, what protection do the laws afford? So far from this being a Missouri question, it is a question, as it would seem, within the twenty-fifth section of the judiciary act, where a right to freedom being set up under the act of Congress, and the decision being against such right, it may be brought for revision before this court, from the Supreme Court of Missouri.

I think the judgment of the court below should be reversed.

Mr. Justice CURTIS dissenting.

I dissent from the opinion pronounced by the Chief Justice and from the judgment which the majority of the court think it proper to render in this case. The plaintiff alleged, in his declaration, that he was a citizen of the state of Missouri, and that the defendant was a citizen of the state of New York. It is not doubted that it was necessary to make each of these allegations, to sustain the jurisdiction of the Circuit Court. The defendant denied, by a plea to the jurisdiction, either sufficient or insufficient, that the plaintiff was a citizen of the state of Missouri. The plaintiff demurred to that plea. The Circuit Court adjudged the plea insufficient, and the first question for our consideration is, whether the sufficiency of that plea is before this court for judgment, upon this writ of error. The part of the judicial power of the United States, conferred by Congress on the Circuit Courts, being limited to certain described cases and controversies, the question whether a particular case is within the cognisance of a Circuit Court, may be raised by a plea to the jurisdiction of such court. When that question has been raised, the Circuit Court must, in the first instance, pass upon and determine it. Whether its determination be final, or subject to review by

this appellate court, must depend upon the will of Congress; upon which body the Constitution has conferred the power, with certain restrictions, to establish inferior courts, to determine their jurisdiction, and to regulate the appellate power of this court. The twenty-second section of the judiciary act of 1789, which allows a writ of error from final judgments of Circuit Courts, provides that there shall be no reversal in this court, on such writ of error, for error in ruling any plea in abatement, *other than a plea to the jurisdiction of the court.* Accordingly it has been held, from the origin of the court to the present day, that Circuit Courts have not been made by Congress the final judges of their own jurisdiction in civil cases. And that when a record comes here upon a writ of error or appeal, and, on its inspection, it appears to this court that the Circuit Court had not jurisdiction, its judgment must be reversed, and the cause remanded, to be dismissed for want of jurisdiction.

It is alleged by the defendant in error, in this case, that the plea to the jurisdiction was a sufficient plea; that it shows, on inspection of its allegations, confessed by the demurrer, that the plaintiff was not a citizen of the state of Missouri; that, upon this record, it must appear to this court that the case was not within the judicial power of the United States, as defined and granted by the Constitution, because it was not a suit by a citizen of one state against a citizen of another state.

To this it is answered first, that the defendant, by pleading over, after the plea to the jurisdiction was adjudge dinsufficient, finally waived all benefit of that plea.

When that plea was adjudged insufficient, the defendant was obliged to answer over. He held no alternative. He could not stop the further progress of the case in the Circuit Court by a writ of error, on which the sufficiency of his plea to the jurisdiction could be tried in this court, because the judgment on that plea was not final, and no writ of error would lie. He was forced to plead to the merits. It cannot be true, then, that he waived the benefit of his plea to the jurisdiction by answering over. Waiver includes consent. Here there was no consent. And if the benefit of the plea was finally lost, it must be, not by any waiver, but because the laws of the United States have not provided any mode of reviewing the decision of the Circuit Court on such a plea, when that decision is against the defendant. This is not the law. Whether the decision of the Circuit Court on a plea to the jurisdiction be against the plaintiff, or against the defendant, the losing party may have any alleged error in law, in ruling such a plea, examined in this court on a writ of error, when the matter in controversy exceeds the sum or value of two thousand dollars. If the decision be against the plaintiff, and his suit dismissed for want of jurisdiction, the judgment is technically final, and he may at once sue out his writ of error. (Mollan *v.* Torrance, 9 Wheat. 537). If the decision be against the defendant, though he must answer over, and wait for a final judgment in the cause, he may then have his writ of error, and upon it obtain the judgment of this court on any question of law apparent on the record, touching the jurisdiction. The fact that he pleaded over to the merits, under compulsion, can have no effect on his right to object to the jurisdiction. If this were not so, the condition of the two parties would be grossly unequal. For if a plea to the jurisdiction were ruled against the plaintiff, he could at once take his writ of error, and have the ruling reviewed here; while, if the same plea were ruled against the defendant, he must not only wait for a final judgment, but could in no event have the ruling of the Circuit Court upon the plea reviewed by this court. I know of no ground for saying that the laws of the United States have thus discriminated between the parties to a suit in its courts.

It is further objected, that as the judgment of the Circuit Court was in favor of the defendant, and the writ of error in this cause was sued out by the plaintiff, the defendant is not in a condition to assign any error in the record, and therefore this court is precluded from considering the question whether the Circuit Court had jurisdiction.

The practice of this court does not require a technical assignment of errors. (See the rule.) Upon a writ of error, the whole record is open for inspection; and if any error be found in it, the judgment is reversed. (Bank of U. S. *v.* Smith, 11 Wheat. 171.)

It is true, as a general rule, that the court will not allow a party to rely on anything as cause for reversing a judgment, which was for his advantage. In this, we follow an ancient rule of the common law. But so careful was that law of the preservation of the course of its courts, that it made an exception out of that general rule, and allowed a party to assign for error that which was for his advantage, if it were a departure by the court itself from its settled course of procedure. The cases on this subject are collected in Bac. Ab., Error II. 4. And this court followed this practice in Capron *v.* Van Noorden (2 Cranch, 126), where the plaintiff below procured the reversal of a judgment for the defendant, on the ground that the plaintiff's allegations of citizenship had not shown jurisdiction.

But it is not necessary to determine whether the defendant can be allowed to assign want of jurisdiction as an error in a judgment in his own favor. The true question is, not what either of the parties may be allowed to do, but whether this court will affirm or reverse a judgment of the Circuit Court on the merits, when it appears on the record, by a plea to the jurisdiction, that it is a case to which the judicial power of the United States does not extend. The course of the court is, where no motion is made by either party, on its own motion to reverse such a judgment for want of jurisdiction, not only in cases where it is

shown, negatively, by a plea to the jurisdiction, that jurisdiction does not exist, but even where it does not appear, affirmatively, that it does exist. (Pequignot *v.* The Pennsylvania R. R. Co., 16 How. 104.) It acts upon the principle that the judicial power of the United States must not be exerted in a case to which it does not extend, even if both parties desire to have it exerted. (Cutler *v.* Rae, 7 How. 729.) I consider, therefore, that when there was a plea to the jurisdiction of the Circuit Court in a case brought here by a writ of error, the first duty of this court is, *sua sponte*, if not moved to it by either party, to examine the sufficiency of that plea; and thus to take care that neither the Circuit Court nor this court shall use the judicial power of the United States in a case to which the Constitution and laws of the United States have not extended that power.

I proceed, therefore, to examine the plea to the jurisdiction.

I do not perceive any sound reason why it is not to be judged by the rules of the common law applicable to such pleas. It is true, where the jurisdiction of the Circuit Court depends on the citizenship of the parties, it is incumbent on the plaintiff to allege on the record the necessary citizenship; but when he has done so, the defendant must interpose a plea in abatement, the allegations whereof show that the court has not jurisdiction; and it is incumbent on him to prove the truth of his plea.

In Sheppard *v.* Graves (14 How. 27), the rules on this subject are thus stated in the opinion of the court: "That although, in the courts of the United States, it is necessary to set forth the grounds of their cognisance as courts of limited jurisdiction, yet wherever jurisdiction shall be averred in the pleadings, in conformity with the laws creating those courts, it must be taken, *prima facie*, as existing; and it is incumbent on him who would impeach that jurisdiction for causes dehors the pleading, to allege and prove such causes; that the necessity for the allegation, and the burden of sustaining it by proof, both rest upon the party taking the exception." These positions are sustained by the authorities there cited, as well as by Wickliffe *v.* Owings (14 How. 47).

When, therefore, as in this case, the necessary averments as to citizenship are made on the record, and jurisdiction is assumed to exist, and the defendant comes by a plea to the jurisdiction to displace that presumption, he occupies, in my judgment, precisely the position described in Bacon Ab., Abatement: "Abatement, in the general acceptation of the word, signifies a plea, put in by the defendant, in which he shows cause to the court why he should not be impleaded; or, if at all, not in the manner and form he now is."

This being, then, a plea in abatement, to the jurisdiction of the court, I must judge of its sufficiency by those rules of the common law applicable to such pleas.

The plea was as follows: "And the said John F. A. Sandford, in his own proper person, comes and says that this court ought not to have or take further cognisance of the action aforesaid, because he says that said cause of action, and each and every of them (if any such have accrued to the said Dred Scott), accrued to the said Dred Scott out of the jurisdiction of this court, and exclusively within the jurisdiction of the courts of the state of Missouri; for that, to wit, the said plaintiff, Dred Scott, is not a citizen of the state of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves, and this the said Sandford is ready to verify. Wherefore, he prays judgment whether this court can or will take further cognisance of the action aforesaid."

The plaintiff demurred, and the judgment of the Circuit Court was, that the plea was insufficient.

I cannot treat this plea as a general traverse of the citizenship alleged by the plaintiff. Indeed, if it were so treated, the plea was clearly bad, for it concludes with a verification, and not to the country, at a general traverse should. And though this defect in a plea in bar must be pointed out by a special demurrer, it is never necessary to demur specially to a plea in abatement; all matters, though of form only, may be taken advantage of upon a general demurrer to such a plea. (Chitty on Pl. 465.)

The truth is, that though not drawn with the utmost technical accuracy, it is a special traverse of the plaintiff's allegation of citizenship, and was a suitable and proper mode of traverse under the circumstances. By reference to Mr. Stephen's description of the uses of such a traverse, contained in his excellent analysis of pleadings (Steph. on Pl. 176), it will be seen how precisely this plea meets one of his descriptions. No doubt the defendant might have traversed, by a common or general traverse, the plaintiff's allegation that he was a citizen of the state of Missouri, concluding to the country. The issue thus presented being joined, would have involved matter of law, on which the jury must have passed, under the direction of the court. But by traversing the plaintiff's citizenship specially—that is, averring those facts on which the defendant relied to show that in point of law the plaintiff was not a citizen, and basing the traverse on those facts as a deduction therefrom—opportunity was given to do, what was done; that is, to present, directly to the court, by a demurrer, the sufficiency of those facts to negative, in point of law, the plaintiff's allegation of citizenship. This, then, being a special, and not a general or common traverse, the rule is settled, that the facts thus set out in the plea, as the reason or ground of the traverse, must of themselves constitute, in point of law, a negative of the allegation thus traversed. (Stephen on Pl. 183; Ch. on

Pl. 620.) And upon a demurrer to this plea, the question which arises is, whether the facts, that the plaintiff is a negro, of African descent, whose ancestors were of pure African blood, and were brought into this country and sold as negro slaves, *may all be true, and yet* the plaintiff be a citizen of the state of Missouri, within the meaning of the Constitution and laws of the United States, which confer on citizens of one state the right to sue citizens of another state in the Circuit Courts. Undoubtedly, if these facts, taken together, amount to an allegation that, at the time of action brought, the plaintiff was himself a slave, the plea is sufficient. It has been suggested that the plea, in legal effect, does so aver, because, if his ancestors were sold as slaves, the presumption is they continued slaves; and if so, the presumption is, the plaintiff was born a slave; and if so, the presumption is, he continued to be a slave to the time of action brought.

I cannot think such presumptions can be resorted to, to help out defective averments in pleading; especially, in pleading in abatement, where the utmost certainty and precision are required. (Chitty on Pl. 457.) That the plaintiff himself was a slave at the time of action brought, is a substantive fact, having no necessary connexion with the fact that his parents were sold as slaves. For they might have been sold after he was born; or the plaintiff himself, if once a slave, might have become a freeman before action brought. To aver that his ancestors were sold as slaves, is not equivalent, in point of law, to an averment that he was a slave. If it were, he could not even confess and avoid the averment of the slavery of his ancestors, which would be monstrous; and if it be not equivalent in point of law, it cannot be treated as amounting thereto when demurred to; for a demurrer confesses only those substantive facts which are well pleaded, and not other distinct substantive facts which might be inferred therefrom by a jury. To treat an averment that the plaintiff's ancestors were Africans, brought to this country and sold as slaves, as amounting to an averment on the record that he was a slave, because it may lay some foundation for presuming so, is to hold that the facts actually alleged may be treated as intended as evidence of another distinct fact not alleged. But it is a cardinal rule of pleading, laid down in Dowman's case (9 Rep. 9 b), and in even earlier authorities therein referred to, "that evidence shall never be pleaded, for it only tends to prove matter of fact; and therefore the matter of fact shall be pleaded." Or, as the rule is sometimes stated, pleadings must not be argumentative. (Stephen on Pleading, 384, and authorities cited by him.) In Com. Dig., Pleader E. 3, and Bac. Abridgment, Pleas I, 5, and Stephen on Pl., many decisions under this rule are collected. In trover, for an indenture whereby A granted a manor, it is no plea that A did not grant the manor, for it does not answer the declaration except by argument. (Yelv. 223.)

So in trespass for taking and carrying away the plaintiff's goods, the defendant pleaded that the plaintiff never had any goods. The court said, "this is an infallible argument that the defendant is not guilty, but it is no plea." (Dyer, a 43.)

In ejectment, the defendant pleaded a surrender of a copyhold by the hand of Fosset, the steward. The plaintiff replied, that Fosset was not steward. The court held this no issue, for it traversed the surrender only argumentatively. (Cro. Eliz. 260.)

In these cases, and many others reported in the books, the inferences from the facts stated were irresistible. But the court held they did not, when demurred to, amount to such inferable facts. In the case at bar, the inference that the defendant was a slave at the time of action brought, even if it can be made at all, from the fact that his parents were slaves, is certainly not a necessary inference. This case, therefore, is like that of Digby *v.* Alexander (8 Bing. 116). In that case, the defendant pleaded many facts strongly tending to show that he was once Earl of Stirling; but as there was no positive allegation that he was so at the time of action brought, and as every fact averred might be true, and yet the defendant not have been Earl of Stirling at the time of action brought, the plea was held to be insufficient.

A lawful seizin of land is presumed to continue. But if, in an action of trespass *quare clausum*, the defendant were to plead that he was lawfully seized of the *locus in quo*, one month before the time of the alleged trespass, I should have no doubt it would be a bad plea. (See Mollan *v.* Torrance, 9 Wheat. 537.) So if a plea to the jurisdiction, instead of alleging that the plaintiff was a citizen of the same state as the defendant, were to allege that the plaintiff's ancestors were citizens of that state, I think the plea could not be supported. My judgment would be, as it is in this case, that if the defendant meant to aver a particular substantive fact, as existing at the time of action brought, he must do it directly and explicitly, and not by way of inference from certain other averments, which are quite consistent with the contrary hypothesis. I cannot, therefore, treat this plea as containing an averment that the plaintiff himself was a slave at the time of action brought; and the inquiry recurs, whether the facts, that he is of African descent, and that his parents were once slaves, are necessarily inconsistent with his own citizenship in the state of Missouri, within the meaning of the Constitution and laws of the United States.

In Gassies *v.* Ballon (6 Pet. 761), the defendant was described on the record as a naturalized citizen of the United States, residing in Louisiana. The court held this equivalent to an averment that the defendant was a citizen of Louisiana; because a citizen of the

United States, residing in any state of the Union, is, for purposes of jurisdiction, a citizen of that state. Now, the plea to the jurisdiction in this case does not controvert the fact that the plaintiff resided in Missouri at the date of the writ. If he did then reside there, and was also a citizen of the United States, no provisions contained in the constitution or laws of Missouri can deprive the plaintiff of his right to sue citizens of states other than Missouri, in the courts of the United States.

So that, under the allegations contained in this plea, and admitted by the demurrer, the question is, whether any person of African descent, whose ancestors were sold as slaves in the United States, can be a citizen of the United States. If any such person can be a citizen, this plaintiff has the right to the judgment of the court that he is so; for no cause is shown by the plea why he is not so, except his descent and the slavery of his ancestors.

The first section of the second article of the Constitution uses the language, "a citizen of the United States at the time of the adoption of the Constitution." One mode of approaching this question is, to inquire who were citizens of the United States at the time of the adoption of the Constitution.

Citizens of the United States at the time of the adoption of the Constitution can have been no other than citizens of the United States under the Confederation. By the Articles of Confederation, a government was organized, the style whereof was, "The United States of America." This government was in existence when the Constitution was framed and proposed for adoption, and was to be superseded by the new government of the United States of America, organized under the Constitution. When, therefore, the Constitution speaks of citizenship of the United States, existing at the time of the adoption of the Constitution, it must necessarily refer to citizenship under the government which existed prior to and at the time of such adoption.

Without going into any question concerning the powers of the Confederation to govern the territory of the United States out of the limits of the states, and consequently to sustain the relation of government and citizen in respect to the inhabitants of such territory, it may safely be said that the citizens of the several states were citizens of the United States under the Confederation.

That government was simply a confederacy of the several states, possessing a few defined powers over subjects of general concern, each state retaining every power, jurisdiction, and right, not expressly delegated to the United States in Congress assembled. And no power was thus delegated to the government of the Confederation, to act on any question of citizenship, or to make any rules in respect thereto. The whole matter was left to stand upon the action of the several states, and to the natural consequence of such action, that the citizens of each state should be citizens of that Confederacy into which that state had entered, the style whereof was, "The United States of America."

To determine whether any free persons, descended from Africans held in slavery, were citizens of the United States under the Confederation, and consequently at the time of the adoption of the Constitution of the United States, it is only necessary to know whether any such persons were citizens of either of the states under the Confederation, at the time of the adoption of the Constitution.

Of this there can be no doubt. At the time of the ratification of the Articles of Confederation, all free native-born inhabitants of the states of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those states, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens.

The Supreme Court of North Carolina, in the case of The State *v.* Manuel (4 Dev. and Bat. 20), has declared the law of that state on this subject, in terms which I believe to be as sound law in the other states I have enumerated, as it was in North Carolina.

"According to the laws of this state," says Judge Gaston in delivering the opinion of the court, "all human beings within it, who are not slaves, fall within one of two classes. Whatever distinctions may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution, all free persons born within the dominions of the King of Great Britain, whatever their color or complexion, were native-born British subjects—those born out of his allegiance were aliens. Slavery did not exist in England, but it did in the British colonies. Slaves were not in legal parlance persons, but property. The moment the incapacity, the disqualification of slavery, was removed, they became persons, and were then either British subjects, or not British subjects, according as they were or were not born within the allegiance of the British king. Upon the Revolution, no other change took place in the laws of North Carolina, than was consequent on the transition from a colony dependent on a European king, to a free and sovereign state. Slaves remained slaves. British subjects in North Carolina became North Carolina freemen. Foreigners, until made members of the state, remained aliens. Slaves, manumitted here, became freemen, and therefore, if born within North Carolina, are citizens of North Carolina, and all free persons born within the state are born citizens of the state. The Constitution extended the elective franchise to every freeman who had arrived at the age of twenty-one, and paid a public tax; and it is a matter of universal notoriety, that, under it, free persons, without regard to color, claimed and exercised the franchise, until it was taken from free men of color a few years since by our amended Constitution."

In The State *v.* Newcomb (5 Iredell's R. 253), decided in 1844, the same court referred to this case of The State *v.* Manuel, and said: "That case underwent a very laborious investigation, both by the bar and the bench. The case was brought here by appeal, and was felt to be one of great importance in principle. It was considered with an anxiety and care worthy of the principle involved, and which gave it a controlling influence and authority on all questions of a similar character."

An argument from speculative premises, however well chosen, that the then state of opinion in the commonwealth of Massachusetts was not consistent with the natural rights of people of color who were born on that soil, and that they were not, by the constitution of 1780 of that state, admitted to the condition of citizens, would be received with surprise by the people of that state, who know their own political history. It is true, beyond all controversy, that persons of color, descended from African slaves, were by that constitution made citizens of the state; and such of them as have had the necessary qualifications, have held and exercised the elective franchise, as citizens, from that time to the present. (See Com. *v.* Aves, 18 Pick. R. 210.)

The constitution of New Hampshire conferred the elective franchise upon "every inhabitant of the state having the necessary qualifications," of which color or descent was not one.

The constitution of New York gave the right to vote to "every male inhabitant who shall have resided," &c.; making no discrimination between free colored persons and others. (See Con. of N. Y., Art. 2, Rev. Stats. of N. Y., vol. 1, p. 126.)

That of New Jersey, to "all inhabitants of this colony, of full age, who are worth £50 proclamation money, clear estate."

New York, by its constitution of 1820, required colored persons to have some qualifications as prerequisites for voting, which white persons need not possess. And New Jersey, by its present constitution, restricts the right to vote to white male citizens. But these changes can have no other effect upon the present inquiry, except to show, that before they were made, no such restrictions existed; and colored in common with white persons, were not only citizens of those states, but entitled to the elective franchise on the same qualifications as white persons, as they now are in New Hampshire and Massachusetts. I shall not enter into an examination of the existing opinions of that period respecting the African race, nor into any discussion concerning the meaning of those who asserted, in the Declaration of Independence, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. My own opinion is, that a calm comparison of these assertions of universal abstract truths, and of their own individual opinions and acts, would not leave these men under any reproach of inconsistency; that the great truths they asserted on that solemn occasion, they were ready and anxious to make effectual, wherever a necessary regard to circumstances, which no statesman can disregard without producing more evil than good, would allow; and that it would not be just to them, nor true in itself, to allege that they intended to say that the Creator of all men had endowed the white race, exclusively, with the great natural rights which the Declaration of Independence asserts. But this is not the place to vindicate their memory. As I conceive, we should deal here, not with such disputes, if there can be a dispute concerning this subject, but with those substantial facts evinced by the written constitutions of states, and by the notorious practice under them. And they show, in a manner which no argument can obscure, that in some of the original thirteen states, free colored persons, before and at the time of the formation of the Constitution, were citizens of those states.

The fourth of the fundamental Articles of the Confederation was as follows: "The free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all the privileges and immunities of free citizens in the several states."

The fact that free persons of color were citizens of some of the several states, and the consequence, that this fourth Article of the Confederation would have the effect to confer on such persons the privileges and immunities of general citizenship, were not only known to those who framed and adopted those articles, but the evidence is decisive, that the fourth article was intended to have that effect, and that more restricted language, which would have excluded such persons, was deliberately and purposely rejected.

On the 25th of June, 1778, the Articles of Confederation being under consideration by the Congress, the delegates from South Carolina moved to amend this fourth article, by inserting after the word "free," and before the word "inhabitants," the word "white," so that the privileges and immunities of general citizenship would be secured only to white persons. Two states voted for the amendment, eight states against it, and the vote of one state was divided. The language of the article stood unchanged, and both by its terms of inclusion, "free inhabitants," and the strong implication from its terms of exclusion, "paupers, vagabonds, and fugitives from justice," who alone were excepted, it is clear, that under the Confederation, and at the time of the adoption of the Constitution, free colored persons of African descent might be, and, by reason of their citizenship in certain states, were, entitled to the privileges and immunities of general citizenship of the United States.

Did the Constitution of the United States deprive them or their descendants of citizenship?

That Constitution was ordained and esta-

blished by the people of the United States, through the action, in each state, of those persons who were qualified by its laws to act thereon, in behalf of themselves and all other citizens of that state. In some of the states, as we have seen, colored persons were among those qualified by law to act on this subject. These colored persons were not only included in the body of "the people of the United States," by whom the Constitution was ordained and established, but in at least five of the states they had the power to act, and doubtless did act, by their suffrages, upon the question of its adoption. It would be strange, if we were to find in that instrument anything which deprived of their citizenship any part of the people of the United States who were among those by whom it was established.

I can find nothing in the Constitution which, *proprio vigore*, deprives of their citizenship any class of persons who were citizens of the United States at the time of its adoption, or who should be native-born citizens of any state after its adoption; nor any power enabling Congress to disfranchise persons born on the soil of any state, and entitled to citizenship of such state by its Constitution and laws. And my opinion is, that, under the Constitution of the United States, every free person born on the soil of a state, who is a citizen of that state by force of its Constitution or laws, is also a citizen of the United States.

I will proceed to state the grounds of that opinion.

The first section of the second article of the Constitution uses the language, "a natural-born citizen." It thus assumes that citizenship may be acquired by birth. Undoubtedly, this language of the Constitution was used in reference to that principle of public law, well understood in this country at the time of the adoption of the Constitution, which referred citizenship to the place of birth. At the Declaration of Independence, and ever since, the received general doctrine has been, in conformity with the common law, that free persons born within either of the colonies were subjects of the king; that by the Declaration of Independence, and the consequent acquisition of sovereignty by the several states, all such persons ceased to be subjects, and became citizens of the several states, except so far as some of them were disfranchised by the legislative power of the states, or availed themselves, seasonably, of the right to adhere to the British Crown in the civil contest, and thus to continue British subjects. (McIlvain *v.* Coxe's Lessee, 4 Cranch, 209; Inglis *v.* Sailors' Snug Harbor, 3 Peters, p. 99; Shanks *v.* Dupont, Ibid. p. 242.)

The Constitution having recognised the rule that persons born within the several states are citizens of the United States, one of four things must be true:—

First. That the Constitution itself has described what native-born persons shall or shall not be citizens of the United States; or,

Second. That it has empowered Congress to do so; or,

Third. That all free persons, born within the several states, are citizens of the United States; or,

Fourth. That it is left to each state to determine what free persons, born within its limits, shall be citizens of such state, and *thereby* be citizens of the United States.

If there be such a thing as citizenship of the United States acquired by birth within the states, which the Constitution expressly recognises, and no one denies, then these four alternatives embrace the entire subject, and it only remains to select that one which is true.

That the Constitution itself has defined citizenship of the United States by declaring what persons, born within the several states, shall or shall not be citizens of the United States, will not be pretended. It contains no such declaration. We may dismiss the first alternative, as without doubt unfounded.

Has it empowered Congress to enact what free persons, born within the several states, shall or shall not be citizens of the United States?

Before examining the various provisions of the Constitution which may relate to this question, it is important to consider for a moment the substantial nature of this inquiry. It is, in effect, whether the Constitution has empowered Congress to create privileged classes within the states, who alone can be entitled to the franchises and powers of citizenship of the United States. If it be admitted that the Constitution has enabled Congress to declare what free persons, born within the several states, shall be citizens of the United States, it must at the same time be admitted that it is an unlimited power. If this subject is within the control of Congress, it must depend wholly on its discretion. For, certainly, no limits of that discretion can be found in the Constitution, which is wholly silent concerning it; and the necessary consequence is, that the federal government may select classes of persons within the several states who alone can be entitled to the political privileges of citizenship of the United States. If this power exists, what persons born within the states may be President or Vice President of the United States, or members of either House of Congress, or hold any office or enjoy any privilege whereof citizenship of the United States is a necessary qualification, must depend solely on the will of Congress. By virtue of it, though Congress can grant no title of nobility, they may create an oligarchy, in whose hands would be concentrated the entire power of the federal government.

It is a substantive power, distinct in its nature from all others; capable of affecting not only the relations of the states to the general government, but of controlling the political condition of the people of the United States. Certainly we ought to find this power granted by the Constitution, at least by some necessary inference, before we can say it does not remain

to the states or the people. I proceed therefore to examine all the provisions of the Constitution which may have some bearing on this subject.

Among the powers expressly granted to Congress is "the power to establish a uniform rule of naturalization." It is not doubted that this is a power to prescribe a rule for the removal of the disabilities consequent on foreign birth. To hold that it extends further than this, would do violence to the meaning of the term naturalization, fixed in the common law (Co. Lit. 8 a, 129 a; 2 Ves. sen. 286; 2 Bl. Com. 293), and in the minds of those who concurred in framing and adopting the Constitution. It was in this sense of conferring on an alien and his issue the rights and powers of a native-born citizen, that it was employed in the Declaration of Independence. It was in this sense it was expounded in the Federalist (No. 42), has been understood by Congress, by the judiciary (2 Wheat. 259, 269; 3 Wash. R. 313, 322; 12 Wheat. 277), and by commentators on the Constitution. (3 Story's Com. on Con. 1–3; 1 Rawle on Con. 84–88; 1 Tucker's Bl. Com. App. 255–259.)

It appears, then, that the only power expressly granted to Congress to legislate concerning citizenship, is confined to the removal of the disabilities of foreign birth.

Whether there be anything in the Constitution from which a broader power may be implied, will best be seen when we come to examine the two other alternatives, which are, whether all free persons, born on the soil of the several states, or only such of them as may be citizens of each state, respectively, are thereby citizens of the United States. The last of these alternatives, in my judgment, contains the truth.

Undoubtedly, as has already been said, it is a principle of public law, recognised by the Constitution itself, that birth on the soil of a country both creates the duties and confers the rights of citizenship. But it must be remembered, that though the Constitution was to form a government, and under it the United States of America were to be one united sovereign nation, to which loyalty and obedience on the one side, and from which protection and privileges on the other, would be due, yet the several sovereign states, whose people were then citizens, were not only to continue in existence, but with powers unimpaired, except so far as they were granted by the people to the national government.

Among the powers unquestionably possessed by the several states, was that of determining what persons should and what persons should not be citizens. It was practicable to confer on the government of the Union this entire power. It embraced what may, well enough for the purpose now in view, be divided into three parts. *First:* The power to remove the disabilities of alienage, either by special acts in reference to each individual case, or by establishing a rule of naturalization to be administered and applied by the courts. *Second:* Determining what persons should enjoy the privileges of citizenship, in respect to the internal affairs of the several states. *Third:* What native born persons should be citizens of the United States.

The first-named power, that of establishing a uniform rule of naturalization, was granted; and here the grant, according to its terms, stopped. Construing a Constitution containing only limited and defined powers of government, the argument derived from this definite and restricted power to establish a rule of naturalization, must be admitted to be exceedingly strong. I do not say it is necessarily decisive. It might be controlled by other parts of the Constitution. But when this particular subject of citizenship was under consideration, and, in the clause specially intended to define the extent of power concerning it, we find a particular part of this entire power separated from the residue, and conferred on the general government, there arises a strong presumption that this is all which is granted, and that the residue is left to the states and to the people. And this presumption is, in my opinion, converted into a certainty, by an examination of all such other clauses of the Constitution as touch this subject.

I will examine each which can have any possible bearing on this question.

The first clause of the second section of the third article of the Constitution is, "The judicial power shall extend to controversies between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states; and between states, or the citizens thereof, and foreign states, citizens, or subjects." I do not think this clause has any considerable bearing upon the particular inquiry now under consideration. Its purpose was, to extend the judicial power to those controversies into which local feelings or interests might so enter as to disturb the course of justice, or give rise to suspicions that they had done so, and thus possibly give occasion to jealousy or ill will between different states, or a particular state and a foreign nation. At the same time, I would remark, in passing, that it has never been held, I do not know that it has ever been supposed, that any citizen of a state could bring himself under this clause and the eleventh and twelfth sections of the judiciary act of 1789, passed in pursuance of it, who was not a citizen of the United States. But I have referred to the clause, only because it is one of the places where citizenship is mentioned by the Constitution. Whether it is entitled to any weight in this inquiry or not, it refers only to citizenship of the several states; it recognises that; but it does not recognise citizenship of the United States as something distinct therefrom.

As has been said, the purpose of this clause did not necessarily connect it with citizens

of the United States, even if that were something distinct from citizenship of the several states, in the contemplation of the Constitution. This cannot be said of other clauses of the Constitution, which I now proceed to refer to.

"The citizens of each state shall be entitled to all the privileges and immunities of citizens of the several states." Nowhere else in the Constitution is there anything concerning a general citizenship; but here, privileges and immunities to be enjoyed throughout the United States, under and by force of the national compact, are granted and secured. In selecting those who are to enjoy these national rights of citizenship, how are they described? As citizens of each state. It is to them these national rights are secured. The qualification for them is not to be looked for in any provision of the Constitution or laws of the United States. They are to be citizens of the several states, and, as such, the privileges and immunities of general citizenship, derived from and guarantied by the Constitution, are to be enjoyed by them. It would seem that if it had been intended to constitute a class of native born persons within the states, who should derive their citizenship of the United States from the action of the Federal Government, this was an occasion for referring to them. It cannot be supposed that it was the purpose of this article to confer the privileges and immunities of citizens in all the states upon persons not citizens of the United States.

And if it was intended to secure these rights only to citizens of the United States, how has the Constitution here described such persons? Simply as citizens of each state.

But, further: though, as I shall presently more fully state, I do not think the enjoyment of the elective franchise essential to citizenship, there can be no doubt it is one of the chiefest attributes of citizenship under the American constitutions; and the just and constitutional possession of this right is decisive evidence of citizenship. The provisions made by a constitution on this subject must therefore be looked to as bearing directly on the question what persons are citizens under that constitution; and as being decisive, to this extent, that all such persons as are allowed by the Constitution to exercise the elective franchise, and thus to participate in the government of the United States, must be deemed citizens of the United States.

Here, again, the consideration presses itself upon us, that if there was designed to be a particular class of native born persons within the states, deriving their citizenship from the Constitution and laws of the United States, they should at least have been referred to as those by whom the President and House of Representatives were to be elected, and to whom they should be responsible.

Instead of that, we again find this subject referred to the laws of the several states. The electors of President are to be appointed in such manner as the legislature of each state may direct, and the qualifications of electors of members of the House of Representatives shall be the same as for electors of the most numerous branch of the state legislature.

Laying aside, then, the case of aliens, concerning which the Constitution of the United States has provided, and confining our view to free persons born within the several states, we find that the Constitution has recognised the general principle of public law, that allegiance and citizenship depend on the place of birth; that it has not attempted practically to apply this principle by designating the particular classes of persons who should or should not come under it; that when we turn to the Constitution for an answer to the question, what free persons, born within the several states, are citizens of the United States, the only answer we can receive from any of its express provisions is, the citizens of the several states are to enjoy the privileges and immunities of citizens in every state, and their franchise as electors under the Constitution depends on their citizenship in the several states. Add to this, that the Constitution was ordained by the citizens of the several states; that they were "the people of the United States," for whom and whose posterity the government was declared in the preamble of the Constitution to be made; that each of them was "a citizen of the United States at the time of the adoption of the Constitution," within the meaning of those words in that instrument; that by them the government was to be and was in fact organized; and that no power is conferred on the government of the Union to discriminate between them, or to disfranchise any of them—the necessary conclusion is, that those persons born within the several states, who, by force of their respective constitutions and laws, are citizens of the state, are thereby citizens of the United States.

It may be proper here to notice some supposed objections to this view of the subject.

It has been often asserted that the Constitution was made exclusively by and for the white race. It has already been shown that in five of the thirteen original states, colored persons then possessed the elective franchise, and were among those by whom the Constitution was ordained and established. If so, it is not true, in point of fact, that the Constitution was made exclusively by the white race. And that it was made exclusively for the white race is, in my opinion, not only an assumption not warranted by anything in the Constitution, but contradicted by its opening declaration, that it was ordained and established by the people of the United States, for themselves and their posterity. And as free colored persons were then citizens of at least five states, and so in every sense part of the people of the United States, they were among those for whom and whose posterity the Constitution was ordained and established.

Again, it has been objected that if the Constitution has left to the several states the rightful power to determine who of their in-

habitants shall be citizens of the United States, the states may make aliens citizens.

The answer is obvious. The Constitution has left to the states the determination what persons, born within their respective limits, shall acquire by birth citizenship of the United States; it has not left to them any power to prescribe any rule for the removal of the disabilities of alienage. This power is exclusively in Congress.

It has been further objected, that if free colored persons, born within a particular state, and made citizens of that state by its constitution and laws, are thereby made citizens of the United States, then, under the second section of the fourth article of the Constitution, such persons would be entitled to all the privileges and immunities of citizens in the several states; and if so, then colored persons could vote, and be eligible to not only federal offices, but offices even in those states whose constitutions and laws disqualify colored persons from voting or being elected to office.

But this position rests upon an assumption which I deem untenable. Its basis is, that no one can be deemed a citizen of the United States who is not entitled to enjoy all the privileges and franchises which are conferred on any citizen. (See 1 Lit. Kentucky R. 326.) That this is not true, under the Constitution of the United States, seems to me clear.

A naturalized citizen cannot be President of the United States, nor a Senator till after the lapse of nine years, nor a Representative till after the lapse of seven years, from his naturalization. Yet, as soon as naturalized, he is certainly a citizen of the United States. Nor is any inhabitant of the District of Columbia, or of either of the territories, eligible to the office of Senator or Representative in Congress, though they may be citizens of the United States. So, in all the states, numerous persons, though citizens, cannot vote, or cannot hold office, either on account of their age, or sex, or the want of the necessary legal qualifications. The truth is, that citizenship, under the Constitution of the United States, is not dependent on the possession of any particular political or even of all civil rights; and any attempt so to define it must lead to error. To what citizens the elective franchise shall be confided, is a question to be determined by each state, in accordance with its own views of the necessities or expediencies of its condition. What civil rights shall be enjoyed by its citizens, and whether all shall enjoy the same, or how they may be gained or lost, are to be determined in the same way.

One may confine the right of suffrage to white male citizens; another may extend it to colored persons and females; one may allow all persons above a prescribed age to convey property and transact business; another may exclude married women. But whether native-born women, or persons under age, or under guardianship because insane or spendthrifts, be excluded from voting or holding office, or allowed to do so, I apprehend no one will deny that they are citizens of the United States. Besides, this clause of the Constitution does not confer on the citizens of one state, in all other states, specific and enumerated privileges and immunities. They are entitled to such as belong to citizenship, but not to such as belong to particular citizens attended by other qualifications. Privileges and immunities which belong to certain citizens of a state, by reason of the operation of causes other than mere citizenship, are not conferred. Thus, if the laws of a state require, in addition to citizenship of the state, some qualification for office, or the exercise of the elective franchise, citizens of all other states, coming thither to reside, and not possessing those qualifications, cannot enjoy those privileges, not because they are not to be deemed entitled to the privileges of citizens of the state in which they reside, but because they, in common with the native-born citizens of that state, must have the qualifications prescribed by law for the enjoyment of such privileges, under its constitution and laws. It rests with the states themselves so to frame their constitutions and laws as not to attach a particular privilege or immunity to mere naked citizenship. If one of the states will not deny to any of its own citizens a particular privilege or immunity, if it confer it on all of them by reason of mere naked citizenship, then it may be claimed by every citizen of each state by force of the Constitution; and it must be borne in mind, that the difficulties which attend the allowance of the claims of colored persons to be citizens of the United States are not avoided by saying that, though each state may make them its citizens, they are not thereby made citizens of the United States, because the privileges of general citizenship are secured to the citizens of each state. The language of the Constitution is, "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." If each state may make such persons its citizens, they become, as such, entitled to the benefits of this article, if there be a native-born citizenship of the United States distinct from a native-born citizenship of the several states.

There is one view of this article entitled to consideration in this connexion. It is manifestly copied from the fourth of the Articles of Confederation, with only slight changes of phraseology, which render its meaning more precise, and dropping the clause which excluded paupers, vagabonds, and fugitives from justice, probably because these cases could be dealt with under the police powers of the states, and a special provision therefore was not necessary. It has been suggested, that in adopting it into the Constitution, the words "free inhabitants" were changed for the word "citizens." An examination of the forms of expression commonly used in the state papers of that day, and an attention to the substance of this article of the Confedera-

tion, will show that the words "free inhabitants," as then used, were synonymous with citizens. When the Articles of Confederation were adopted, we were in the midst of the war of the Revolution, and there were very few persons then embraced in the words "free inhabitants," who were not born on our soil. It was not a time when many, save the children of the soil, were willing to embark their fortunes in our cause; and though there might be an inaccuracy in the uses of words to call free inhabitants citizens, it was then a technical rather than a substantial difference. If we look into the constitutions and state papers of that period, we find the inhabitants or people of these colonies, or the inhabitants of this state, or commonwealth, employed to designate those whom we should now denominate citizens. The substance and purpose of the article prove it was in this sense it used these words: it secures to the free inhabitants of each state the privileges and immunities of free citizens in every state. It is not conceivable that the states should have agreed to extend the privileges of citizenship to persons not entitled to enjoy the privileges of citizens in the states where they dwelt; that under this article there was a class of persons in some of the states, not citizens, to whom were secured all the privileges and immunities of citizens when they went into other states; and the just conclusion is, that though the Constitution cured an inaccuracy of language, it left the substance of this article in the National Constitution the same as it was in the Articles of Confederation.

The history of this fourth article, respecting the attempt to exclude free persons of color from its operation, has been already stated. It is reasonable to conclude that this history was known to those who framed and adopted the Constitution. That under this fourth article of the Confederation, free persons of color might be entitled to the privileges of general citizenship, if otherwise entitled thereto, is clear. When this article was, in substance, placed in and made part of the Constitution of the United States, with no change in its language calculated to exclude free colored persons from the benefit of its provisions, the presumption is, to say the least, strong, that the practical effect which it was designed to have, and did have, under the former government, it was designed to have, and should have, under the new government.

It may be further objected, that if free colored persons may be citizens of the United States, it depends only on the will of a master whether he will emancipate his slave, and thereby make him a citizen. Not so. The master is subject to the will of the state. Whether he shall be allowed to emancipate his slave at all; if so, on what conditions; and what is to be the political *status* of the freed man, depend, not on the will of the master, but on the will of the state, upon which the political *status* of all its native-born inhabitants depends. Under the Constitution of the United States, each state has retained this power of determining the political *status* of its native-born inhabitants, and no exception thereto can be found in the Constitution. And if a master in a slaveholding state should carry his slave into a free state, and there emancipate him, he would not thereby make him a native-born citizen of that state, and consequently no privileges could be claimed by such emancipated slave as a citizen of the United States. For, whatever powers the states may exercise to confer privileges of citizenship on persons not born on their soil, the Constitution of the United States does not recognise such citizens. As has already been said, it recognises the great principle of public law, that allegiance and citizenship spring from the place of birth. It leaves to the states the application of that principle to individual cases. It secured to the citizens of each state the privileges and immunities of citizens in every other state. But it does not allow to the states the power to make aliens citizens, or permit one state to take persons born on the soil of another state, and, contrary to the laws and policy of the state where they were born, make them its citizens, and so citizens of the United States. No such deviation from the great rule of public law was contemplated by the Constitution; and when any such attempt shall be actually made, it is to be met by applying to it those rules of law and those principles of good faith which will be sufficient to decide it, and not, in my judgment, by denying that all the free native-born inhabitants of a state, who are its citizens under its constitution and laws, are also citizens of the United States.

It has sometimes been urged that colored persons are shown not to be citizens of the United States by the fact that the naturalization laws apply only to white persons. But whether a person born in the United States be or be not a citizen, cannot depend on laws which refer only to aliens, and do not affect the *status* of persons born in the United States. The utmost effect which can be attributed to them is, to show that Congress has not deemed it expedient generally to apply the rule to colored aliens. That they might do so, if thought fit, is clear. The Constitution has not excluded them. And since that has conferred the power on Congress to naturalize colored aliens, it certainly shows color is not a necessary qualification for citizenship under the Constitution of the United States. It may be added, that the power to make colored persons citizens of the United States, under the Constitution, has been actually exercised in repeated and important instances. (See the Treaties with the Choctaws, of September 27, 1830, art. 14; with the Cherokees, of May 23, 1836, art. 12; Treaty of Guadalupe Hidalgo, February 2, 1848, art. 8.)

I do not deem it necessary to review at length the legislation of Congress having more or less bearing on the citizenship of colored persons. It does not seem to me to have any

considerable tendency to prove that it has been considered by the legislative department of the government, that no such persons are citizens of the United States. Undoubtedly they have been debarred from the exercise of particular rights or privileges extended to white persons, but I believe, always in terms which, by implication, admit they may be citizens. Thus the act of May 17, 1792, for the organization of the militia, directs the enrolment of "every free, able-bodied, white male citizen." An assumption that none but white persons are citizens, would be as inconsistent with the just import of this language, as that all citizens are able-bodied, or males.

So the act of February 28, 1803 (2 Stat. at Large, 205), to prevent the importation of certain persons into states, when by the laws thereof their admission is prohibited, in its first section forbids all masters of vessels to import or bring "any negro, mulatto, or other person of color, not being a native, *a citizen*, or registered seaman of the United States," &c.

The acts of March 3, 1813, section 1 (2 Stat. at Large, 809), and March 1, 1817, section 3 (3 Stat. at Large, 351), concerning seamen, certainly imply there may be persons of color, natives of the United States, who are not citizens of the United States. This implication is undoubtedly in accordance with the fact. For not only slaves, but free persons of color, born in some of the states, are not citizens. But there is nothing in these laws inconsistent with the citizenship of persons of color in others of the states, nor with their being citizens of the United States.

Whether much or little weight should be attached to the particular phraseology of these and other laws, which were not passed with any direct reference to this subject, I consider their tendency to be, as already indicated, to show that, in the apprehension of their framers, color was not a necessary qualification of citizenship. It would be strange, if laws were found on our statute book to that effect, when, by solemn treaties, large bodies of Mexican and North American Indians as well as free colored inhabitants of Louisiana have been admitted to citizenship of the United States.

In the legislative debates which preceded the admission of the state of Missouri into the Union, this question was agitated. Its result is found in the resolution of Congress, of March 5, 1821, for the admission of that state into the Union. The constitution of Missouri, under which that state applied for admission into the Union, provided, that it should be the duty of the legislature "to pass laws to prevent free negroes and mulattoes from coming to and settling in the state, under any pretext whatever." One ground of objection to the admission of the state under this constitution was, that it would require the legislature to exclude free persons of color, who would be entitled, under the second section of the fourth article of the Constitution, not only to come within the state, but to enjoy there the privileges and immunities of citizens. The resolution of Congress admitting the state was upon the fundamental condition, "that the constitution of Missouri shall never be construed to authorize the passage of any law and that no law shall be passed in conformity thereto, by which any citizen of either of the states of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States." It is true, that neither this legislative declaration, nor anything in the constitution or laws of Missouri, could confer or take away any privilege or immunity granted by the Constitution. But it is also true, that it expresses the then conviction of the legislative power of the United States, that free negroes, as citizens of some of the states, might be entitled to the privileges and immunities of citizens in all the states.

The conclusions at which I have arrived on this part of the case are:—

First. That the free native-born citizens of each state are citizens of the United States.

Second. That as free colored persons born within some of the states are citizens of those states, such persons are also citizens of the United States.

Third. That every such citizen, residing in any state, has the right to sue and is liable to be sued in the federal courts, as a citizen of that state in which he resides.

Fourth. That as the plea to the jurisdiction in this case shows no facts, except that the plaintiff was of African descent, and his ancestors were sold as slaves, and as these facts are not inconsistent with his citizenship of the United States, and his residence in the state of Missouri, the plea to the jurisdiction was bad, and the judgment of the Circuit Court overruling it was correct.

I dissent, therefore, from that part of the opinion of the majority of the court, in which it is held that a person of African descent cannot be a citizen of the United States; and I regret I must go further, and dissent both from what I deem their assumption of authority to examine the constitutionality of the act of Congress commonly called the Missouri compromise act, and the grounds and conclusions announced in their opinion.

Having first decided that they were bound to consider the sufficiency of the plea to the jurisdiction of the Circuit Court, and having decided that this plea showed that the Circuit Court had not jurisdiction, and consequently that this is a case to which the judicial power of the United States does not extend, they have gone on to examine the merits of the case as they appeared on the trial before the court and jury, on the issues joined on the pleas in bar, and so have reached the question of the power of Congress to pass the act of 1820. On so grave a subject as this, I feel obliged to say that, in my opinion, such an exertion of judicial power transcends the limits of the

authority of the court, as described by its repeated decisions, and, as I understand, acknowledged in this opinion of the majority of the court.

In the course of that opinion, it became necessary to comment on the case of Legrand *v.* Darnall (reported in 2 Peters's R. 664). In that case, a bill was filed, by one alleged to be a citizen of Maryland, against one alleged to be a citizen of Pennsylvania. The bill stated that the defendant was the son of a white man by one of his slaves; and that the defendant's father devised to him certain lands, the title to which was put in controversy by the bill. These facts were admitted in the answer, and upon these and other facts the court made its decree, founded on the principle that a devise of land by a master to a slave was by implication also a bequest of his freedom. The facts that the defendant was of African descent, and was born a slave, were not only before the court, but entered into the entire substance of its inquiries. The opinion of the majority of my brethren in this case disposes of the case of Legrand *v.* Darnall, by saying, among other things, that as the fact that the defendant was born a slave only came before this court on the bill and answer, it was then too late to raise the question of the personal disability of the party, and therefore that decision is altogether inapplicable in this case.

In this I concur. Since the decision of this court in Livingston *v.* Story (11 Pet. 351), the law has been settled, that when the declaration or bill contains the necessary averments of citizenship, this court cannot look at the record, to see whether those averments are true, except so far as they are put in issue by a plea to the jurisdiction. In this case, the defendant denied by his answer that Mr. Livingston was a citizen of New York, as he had alleged in the bill. Both parties went into proofs. The court refused to examine those proofs, with reference to the personal disability of the plaintiff. This is the settled law of the court, affirmed so lately as Shepherd *v.* Graves (14 How. 27), and Wickliff *v.* Owings, (17 How. 51). (See also De Wolf *v.* Rabaud, 1 Pet. 476.) But I do not understand this to be a rule which the court may depart from at its pleasure. If it be a rule, it is as binding on the court as on the suitors. If it removes from the latter the power to take any objection to the personal disability of a party alleged by the record to be competent, which is not shown by a plea to the jurisdiction, it is because the court are forbidden by law to consider and decide on objections so taken. I do not consider it to be within the scope of the judicial power of the majority of the court to pass upon any question respecting the plaintiff's citizenship in Missouri, save that raised by the plea to the jurisdiction; and I do not hold any opinion of this court, or any court, binding, when expressed on a question not legitimately before it. (Carroll *v.* Carroll, 16 How. 275.) The judgment of this court is, that the case is to be dismissed for want of jurisdiction, because the plaintiff was not a citizen of Missouri, as he alleged in his declaration. Into that judgment, according to the settled course of this court, nothing appearing after a plea to the merits can enter. A great question of constitutional law, deeply affecting the peace and welfare of the country, is not, in my opinion, a fit subject to be thus reached.

But as, in my opinion, the Circuit Court had jurisdiction, I am obliged to consider the question whether its judgment on the merits of the case should stand or be reversed.

The residence of the plaintiff in the state of Illinois, and the residence of himself and his wife in the territory acquired from France lying north of latitude thirty-six degrees thirty minutes, and north of the state of Missouri, are each relied on by the plaintiff in error. As the residence in the territory affects the plaintiff's wife and children as well as himself, I must inquire what was its effect.

The general question may be stated to be, whether the plaintiff's *status*, as a slave, was so changed by his residence within that territory, that he was not a slave in the state of Missouri, at the time this action was brought.

In such cases, two inquiries arise, which may be confounded, but should be kept distinct.

The first is, what was the law of the territory into which the master and slave went, respecting the relation between them?

The second is, whether the state of Missouri recognises and allows the effect of that law of the territory, on the *status* of the slave, on his return within its jurisdiction.

As to the first of these questions, the will of states and nations, by whose municipal law slavery is not recognised, has been manifested in three different ways.

One is, absolutely to dissolve the relation, and terminate the rights of the master existing under the law of the country whence the parties came. This is said by Lord Stowell, in the case of the slave Grace (2 Hag. Ad. R. 94), and by the Supreme Court of Louisiana in the case of Maria Louise *v.* Marot (9 Louis. R. 473), to be the law of France; and it has been the law of several states of this Union, in respect to slaves introduced under certain conditions. (Wilson *v.* Isabel, 5 Call's R. 430; Hunter *v.* Hulcher, 1 Leigh, 172; Stewart *v.* Oaks, 5 Har. and John. 107.)

The second is, where, the municipal law of a country not recognising slavery, it is the will of the state to refuse the master all aid to exercise any control over his slave; and if he attempt to do so, in a manner justifiable only by that relation, to prevent the exercise of that control. But no law exists, designed to operate directly on the relation of master and slave, and put an end to that relation. This is said by Lord Stowell, in the case above mentioned, to be the law of England, and by Mr. Chief Justice Shaw, in the case of the Commonwealth *v.* Aves (18 Pick. 193), to be the law of Massachusetts.

The third is, to make a distinction between

the case of a master and his slave only temporarily in the country *animo non manendi*, and those who are there to reside for permanent or indefinite purposes. This is said by Mr. Wheaton to be the law of Prussia, and was formerly the statute law of several states of our Union. It is necessary in this case to keep in view this distinction between those countries whose laws are designed to act directly on the *status* of a slave, and make him a freeman, and those where his master can obtain no aid from the laws to enforce his rights.

It is to the last case only that the authorities, out of Missouri, relied on by defendant, apply, when the residence in the non-slaveholding territory was permanent. In the Commonwealth *v.* Aves (18 Pick. 218), Mr. Chief Justice Shaw said: "From the principle above stated, on which a slave brought here becomes free, to wit: that he becomes entitled to the protection of our laws, it would seem to follow, as a necessary conclusion, that if the slave waives the protection of those laws, and returns to the state where he is held as a slave, his condition is not changed." It was upon this ground, as is apparent from his whole reasoning, that Sir William Scott rests his opinion in the case of the slave Grace. To use one of his expressions, the effect of the law of England was to put the liberty of the slave into a parenthesis. If there had been an act of Parliament declaring that a slave coming to England with his master should thereby be deemed no longer to be a slave, it is easy to see that the learned judge could not have arrived at the same conclusion. This distinction is very clearly stated and shown by President Tucker, in his opinion in the case of Betty *v.* Horton (5 Leigh's Virginia R. 615). (See also Hunter *v.* Fletcher, 1 Leigh's Va. R. 172; Maria Louise *v.* Marot, 9 Louisiana R.; Smith *v.* Smith, 13 Ib. 441; Thomas *v.* Genevieve, 16 Ib. 483; Rankin *v.* Lydia, 2 A. K. Marshall, 467; Davies *v.* Tingle, 8 B. Munroe, 539; Griffeth *v.* Fanny, Gilm. V. R. 143; Lumford *v.* Coquillon, 14 Martin's La. R. 405; Josephine *v.* Poultney, 1 Louis. Ann. R. 329.)

But if the acts of Congress on this subject are valid, the law of the territory of Wisconsin, within whose limits the residence of the plaintiff and his wife, and their marriage and the birth of one or both of their children, took place, falls under the first category, and is a law operating directly on the *status* of the slave. By the eighth section of the act of March 6, 1820 (3 Stat. at Large, 548), it was enacted that, within this territory, "slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, for ever prohibited: *Provided, always*, that any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory in the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid."

By the act of April 20, 1836 (4 Stat. at Large, 10), passed in the same month and year of the removal of the plaintiff to Fort Snelling, this part of the territory ceded by France, where Fort Snelling is, together with so much of the territory of the United States east of the Mississippi as now constitutes the state of Wisconsin, was brought under a territorial government, under the name of the Territory of Wisconsin. By the eighteenth section of this act, it was enacted, "That the inhabitants of this territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages, granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, passed on the 13th day of July, 1787; and shall be subject to all the restrictions and prohibitions in said articles of compact imposed upon the people of the said territory." The sixth article of that compact is, "there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted. *Provided, always*, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid." By other provisions of this act establishing the territory of Wisconsin, the laws of the United States, and the then existing laws of the state of Michigan, are extended over the territory; the latter being subject to alteration and repeal by the legislative power of the territory created by the act.

Fort Snelling was within the territory of Wisconsin, and these laws were extended over it. The Indian title to that site for a military post had been acquired from the Sioux nation as early as September 23, 1805 (Am. State Papers, Indian Affairs, vol. 1, p. 744), and until the erection of the territorial government, the persons at that post were governed by the rules and articles of war, and such laws of the United States, including the eighth section of the act of March 6, 1820, prohibiting slavery, as were applicable to their condition; but after the erection of the territory, and the extension of the laws of the United States and the laws of Michigan over the whole of the territory, including this military post, the persons residing there were under the dominion of those laws in all particulars to which the rules and articles of war did not apply.

It thus appears that, by these acts of Congress, not only was a general system of municipal law borrowed from the state of Michigan, which did not tolerate slavery, but it was positively enacted that slavery and involuntary servitude, with only one exception, specifically described, should not exist there. It

is not simply that slavery is not recognised and cannot be aided by the municipal law. It is recognised for the purpose of being absolutely prohibited, and declared incapable of existing within the territory, save in the instance of a fugitive slave.

It would not be easy for the legislature to employ more explicit language to signify its will that the *status* of slavery should not exist within the territory, than the words found in the act of 1820, and in the ordinance of 1787; and if any doubt could exist concerning their application to cases of masters coming into the territory with their slaves to reside, that doubt must yield to the inference required by the words of exception. That exception is, of cases of fugitive slaves. An exception from a prohibition marks the extent of the prohibition; for it would be absurd, as well as useless, to except from a prohibition a case not contained within it. (9 Wheat. 200.) I must conclude, therefore, that it was the will of Congress that the state of involuntary servitude of a slave, coming into the territory with his master, should cease to exist. The Supreme Court of Missouri so held in Rachel *v.* Walker (4 Misso. R. 350), which was the case of a military officer going into the territory with two slaves.

But it is a distinct question whether the law of Missouri recognised and allowed effect to the change wrought in the *status* of the plaintiff, by force of the laws of the territory of Wisconsin.

I say the law of Missouri, because a judicial tribunal, in one state or nation, can recognise personal rights acquired by force of the law of any other state or nation, only so far as it is the law of the former state that those rights should be recognised. But, in the absence of positive law to the contrary, the will of every civilized state must be presumed to be to allow such effect to foreign laws as is in accordance with the settled rules of international law. And legal tribunals are bound to act on this presumption. It may be assumed that the motive of the state in allowing such operation to foreign laws is what has been termed comity But, as has justly been said (per Chief Justice Taney, 13 Pet. 589), it is the comity of the state, not of the court. The judges have nothing to do with the motive of the state. Their duty is simply to ascertain and give effect to its will. And when it is found by them that its will to depart from a rule of international law has not been manifested by the state, they are bound to assume that its will is to give effect to it. Undoubtedly, every sovereign state may refuse to recognise a change, wrought by the law of a foreign state, on the *status* of a person, while within such foreign state, even in cases where the rules of international law require that recognition. Its will to refuse such recognition may be manifested by what we term statute law, or by the customary law of the state. It is within the province of its judicial tribunals to inquire and adjudge whether it appears, from the statute or customary law of the state, to be the will of the state to refuse to recognise such changes of *status* by force of foreign law, as the rules of the law of nations require to be recognised. But, in my opinion, it is not within the province of any judicial tribunal to refuse such recognition from any political considerations, or any view it may take of the exterior political relations between the state and one or more foreign states, or any impressions it may have that a change of foreign opinion and action on the subject of slavery may afford a reason why the state should change its own action. To understand and give just effect to such considerations, and to change the action of the state in consequence of them, are functions of diplomatists and legislators, not of judges.

The inquiry to be made on this part of the case is, therefore, whether the state of Missouri has, by its statute, or its customary law, manifested its will to displace any rule of international law, applicable to a change of the *status* of a slave, by foreign law.

I have not heard it suggested that there was any statute of the state of Missouri bearing on this question. The customary law of Missouri is the common law, introduced by statute in 1816. (1 Ter. Laws, 436.) And the common law, as Blackstone says (4 Com. 67), adopts, in its full extent, the law of nations, and holds it to be a part of the law of the land.

I know of no sufficient warrant for declaring that any rule of international law, concerning the recognition, in that state, of a change of *status*, wrought by an extra-territorial law, has been displaced or varied by the will of the state of Missouri.

I proceed then to inquire what the rules of international law prescribe concerning the change of *status* of the plaintiff wrought by the law of the territory of Wisconsin.

It is generally agreed by writers upon international law, and the rule has been judicially applied in a great number of cases, that wherever any question may arise concerning the *status* of a person, it must be determined according to that law which has next previously rightfully operated on and fixed that *status*. And, further, that the laws of a country do not rightfully operate upon and fix the *status* of persons who are within its limits *in itinere*, or who are abiding there for definite temporary purposes, as for health, curiosity, or occasional business; that these laws, known to writers on public and private international law as personal statutes, operate only on the inhabitants of the country. Not that it is or can be denied that each independent nation may, if it thinks fit, apply them to all persons within their limits. But when this is done, not in conformity with the principles of international law, other states are not understood to be willing to recognise or allow effect to such applications of personal statutes.

It becomes necessary, therefore, to inquire whether the operation of the laws of the ter-

ritory of Wisconsin upon the *status* of the plaintiff was or was not such an operation as these principles of international law require other states to recognise and allow effect to.

And this renders it needful to attend to the particular facts and circumstances of this case.

It appears that this case came on for trial before the Circuit Court and a jury, upon an issue, in substance, whether the plaintiff, together with his wife and children, were the slaves of the defendant.

The court instructed the jury that, "upon the facts in this case, the law is with the defendant." This withdrew from the jury the consideration and decision of every matter of fact. The evidence in the case consisted of written admissions, signed by the counsel of the parties. If the case had been submitted to the judgment of the court, upon an agreed statement of facts, entered of record, in place of a special verdict, it would have been necessary for the court below, and for this court, to pronounce its judgment solely on those facts, thus agreed, without inferring any other facts therefrom. By the rules of the common law applicable to such a case, and by force of the seventh article of the amendments of the Constitution, this court is precluded from finding any fact not agreed to by the parties on the record. No submission to the court on a statement of facts was made. It was a trial by jury, in which certain admissions, made by the parties, were the evidence. The jury were not only competent, but were bound to draw from that evidence every inference which, in their judgment, exercised according to the rules of law, it would warrant. The Circuit Court took from the jury the power to draw any inferences from the admissions made by the parties, and decided the case for the defendant. This course can be justified here, if at all, only by its appearing that upon the facts agreed, and all such inferences of fact favorable to the plaintiff's case, as the jury might have been warranted in drawing from those admissions, the law was with the defendant. Otherwise, the plaintiff would be deprived of the benefit of his trial by jury, by whom, for aught we can know, those inferences favorable to his case would have been drawn.

The material facts agreed, bearing on this part of the case, are, that Dr. Emerson, the plaintiff's master, resided about two years at the military post of Fort Snelling, being a surgeon in the army of the United States, his domicil of origin being unknown; and what, if anything, he had done, to preserve or change his domicil prior to his residence at Rock Island, being also unknown.

Now, it is true, that under some circumstances the residence of a military officer at a particular place in the discharge of his official duties, does not amount to the acquisition of a technical domicil. But it cannot be affirmed, with correctness, that it never does. There being actual residence, and this being presumptive evidence of domicil, all the circumstances of the case must be considered, before a legal conclusion can be reached, that his place of residence is not his domicil. If a military officer stationed at a particular post should entertain an expectation that his residence there would be indefinitely protracted, and in consequence should remove his family to the place where his duties were to be discharged, form a permanent domestic establishment there, exercise there the civil rights and discharge the civil duties of an inhabitant, while he did no act and manifested no intent to have a domicil elsewhere, I think no one would say that the mere fact that he was himself liable to be called away by the orders of the government would prevent his acquisition of a technical domicil at the place of the residence of himself and his family. In other words, I do not think a military officer incapable of acquiring a domicil. (Bruce *v.* Bruce, 2 Bos. and Pul. 230; Munroe *v.* Douglass, 5 Mad. Ch. R. 232.) This being so, this case stands thus: there was evidence before the jury that Emerson resided about two years at Fort Snelling, in the territory of Wisconsin. This may or may not have been with such intent as to make it his technical domicil. The presumption is that it was. It is so laid down by this court, in Ennis *v.* Smith (14 How.), and the authorities in support of the position are there referred to. His intent was a question of fact for the jury. (Fitchburg *v.* Winchendon, 4 Cush. 190.)

The case was taken from the jury. If they had power to find that the presumption of the necessary intent had not been rebutted, we cannot say, on this record, that Emerson had not his technical domicil at Fort Snelling. But, for reasons which I shall now proceed to give, I do not deem it necessary in this case to determine the question of the technical domicil of Dr. Emerson.

It must be admitted that the injury whether the law of a particular country has rightfully fixed the *status* of a person, so that in accordance with the principles of international law that *status* should be recognised in other jurisdictions, ordinarily depends on the question whether the person was domiciled in the country whose laws are asserted to have fixed his *status*. But, in the United States, questions of this kind may arise, where an attempt to decide solely with reference to technical domicil, tested by the rules which are applicable to changes of places of abode from one country to another, would not be consistent with sound principles. And, in my judgment, this is one of those cases.

The residence of the plaintiff, who was taken by his master, Dr. Emerson, as a slave, from Missouri to the state of Illinois, and thence to the territory of Wisconsin, must be deemed to have been for the time being, and until he asserted his own separate intention, the same as the residence of his master; and the inquiry, whether the personal statutes of the territory were rightfully extended over the plaintiff,

and ought, in accordance with the rules of international law, to be allowed to fix his *status*, must depend upon the circumstances under which Dr. Emerson went into that territory, and remained there; and upon the further question, whether anything was there rightfully done by the plaintiff to cause those personal statutes to operate on him.

Dr. Emerson was an officer in the army of the United States. He went into the territory to discharge his duty to the United States. The place was out of the jurisdiction of any particular state, and within the exclusive jurisdiction of the United States. It does not appear where the domicil of origin of Dr. Emerson was, nor whether or not he had lost it, and gained another domicil, nor of what particular state, if any, he was a citizen.

On what ground can it be denied that all valid laws of the United States, constitutionally enacted by Congress for the government of the territory, rightfully extended over an officer of the United States and his servant who went into the territory to remain there for an indefinite length of time, to take part in its civil or military affairs? They were not foreigners, coming from abroad. Dr. Emerson was a citizen of the country which had exclusive jurisdiction over the territory; and not only a citizen, but he went there in a public capacity, in the service of the same sovereignty which made the laws. Whatever those laws might be, whether of the kind denominated personal statutes, or not, so far as they were intended by the legislative will, constitutionally expressed, to operate on him and his servant, and on the relations between them, they had a rightful operation, and no other state or country can refuse to allow that those laws might rightfully operate on the plaintiff and his servant, because such a refusal would be a denial that the United States could, by laws constitutionally enacted, govern their own servants, residing on their own territory, over which the United States had the exclusive control, and in respect to which they are an independent sovereign power. Whether the laws now in question were constitutionally enacted, I repeat once more, is a separate question. But, assuming that they were, and that they operated directly on the *status* of the plaintiff, I consider that no other state or country could question the rightful power of the United States so to legislate, or, consistently with the settled rules of international law, could refuse to recognise the effects of such legislation upon the *status* of their officers and servants, as valid everywhere.

This alone would, in my apprehension, be sufficient to decide this question.

But there are other facts stated on the record which should not be passed over. It is agreed that, in the year 1836, the plaintiff, while residing in the territory, was married, with the consent of Dr. Emerson, to Harriet, named in the declaration as his wife, and that Eliza and Lizzie were the children of that marriage, the first named having been born on the Mississippi river, north of the line of Missouri, and the other having been born after their return to Missouri. And the inquiry is, whether, after the marriage of the plaintiff in the territory, with the consent of Dr. Emerson, any other state or country can, consistently with the settled rules of international law, refuse to recognise and treat him as a free man, when suing for the liberty of himself, his wife, and the children of that marriage. It is in reference to his *status*, as viewed in other states and countries, that the contract of marriage and the birth of children becomes strictly material. At the same time, it is proper to observe that the female to whom he was married having been taken to the same military post of Fort Snelling as a slave, and Dr. Emerson claiming also to be her master at the time of her marriage, her *status*, and that of the children of the marriage, are also affected by the same considerations.

If the laws of Congress governing the territory of Wisconsin were constitutional and valid laws, there can be no doubt these parties were capable of contracting a lawful marriage, attended with all the usual civil rights and obligations of that condition. In that territory they were absolutely free persons, having full capacity to enter into the civil contract of marriage.

It is a principle of international law, settled beyond controversy in England and America, that a marriage, valid by the law of the place where it was contracted, and not in fraud of the law of any other place, is valid everywhere; and that no technical domicil at the place of the contract is necessary to make it so. (See Bishop on Mar. and Div. 125—129, where the cases are collected.)

If, in Missouri, the plaintiff were held to be a slave, the validity and operation of his contract of marriage must be denied. He can have no legal rights; of course, not those of a husband and father. And the same is true of his wife and children. The denial of his rights is the denial of theirs. So that, though lawfully married in the territory, when they came out of it, into the state of Missouri, they were no longer husband and wife; and a child of that lawful marriage, though born under the same dominion where its parents contracted a lawful marriage, is not the fruit of that marriage, nor the child of its father, but subject to the maxim, *partus sequitur ventrem*.

It must be borne in mind that in this case there is no ground for the inquiry, whether it be the will of the state of Missouri not to recognise the validity of the marriage of a fugitive slave, who escapes into a state or country where slavery is not allowed, and there contracts a marriage; or the validity of such a marriage, where the master, being a citizen of the state of Missouri, voluntarily goes with his slave, *in itinere*, into a state or country which does not permit slavery to exist, and the slave there contracts marriage without the consent of his master; for in this case, it is agreed, Dr. Emerson did consent; and no fur-

ther question can arise concerning his rights, so far as their assertion is inconsistent with the validity of the marriage. Nor do I know of any ground for the assertion that this marriage was in fraud of any law of Missouri. It has been held by this court, that a bequest of property by a master to his slave, by necessary implication entitles the slave to his freedom; because, only as a freeman could he take and hold the bequest. (Legrand *v.* Darnall, 2 Pet. R. 664.) It has also been held, that when a master goes with his slave to reside for an indefinite period in a state where slavery is not tolerated, this operates as an act of manumission; because it is sufficiently expressive of the consent of the master that the slave should be free. (2 Marshall's Ken. R. 470; 14 Martin's Louis. R. 401).

What, then, shall we say of the consent of the master, that the slave may contract a lawful marriage, attended with all the civil rights and duties which belong to that relation; that he may enter into a relation which none but a free man can assume—a relation which involves not only the rights and duties of the slave, but those of the other party to the contract, and of their descendants to the remotest generation? In my judgment, there can be no more effectual abandonment of the legal rights of a master over his slave, than by the consent of the master that the slave should enter into a contract of marriage, in a free state, attended by all the civil rights and obligations which belong to that condition.

And any claim by Dr. Emerson, or any one claiming under him, the effect of which is to deny the validity of this marriage, and the lawful paternity of the children born from it, wherever asserted, is, in my judgment, a claim inconsistent with good faith and sound reason, as well as with the rules of international law. And I go further: in my opinion, a law of the state of Missouri, which should thus annul a marriage, lawfully contracted by these parties while resident in Wisconsin, not in fraud of any law of Missouri, or of any right of Dr. Emerson, who consented thereto, would be a law impairing the obligation of a contract, and within the prohibition of the Constitution of the United States. (See 4 Wheat. 629, 695, 696.)

To avoid misapprehension on this important and difficult subject, I will state, distinctly, the conclusions at which I have arrived. They are:—

First. The rules of international law respecting the emancipation of slaves, by the rightful operation of the laws of another state or country upon the *status* of the slave, while resident in such foreign state or country, are part of the common law of Missouri, and have not been abrogated by any statute law of that state.

Second. The laws of the United States, constitutionally enacted, which operated directly on and changed the *status* of a slave coming into the territory of Wisconsin with his master who went thither to reside for an indefinite length of time, in the performance of his duties as an officer of the United States, had a rightful operation on the *status* of the slave, and it is in conformity with the rules of international law that this change of *status* should be recognised everywhere.

Third. The laws of the United States, in operation in the territory of Wisconsin at the time of the plaintiff's residence there, did act directly on the *status* of the plaintiff, and change his *status* to that of a free man.

Fourth. The plaintiff and his wife were capable of contracting, and, with the consent of Dr. Emerson, did contract a marriage in that territory, valid under its laws; and the validity of this marriage cannot be questioned in Missouri, save by showing that it was in fraud of the laws of that state, or of some right derived from them; which cannot be shown in this case, because the master consented to it.

Fifth. That the consent of the master that his slave, residing in a country which does not tolerate slavery, may enter into a lawful contract of marriage, attended with the civil rights and duties which belong to that condition, is an effectual act of emancipation. And the law does not enable Dr. Emerson, or any one claiming under him, to assert a title to the married persons as slaves, and thus destroy the obligation of the contract of marriage, and bastardize their issue, and reduce them to slavery.

But it is insisted that the Supreme Court of Missouri has settled this case by its decision in Scott *v.* Emerson (15 Missouri Reports, 576); and that this decision is in conformity with the weight of authority elsewhere, and with sound principles. If the Supreme Court of Missouri had placed its decision on the ground that it appeared Dr. Emerson never became domiciled in the territory, and so its laws could not rightfully operate on him and his slave; and the facts that he went there to reside indefinitely, as an officer of the United States, and that the plaintiff was lawfully married there, with Dr. Emerson's consent, were left out of view, the decision would find support in other cases, and I might not be prepared to deny its correctness. But the decision is not rested on this ground. The domicil of Dr. Emerson in that territory is not questioned in that decision; and it is placed on a broad denial of the operation, in Missouri, of the law of any foreign state or country upon the *status* of a slave, going with his master from Missouri into such foreign state or country, even though they went thither to become, and actually became, permanent inhabitants of such foreign state or country, the laws whereof acted directly on the *status* of the slave, and changed his *status* to that of a freeman.

To the correctness of such a decision I cannot assent. In my judgment, the opinion of the majority of the court in that case is in conflict with its previous decisions, with a great weight of judicial authority in other slaveholding states, and with fundamental

principles of private international law. Mr. Chief Justice Gamble, in his dissenting opinion in that case, said:—

"I regard the question as conclusively settled by repeated adjudications of this court; and if I doubted or denied the propriety of those decisions, I would not feel myself any more at liberty to overturn them, than I would any other series of decisions by which the law upon any other question had been settled. There is with me nothing in the law of slavery which distinguishes it from the law on any other subject, or allows any more accommodation to the temporary excitements which have gathered around it. * * * * * * But in the midst of all such excitement, it is proper that the judicial mind, calm and self-balanced, should adhere to principles established when there was no feeling to disturb the view of the legal questions upon which the rights of parties depend."

"In this state, it has been recognised from the beginning of the government as a correct position in law, that the master who takes his slave to reside in a state or territory where slavery is prohibited, thereby emancipates his slave." (Winney *v.* Whitesides, 1 Mo. 473; Le Grange *v.* Chouteau, 2 Mo. 20; Milley *v.* Smith, Ib. 36; Ralph *v.* Duncan, 3 Mo. 194; Julia *v.* McKinney, Ib. 270; Nat *v.* Ruddle, Ib. 400; Rachel *v.* Walker, 4 Mo. 350; Wilson *v.* Melvin, 592.)

Chief Justice Gamble has also examined the decisions of the courts of other states in which slavery is established, and finds them in accordance with these preceding decisions of the Supreme Court of Missouri to which he refers.

It would be a useless parade of learning for me to go over the ground which he has so fully and ably occupied.

But it is further insisted we are bound to follow this decision. I do not think so. In this case, it is to be determined what laws of the United States were in operation in the territory of Wisconsin, and what was their effect on the *status* of the plaintiff. Could the plaintiff contract a lawful marriage there? Does any law of the state of Missouri impair the obligation of that contract of marriage, destroy his rights as a husband, bastardize the issue of the marriage, and reduce them to a state of slavery?

These questions, which arise exclusively under the Constitution and laws of the United States, this court, under the Constitution and laws of the United States, has the rightful authority finally to decide. And if we look beyond these questions, we come to the consideration whether the rules of international law, which are part of the laws of Missouri until displaced by some statute not alleged to exist, do or do not require the *status* of the plaintiff, as fixed by the laws of the territory of Wisconsin, to be recognised in Missouri. Upon such a question, not depending on any statute or local usage, but on principles of universal jurisprudence, this court has repeatedly asserted it could not hold itself bound by the decisions of state courts, however great respect might be felt for their learning, ability, and impartiality. (See Swift *v.* Tyson, 16 Peters's R. 1; Carpenter *v.* The Providence Ins. Co., Ib. 495; Foxcroft *v.* Mallet, 4 How. 353; Rowan *v.* Runnels, 5 How. 134.)

Some reliance has been placed on the fact that the decision in the Supreme Court of Missouri was between these parties, and the suit there was abandoned to obtain another trial in the courts of the United States.

In Homer *v.* Brown (16 How. 354), this court made a decision upon the construction of a devise of lands, in direct opposition to the unanimous opinion of the Supreme Court of Massachusetts, between the same parties, respecting the same subject-matter—the claimant having become nonsuit in the state court, in order to bring his action in the Circuit Court of the United States. I did not sit in that case, having been of counsel for one of the parties while at the bar; but, on examining the report of the argument of the counsel for the plaintiff in error, I find they made the point, that this court ought to give effect to the construction put upon the will by the state court, to the end that rights respecting lands may be governed by one law, and that the law of the place where the lands are situated; that they referred to the state decision of the case, reported in 3 Cushing, 390, and to many decisions of this court. But this court does not seem to have considered the point of sufficient importance to notice it in their opinions. In Millar *v.* Austin (13 How. 218), an action was brought by the endorsee of a written promise. The question was, whether it was negotiable under a statute of Ohio. The Supreme Court of that state having decided it was not negotiable, the plaintiff became nonsuit, and brought his action in the Circuit Court of the United States. The decision of the Supreme Court of the state, reported in 4 Ves., L. J. 527, was relied on. This court unanimously held the paper to be negotiable.

When the decisions of the highest court of a state are directly in conflict with each other, it has been repeatedly held, here, that the last decision is not necessarily to be taken as the rule. (State Bank *v.* Knoop, 16 How. 369; Pease *v.* Peck, 18 How. 599.)

To these considerations I desire to add, that it was not made known to the Supreme Court of Missouri, so far as appears, that the plaintiff was married in Wisconsin with the consent of Dr. Emerson, and it is not made known to us that Dr. Emerson was a citizen of Missouri, a fact to which that court seem to have attached much importance.

Sitting here to administer the law between these parties, I do not feel at liberty to surrender my own convictions of what the law requires, to the authority of the decision in 15 Missouri Reports.

I have thus far assumed, merely for the purpose of the argument, that the laws of the United States, respecting slavery in this terri-

tory, were constitutionally enacted by Congress. It remains to inquire whether they are constitutional and binding laws.

In the argument of this part of the case at bar, it was justly considered by all the counsel to be necessary to ascertain the source of the power of Congress over the territory belonging to the United States. Until this is ascertained, it is not possible to determine the extent of that power. On the one side it was maintained that the Constitution contains no express grant of power to organize and govern what is now known to the laws of the United States as a territory. That whatever power of this kind exists, is derived by implication from the capacity of the United States to hold and acquire territory out of the limits of any state, and the necessity for its having some government.

On the other side, it was insisted that the Constitution has not failed to make an express provision for this end, and that it is found in the third section of the fourth article of the Constitution.

To determine which of these is the correct view, it is needful to advert to some facts respecting this subject, which existed when the Constitution was framed and adopted. It will be found that these facts not only shed much light on the question, whether the framers of the Constitution omitted to make a provision concerning the power of Congress to organize and govern territories, but they will also aid in the construction of any provision which may have been made respecting this subject.

Under the Confederation, the unsettled territory within the limits of the United States had been a subject of deep interest. Some of the states insisted that these lands were within their chartered boundaries, and that they had succeeded to the title of the Crown to the soil. On the other hand, it was argued that the vacant lands had been acquired by the United States, by the war carried on by them under a common government and for the common interest.

This dispute was further complicated by unsettled questions of boundary among several states. It not only delayed the accession of Maryland to the Confederation, but at one time seriously threatened its existence. (5 Jour. of Cong. 208, 442.) Under the pressure of these circumstanees, Congress earnestly recommended to the several states a cession of their claims and rights to the United States. (5 Jour. of Cong. 442.) And before the Constitution was framed, it had been begun. That by New York had been made on the 1st day of March, 1781; that of Virginia on the 1st day of March, 1784; that of Massachusetts on the 19th day of April, 1785; that of Connecticut on the 14th day of September, 1786; that of South Carolina on the 8th day of August, 1787, while the Convention for framing the Constitution was in session.

It is very material to observe, in this connexion, that each of these acts cedes, in terms, to the United States, as well the jurisdiction as the soil.

It is also equally important to note that, when the Constitution was framed and adopted, this plan of vesting in the United States, for the common good, the great tracts of ungranted lands claimed by the several states, in which so deep an interest was felt, was yet incomplete. It remained for North Carolina and Georgia to cede their extensive and valuable claims. These were made, by North Carolina on the 25th day of February, 1790, and by Georgia on the 24th day of April, 1802. The terms of these last-mentioned cessions will hereafter be noticed in another connexion; but I observe here that each of them distinctly shows, upon its face, that they were not only in execution of the general plan proposed by the Congress of the Confederation, but of a formed purpose of each of these states, existing when the assent of their respective people was given to the Constitution of the United States.

It appears, then, that when the Federal Constitution was framed, and presented to the people of the several states for their consideration, the unsettled territory was viewed as justly applicable to the common benefit, so far as it then had or might attain thereafter a pecuniary value; and so far as it might become the seat of new states, to be admitted into the Union upon an equal footing with the original states. And also that the relations of the United States to that unsettled territory were of different kinds. The titles of the states of New York, Virginia, Massachusetts, Connecticut, and South Carolina, as well of soil as of jurisdiction, had been transferred to the United States. North Carolina and Georgia had not actually made transfers, but a confident expectation, founded on their appreciation of the justice of the general claim, and fully justified by the results, was entertained, that these cessions would be made. The ordinance of 1787 had made provision for the temporary government of so much of the territory actually ceded as lay northwest of the river Ohio.

But it must have been apparent, both to the framers of the Constitution and the people of the several states who were to act upon it, that the government thus provided for could not continue, unless the Constitution should confer on the United States the necessary powers to continue it. That temporary government, under the ordinance, was to consist of certain officers, to be appointed by and responsible to the Congress of the Confederation; their powers had been conferred and defined by the ordinance. So far as it provided for the temporary government of the territory, it was an ordinary act of legislation, deriving its force from the legislative power of Congress, and depending for its vitality upon the continuance of that legislative power. But the officers to be appointed for the Northwestern Territory, after the adoption of the Constitu-

tion, must necessarily be officers of the United States, and not of the Congress of the Confederation; appointed and commissioned by the President, and exercising powers derived from the United States under the Constitution.

Such was the relation between the United States and the Northwestern Territory, which all reflecting men must have foreseen would exist, when the government created by the Constitution should supersede that of the Confederation. That if the new government should be without power to govern this territory, it could not appoint and commission officers, and send them into the territory, to exercise there legislative, judicial, and executive power; and that this territory, which was even then foreseen to be so important, both politically and financially, to all the existing states, must be left not only without the control of the general government, in respect to its future political relations to the rest of the states, but absolutely without any government, save what its inhabitants, acting in their primary capacity, might from time to time create for themselves.

But this Northwestern Territory was not the only territory, the soil and jurisdiction whereof were then understood to have been ceded to the United States. The cession by South Carolina, made in August, 1787, was of "all the territory included within the river Mississippi, and a line beginning at that part of the said river which is intersected by the southern boundary of North Carolina, and continuing along the said boundary line until it intersects the ridge or chain of mountains which divides the eastern from the western waters; then to be continued along the top of said ridge of mountains, until it intersects a line to be drawn due west from the head of the southern branch of the Tugaloo river, to the said mountains; and thence to run a due west course to the river Mississippi."

It is true that by subsequent explorations it was ascertained that the source of the Tugaloo river, upon which the title of South Carolina depended, was so far to the northward, that the transfer conveyed only a narrow slip of land, about twelve miles wide, lying on the top of the ridge of mountains, and extending from the northern boundary of Georgia to the southern boundary of North Carolina. But this was a discovery made long after the cession, and there can be no doubt that the state of South Carolina, in making the cession, and the Congress in accepting it, viewed it as a transfer to the United States of the soil and jurisdiction of an extensive and important part of the unsettled territory ceded by the Crown of Great Britain by the treaty of peace, though its quantity or extent then remained to be ascertained.*

It must be remembered also, as has been already stated, that not only was there a confident expectation entertained by the other states, that North Carolina and Georgia would complete the plan already so far executed by New York, Virginia, Massachusetts, Connecticut, and South Carolina, but that the opinion was in no small degree prevalent, that the just title to this "back country," as it was termed, had vested in the United States by the treaty of peace, and could not rightfully be claimed by any individual state.

There is another consideration applicable to this part of the subject, and entitled, in my judgment, to great weight.

The Congress of the Confederation had assumed the power not only to dispose of the lands ceded, but to institute governments and make laws for their inhabitants. In other words, they had proceeded to act under the cession, which, as we have seen, was as well of the jurisdiction as of the soil. This ordinance was passed on the 13th of July, 1787. The convention for framing the Constitution was then in session at Philadelphia. The proof is direct and decisive, that it was known to the convention.* It is equally clear that it was admitted and understood not to be within the legitimate powers of the Confederation to pass this ordinance. (Jefferson's Works, vol. 9, pp. 251, 276; Federalist, Nos. 38, 43.)

The importance of conferring on the new government regular powers commensurate with the objects to be attained, and thus avoiding the alternative of a failure to execute the trust assumed by the acceptance of the cessions made and expected, or its execution by usurpation, could scarcely fail to be perceived. That it was in fact perceived, is clearly shown by the Federalist (No. 38), where this very argument is made use of in commendation of the Constitution.

Keeping these facts in view, it may confidently be asserted that there is very strong reason to believe, before we examine the Constitution itself, that the necessity for a competent grant of power to hold, dispose of, and govern territory, ceded and expected to be ceded, could not have escaped the attention of those who framed or adopted the Constitution; and that if it did not escape their attention, it could not fail to be adequately provided for.

Any other conclusion would involve the assumption that a subject of the gravest national concern, respecting which the small states felt so much jealousy that it had been almost an insurmountable obstacle to the formation of the Confederation, and as to which all the states had deep pecuniary and political interests, and which had been so recently and constantly agitated, was nevertheless overlooked; or that such a subject was not overlooked, but designedly left unprovided for,

* *Note by Mr. Justice Curtis.* This statement that *some* territory did actually pass by this cession, is taken from the opinion of the court, delivered by Mr. Justice Wayne, in the case of Howard *v.* Ingersoll, reported in 13 How. 405. It is an obscure matter, and, on some examination of it, I have been led to doubt whether any territory actually passed by this cession. But as the fact is not important to the argument, I have not thought it necessary further to investigate it.

* It was published in a newspaper at Philadelphia, in May, and a copy of it was sent by R. H. Lee to Gen. Washington, on the 15th of July. (See p. 261, Cor. of Am. Rev., vol. 4, and Writings of Washington, vol. 9, p. 174.)

though it was manifestly a subject of common concern, which belonged to the care of the general government, and adequate provision for which could not fail to be deemed necessary and proper.

The admission of new states, to be framed out of the ceded territory, early attracted the attention of the convention. Among the resolutions introduced by Mr. Randolph, on the 29th of May, was one on this subject (Res. No. 10, 5 Elliot, 128), which having been affirmed in Committee of the Whole, on the 5th of June (5 Elliot, 156), and reported to the convention on the 13th of June (5 Elliot, 190), was referred to the Committee of Detail, to prepare the Constitution, on the 26th of July (5 Elliot, 376). This committee reported an article for the admission of new states "lawfully constituted or established." Nothing was said concerning the power of Congress to prepare or form such states. This omission struck Mr. Madison, who, on the 18th of August (5 Elliot, 439), moved for the insertion of power to dispose of the unappropriated lands of the United States, and to institute temporary governments for new states arising therein.

On the 29th of August (5 Elliot, 492), the report of the committee was taken up, and after debate, which exhibited great diversity of views concerning the proper mode of providing for the subject, arising out of the supposed diversity of interests of the large and small states, and between those which had and those which had not unsettled territory, but no difference of opinion respecting the propriety and necessity of some adequate provision for the subject, Gouverneur Morris moved the clause as it stands in the Constitution. This met with general approbation, and was at once adopted. The whole section is as follows:—

"New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of Congress.

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular state."

That Congress has some power to institute temporary governments over the territory, I believe all agree; and, if it be admitted that the necessity of some power to govern the territory of the United States could not and did not escape the attention of the convention and the people, and that the necessity is so great, that, in the absence of any express grant, it is strong enough to raise an implication of the existence of that power, it would seem to follow that it is also strong enough to afford material aid in construing an express grant of power respecting that territory; and that they who maintain the existence of the power, without finding any words at all in which it is conveyed, should be willing to receive a reasonable interpretation of language of the Constitution, manifestly intended to relate to the territory, and to convey to Congress some authority concerning it.

It would seem, also, that when we find the subject-matter of the growth and formation and admission of new states, and the disposal of the territory for these ends, were under consideration, and that some provision therefore was expressly made, it is improbable that it would be, in its terms, a grossly inadequate provision; and that an indispensably necessary power to institute temporary governments, and to legislate for the inhabitants of the territory, was passed silently by, and left to be deduced from the necessity of the case.

In the argument at the bar, great attention has been paid to the meaning of the word "territory."

Ordinarily, when the territory of a sovereign power is spoken of, it refers to that tract of country which is under the political jurisdiction of that sovereign power. Thus Chief Justice Marshall (in United States *v.* Bevans, 3 Wheat. 386) says: "What, then, is the extent of jurisdiction which a state possesses? We answer, without hesitation, the jurisdiction of a state is coextensive with its territory." Examples might easily be multiplied of this use of the word, but they are unnecessary, because it is familiar. But the word "territory" is not used in this broad and general sense in this clause of the Constitution.

At the time of the adoption of the Constitution, the United States held a great tract of country northwest of the Ohio; another tract, then of unknown extent, ceded by South Carolina; and a confident expectation was then entertained, and afterwards realized, that they then were or would become the owners of other great tracts, claimed by North Carolina and Georgia. These ceded tracts lay within the limits of the United States, and out of the limits of any particular state; and the cessions embraced the civil and political jurisdiction, and so much of the soil as had not previously been granted to individuals.

These words, "territory belonging to the United States," were not used in the Constitution to describe an abstraction, but to identify and apply to these actual subjects matter then existing and belonging to the United States, and other similar subjects which might afterwards be acquired; and this being so, all the essential qualities and incidents attending such actual subjects are embraced within the words "territory belonging to the United States," as fully as if each of those essential qualities and incidents had been specifically described.

I say, the essential qualities and incidents.

But in determining what were the essential qualities and incidents of the subject with which they were dealing, we must take into consideration not only all the particular facts which were immediately before them, but the great consideration, ever present to the minds of those who framed and adopted the Constitution, that they were making a frame of government for the people of the United States and their posterity, under which they hoped the United States might be, what they have now become, a great and powerful nation, possessing the power to make war and to conclude treaties, and thus to acquire territory. (See Cerré *v.* Pitot, 6 Cr. 336; Am. Ins. Co. *v.* Canter, 1 Pet. 542.) With these in view, I turn to examine the clause of the article now in question.

It is said this provision has no application to any territory save that then belonging to the United States. I have already shown that, when the Constitution was framed, a confident expectation was entertained, which was speedily realized, that North Carolina and Georgia would cede their claims to that great territory which lay west of those states. No doubt has been suggested that the first clause of this same article, which enabled Congress to admit new states, refers to and includes new states to be formed out of this territory, expected to be thereafter ceded by North Carolina and Georgia, as well as new states to be formed out of territory northwest of the Ohio, which then had been ceded by Virginia. It must have been seen, therefore, that the same necessity would exist for an authority to dispose of and make all needful regulations respecting this territory, when ceded, as existed for a like authority respecting territory which had been ceded.

No reason has been suggested why any reluctance should have been felt, by the framers of the Constitution, to apply this provision to all the territory which might belong to the United States, or why any distinction should have been made, founded on the accidental circumstance of the dates of the cessions; a circumstance in no way material as respects the necessity for rules and regulations, or the propriety of conferring on the Congress power to make them. And if we look at the course of the debates in the Convention on this article, we shall find that the then unceded lands, so far from having been left out of view in adopting this article, constituted, in the minds of members, a subject of even paramount importance.

Again, in what an extraordinary position would the limitation of this clause to territory then belonging to the United States, place the territory which lay within the chartered limits of North Carolina and Georgia. The title to that territory was then claimed by those states, and by the United States; their respective claims are purposely left unsettled by the express words of this clause; and when cessions were made by those states, they were merely of their claims to this territory, the United States neither admitting nor denying the validity of those claims; so that it was impossible then, and has ever since remained impossible, to know whether this territory did or did not then belong to the United States; and, consequently, to know whether it was within or without the authority conferred by this clause, to dispose of and make rules and regulations respecting the territory of the United States. This attributes to the eminent men who acted on this subject a want of ability and forecast, or a want of attention to the known facts upon which they were acting, in which I cannot concur.

There is not, in my judgment, anything in the language, the history, or the subject-matter of this article, which restricts its operation to territory owned by the United States when the Constitution was adopted.

But it is also insisted that provisions of the Constitution respecting territory belonging to the United States do not apply to territory acquired by treaty from a foreign nation. This objection must rest upon the position that the Constitution did not authorize the federal government to acquire foreign territory, and consequently has made no provision for its government when acquired; or, that though the acquisition of foreign territory was contemplated by the Constitution, its provisions concerning the admission of new states, and the making of all needful rules and regulations respecting territory belonging to the United States, were not designed to be applicable to territory acquired from foreign nations.

It is undoubtedly true, that at the date of the treaty of 1803, between the United States and France, for the cession of Louisiana, it was made a question, whether the Constitution had conferred on the executive department of the government of the United States power to acquire foreign territory by a treaty.

There is evidence that very grave doubts were then entertained concerning the existence of this power. But that there was then a settled opinion in the executive and legislative branches of the government, that this power did not exist, cannot be admitted, without at the same time imputing to those who negotiated and ratified the treaty, and passed the laws necessary to carry it into execution, a deliberate and known violation of their oaths to support the Constitution; and whatever doubts may then have existed, the question must now be taken to have been settled. Four distinct acquisitions of foreign territory have been made by as many different treaties, under as many different administrations. Six states, formed on such territory, are now in the Union. Every branch of this government, during a period of more than fifty years, has participated in these transactions. To question their validity now, is vain. As was said by Mr. Chief Justice Marshall, in the American Insurance Company *v.* Canter (1 Peters, 542), "the Constitution confers absolutely on the government of the Union the powers of making war and of making treaties; conse-

quently, that government possesses the power of acquiring territory, either by conquest or treaty." (See Cerré *v.* Pitot, 6 Cr. 336.) And I add, it also possesses the power of governing it, when acquired, not by resorting to supposititious powers, nowhere found described in the Constitution, but expressly granted in the authority to make all needful rules and regulations respecting the territory of the United States.

There was to be established by the Constitution a frame of government, under which the people of the United States and their posterity were to continue indefinitely. To take one of its provisions, the language of which is broad enough to extend throughout the existence of the government, and embrace all territory belonging to the United States throughout all time, and the purposes and objects of which apply to all territory of the United States, and narrow it down to territory belonging to the United States when the Constitution was framed, while at the same time it is admitted that the Constitution contemplated and authorized the acquisition, from time to time, of other and foreign territory, seems to me to be an interpretation as inconsistent with the nature and purposes of the instrument, as it is with its language, and I can have no hesitation in rejecting it.

I construe this clause, therefore, as if it had read, Congress shall have power to make all needful rules and regulations respecting those tracts of country, out of the limits of the several states, which the United States have acquired, or may hereafter acquire, by cessions, as well of the jurisdiction as of the soil, so far as the soil may be the property of the party making the cession, at the time of making it.

It has been urged that the words "rules and regulations" are not appropriate terms in which to convey authority to make laws for the government of the territory.

But it must be remembered that this is a grant of power to the Congress—that it is therefore necessarily a grant of power to legislate—and, certainly, rules and regulations respecting a particular subject, made by the legislative power of a country, can be nothing but laws. Nor do the particular terms employed, in my judgment, tend in any degree to restrict this legislative power. Power granted to a legislature to make all needful rules and regulations respecting the territory, is a power to pass all needful laws respecting it.

The word regulate, or regulation, is several times used in the Constitution. It is used in the fourth section of the first article to describe those laws of the states which prescribe the times, places, and manner, of choosing Senators and Representatives; in the second section of the fourth article, to designate the legislative action of a state on the subject of fugitives from service, having a very close relation to the matter of our present inquiry; in the second section of the third article, to empower Congress to fix the extent of the appellate jurisdiction of this court; and, finally, in the eighth section of the first article are the words, "Congress shall have power to regulate commerce."

It is unnecessary to describe the body of legislation which has been enacted under this grant of power; its variety and extent are well known. But it may be mentioned, in passing, that under this power to regulate commerce, Congress has enacted a great system of municipal laws, and extended it over the vessels and crews of the United States on the high seas and in foreign ports, and even over citizens of the United States resident in China; and has established judicatures, with power to inflict even capital punishment within that country.

If, then, this clause does contain a power to legislate respecting the territory, what are the limits of that power?

To this I answer, that, in common with all the other legislative powers of Congress, it finds limits in the express prohibitions on Congress not to do certain things; that, in the exercise of the legislative power, Congress cannot pass an ex post facto law or bill of attainder; and so in respect to each of the other prohibitions contained in the Constitution.

Besides this, the rules and regulations must be needful. But undoubtedly the question whether a particular rule or regulation be needful, must be finally determined by Congress itself. Whether a law be needful, is a legislative or political, not a judicial, question. Whatever Congress deems needful is so, under the grant of power.

Nor am I aware that it has ever been questioned that laws providing for the temporary government of the settlers on the public lands are needful, not only to prepare them for admission to the Union as states, but even to enable the United States to dispose of the lands.

Without government and social order, there can be no property; for without law, its ownership, its use, and the power of disposing of it, cease to exist, in the sense in which those words are used and understood in all civilized states.

Since, then, this power was manifestly conferred to enable the United States to dispose of its public lands to settlers, and to admit them into the Union as states, when in the judgment of Congress they should be fitted therefor, since these were the needs provided for, since it is confessed that government is indispensable to provide for those needs, and the power is, to make *all needful* rules and regulations respecting the territory, I cannot doubt that this is a power to govern the inhabitants of the territory, by such laws as Congress deems needful until they obtain admission as states.

Whether they should be thus governed solely by laws enacted by Congress, or partly by laws enacted by legislative power conferred

by Congress, is one of those questions which depend on the judgment of Congress—a question which of these is needful.

But it is insisted, that whatever other powers Congress may have respecting the territory of the United States, the subject of negro slavery forms an exception.

The Constitution declares that Congress shall have power to make "*all* needful rules and regulations" respecting the territory belonging to the United States.

The assertion is, though the Constitution says all, it does not mean all—though it says all, without qualification, it means all except such as allow or prohibit slavery. It cannot be doubted that it is incumbent on those who would thus introduce an exception not found in the language of the instrument, to exhibit some solid and satisfactory reason, drawn from the subject-matter or the purposes and objects of the clause, the context, or from other provisions of the Constitution, showing that the words employed in this clause are not to be understood according to their clear, plain, and natural signification.

The subject-matter is the territory of the United States out of the limits of every state, and consequently under the exclusive power of the people of the United States. Their will respecting it, manifested in the Constitution, can be subject to no restriction. The purposes and objects of the clause were the enactment of laws concerning the disposal of the public lands, and the temporary government of the settlers thereon until new states should be formed. It will not be questioned that, when the Constitution of the United States was framed and adopted, the allowance and the prohibition of negro slavery were recognised subjects of municipal legislation; every state had in some measure acted thereon; and the only legislative act concerning the territory—the ordinance of 1787, which had then so recently been passed—contained a prohibition of slavery. The purpose and object of the clause being to enable Congress to provide a body of municipal law for the government of the settlers, the allowance or the prohibition of slavery comes within the known and recognised scope of that purpose and object.

There is nothing in the context which qualifies the grant of power. The regulations must be "respecting the territory." An enactment that slavery may or may not exist there, is a regulation respecting the territory. Regulations must be needful; but it is necessarily left to the legislative discretion to determine whether a law be needful. No other clause of the Constitution has been referred to at the bar, or has been seen by me, which imposes any restriction or makes any exception concerning the power of Congress to allow or prohibit slavery in the territory belonging to the United States.

A practical construction, nearly contemporaneous with the adoption of the Constitution, and continued by repeated instances through a long series of years, may always influence, and in doubtful cases should determine, the judicial mind, on a question of the interpretation of the Constitution. (Stuart *v.* Laird, 1 Cranch, 269; Martin *v.* Hunter, 1 Wheat. 304; Cohens *v.* Virginia, 6 Wheat. 264; Prigg *v.* Pennsylvania, 16 Pet. 621; Cooley *v.* Port Wardens, 12 How. 315.)

In this view, I proceed briefly to examine the practical construction placed on the clause now in question, so far as it respects the inclusion therein of power to permit or prohibit slavery in the territories.

It has already been stated, that after the government of the United States was organized under the Constitution, the temporary government of the territory northwest of the river Ohio could no longer exist, save under the powers conferred on Congress by the Constitution. Whatever legislative, judicial, or executive authority should be exercised therein could be derived only from the people of the United States under the Constitution. And, accordingly, an act was passed on the 7th day of August, 1789 (1 Stat. at Large, 50), which recites: "Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, *may continue to have full effect*, it is required that certain provisions should be made, so as to adapt the same to the present Constitution of the United States." It then provides for the appointment by the President of all officers, who, by force of the ordinance, were to have been appointed by the Congress of the Confederation, and their commission in the manner required by the Constitution: and empowers the secretary of the territory to exercise the powers of the governor in case of the death or necessary absence of the latter.

Here is an explicit declaration of the will of the first Congress, of which fourteen members, including Mr. Madison, had been members of the Convention which framed the Constitution, that the ordinance, one article of which prohibited slavery, "should continue to have full effect." General Washington, who signed this bill, as President, was the president of that Convention.

It does not appear to me to be important, in this connexion, that that clause in the ordinance which prohibited slavery was one of a series of articles of what is therein termed a compact. The Congress of the Confederation had no power to make such a compact, nor to act at all on the subject; and after what had been so recently said by Mr. Madison on this subject, in the thirty-eighth number of the *Federalist*, I cannot suppose that he, or any others who voted for this bill, attributed any intrinsic effect to what was denominated in the ordinance a compact between "the original states and the people and states in the new territory;" there being no new states then in existence in the territory, with whom a compact could be made, and the few scattered inhabitants, unorganized into a political body, not being capable of becoming a party to a treaty, even if the Congress of the Confedera

tion had had power to make one touching the government of that territory.

I consider the passage of this law to have been an assertion by the first Congress of the power of the United States to prohibit slavery within this part of the territory of the United States; for it clearly shows that slavery was thereafter to be prohibited there, and it could be prohibited only by an exertion of the power of the United States, under the Constitution; no other power being capable of operating within that territory after the Constitution took effect.

On the 2d of April, 1790 (1 Stat. at Large, 106), the first Congress passed an act accepting a deed of cession by North Carolina of that territory afterwards erected into the state of Tennessee. The fourth express condition contained in this deed of cession, after providing that the inhabitants of the territory shall be temporarily governed in the same manner as those beyond the Ohio, is followed by these words: "*Provided, always*, that no regulations made or to be made by Congress shall tend to emancipate slaves."

This provision shows that it was then understood Congress might make a regulation prohibiting slavery, and that Congress might also allow it to continue to exist in the territory; and accordingly, when, a few days later, Congress passed the act of May 20th, 1790 (1 Stat. at Large, 123), for the government of the territory south of the river Ohio, it provided, "and the government of the territory south of the Ohio shall be similar to that now exercised in the territory northwest of the Ohio, except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled, 'An act to accept a cession of the claims of the state of North Carolina to a certain district of Western territory.'" Under the government thus established, slavery existed until the territory became the state of Tennessee.

On the 7th of April, 1798 (1 Stat. at Large, 649), an act was passed to establish a government in the Mississippi territory in all respects like that exercised in the territory northwest of the Ohio, "excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the 13th day of July, 1787." When the limits of this territory had been amicably settled with Georgia, and the latter ceded all its claim thereto, it was one stipulation in the compact of cession, that the ordinance of July 13th, 1787, "shall in all its parts extend to the territory contained in the present act of cession, that article only excepted which forbids slavery." The government of this territory was subsequently established and organized under the act of May 10th, 1800; but so much of the ordinance as prohibited slavery was not put in operation there.

Without going minutely into the details of each case, I will now give reference to two classes of acts, in one of which Congress has extended the ordinance of 1787, including the article prohibiting slavery, over different territories, and thus exerted its power to prohibit it; in the other, Congress has erected governments over territories acquired from France and Spain, in which slavery already existed, but refused to apply to them that part of the government under the ordinance which excluded slavery.

Of the first class are the act of May 7th, 1800 (2 Stat. at Large, 58), for the government of the Indiana territory; the act of January 11th, 1805 (2 Stat. at Large, 309), for the government of Michigan territory; the act of May 3d, 1809 (2 Stat. at Large, 514), for the government of the Illinois territory; the act of April 20th, 1836 (5 Stat. at Large, 10), for the government of the territory of Wisconsin; the act of June 12th, 1838, for the government of the territory of Iowa; the act of August 14th, 1848, for the government of the territory of Oregon. To these instances should be added the act of March 6th, 1820 (3 Stat. at Large, 548), prohibiting slavery in the territory acquired from France, being northwest of Missouri, and north of thirty-six degrees thirty minutes north latitude.

Of the second class, in which Congress refused to interfere with slavery already existing under the municipal law of France or Spain, and established governments by which slavery was recognised and allowed, are: the act of March 26th, 1804 (2 Stat. at Large, 283), for the government of Louisiana; the act of March 2d, 1805 (2 Stat. at Large, 322), for the government of the territory of Orleans; the act of June 4th, 1812 (2 Stat. at Large, 743), for the government of the Missouri territory; the act of March 30th, 1822 (3 Stat. at Large, 654), for the government of the territory of Florida. Here are eight distinct instances, beginning with the first Congress, and coming down to the year 1848, in which Congress has excluded slavery from the territory of the United States; and six distinct instances in which Congress organized governments of territories by which slavery was recognised and continued, beginning also with the first Congress, and coming down to the year 1822. These acts were severally signed by seven Presidents of the United States, beginning with General Washington, and coming regularly down as far as Mr. John Quincy Adams, thus including all who were in public life when the Constitution was adopted.

If the practical construction of the Constitution contemporaneously with its going into effect, by men intimately acquainted with its history from their personal participation in framing and adopting it, and continued by them through a long series of acts of the gravest importance, be entitled to weight in the judicial mind on a question of construction, it would seem to be difficult to resist the force of the acts above adverted to.

It appears, however, from what has taken place at the bar, that notwithstanding the language of the Constitution, and the long line of legislative and executive precedents

under it, three different and opposite views are taken of the power of Congress respecting slavery in the territories.

One is, that though Congress can make a regulation prohibiting slavery in a territory, they cannot make a regulation allowing it; another is that it can neither be established nor prohibited by Congress, but that the people of a territory, when organized by Congress, can establish or prohibit slavery; while the third is, that the Constitution itself secures to every citizen who holds slaves, under the laws of any state, the indefeasible right to carry them into any territory, and there hold them as property.

No particular clause of the Constitution has been referred to at the bar in support of either of these views. The first seems to be rested upon general considerations concerning the social and moral evils of slavery, its relations to republican governments, its inconsistency with the Declaration of Independence and with natural right.

The second is drawn from considerations equally general, concerning the right of self-government, and the nature of the political institutions which have been established by the people of the United States.

While the third is said to rest upon the equal right of all citizens to go with their property upon the public domain, and the inequality of a regulation which would admit the property of some and exclude the property of other citizens; and, inasmuch as slaves are chiefly held by citizens of those particular states where slavery is established, it is insisted that a regulation excluding slavery from a territory operates, practically, to make an unjust discrimination between citizens of different states, in respect to their use and enjoyment of the territory of the United States.

With the weight of either of these considerations, when presented to Congress to influence its action, this court has no concern. One or the other may be justly entitled to guide or control the legislative judgment upon what is a needful regulation. The question here is, whether they are sufficient to authorize this court to insert into this clause of the Constitution an exception of the exclusion or allowance of slavery, not found therein, nor in any other part of that instrument. To engraft on any instrument a substantive exception not found in it, must be admitted to be a matter attended with great difficulty. And the difficulty increases with the importance of the instrument, and the magnitude and complexity of the interests involved in its construction. To allow this to be done with the Constitution, upon reasons purely political, renders its judicial interpretation impossible—because judicial tribunals, as such, cannot decide upon political considerations. Political reasons have not the requisite certainty to afford rules of juridical interpretation. They are different in different men. They are different in the same men at different times. And when a strict interpretation of the Constitution, according to the fixed rules which govern the interpretation of laws, is abandoned, and the theoretical opinions of individuals are allowed to control its meaning, we have no longer a Constitution; we are under the government of individual men, who for the time being have power to declare what the Constitution is, according to their own views of what it ought to mean. When such a method of interpretation of the Constitution obtains, in place of a republican government, with limited and defined powers, we have a government which is merely an exponent of the will of Congress; or what, in my opinion, would not be preferable, an exponent of the individual political opinions of the members of this court.

If it can be shown, by anything in the Constitution itself, that when it confers on Congress the power to make *all* needful rules and regulations respecting the territory belonging to the United States, the exclusion or the allowance of slavery was excepted; or if anything in the history of this provision tends to show that such an exception was intended by those who framed and adopted the Constitution to be introduced into it, I hold it to be my duty carefully to consider, and to allow just weight to such considerations in interpreting the positive text of the Constitution. But where the Constitution has said *all* needful rules and regulations, I must find something more than theoretical reasoning to induce me to say it did not mean all.

There have been eminent instances in this court closely analogous to this one, in which such an attempt to introduce an exception, not found in the Constitution itself, has failed of success.

By the eighth section of the first article, Congress has the power of exclusive legislation in all cases whatsoever within this District.

In the case of Loughborough *v.* Blake (5 Whea. 324), the question arose, whether Congress has power to impose direct taxes on persons and property in this District. It was insisted, that though the grant of power was in its terms broad enough to include direct taxation, it must be limited by the principle, that taxation and representation are inseparable. It would not be easy to fix on any political truth, better established or more fully admitted in our country, than that taxation and representation must exist together. We went into the war of the Revolution to assert it, and it is incorporated as fundamental into all American governments. But however true and important this maxim may be, it is not necessarily of universal application. It was for the people of the United States, who ordained the Constitution, to decide whether it should or should not be permitted to operate within this District. Their decision was embodied in the words of the Constitution; and as that contained no such exception as would permit the maxim to operate in this District, this court, interpreting that language, held that the exception did not exist.

Again, the Constitution confers on Congress power to regulate commerce with foreign nations. Under this, Congress passed an act on the 22d of December, 1807, unlimited in duration, laying an embargo on all ships and vessels in the ports or within the limits and jurisdiction of the United States. No law of the United States ever pressed so severely upon particular states. Though the constitutionality of the law was contested with an earnestness and zeal proportioned to the ruinous effects which were felt from it, and though, as Mr. Chief Justice Marshall has said (9 Wheat. 192), "a want of acuteness in discovering objections to a measure to which they felt the most deep-rooted hostility will not be imputed to those who were arrayed in opposition to this," I am not aware that the fact that it prohibited the use of a particular species of property, belonging almost exclusively to citizens of a few states, and this indefinitely, was ever supposed to show that it was unconstitutional. Something much more stringent, as a ground of legal judgment, was relied on—that the power to regulate commerce did not include the power to annihilate commerce.

But the decision was, that under the power to regulate commerce, the power of Congress over the subject was restricted only by those exceptions and limitations contained in the Constitution; and as neither the clause in question, which was a general grant of power to regulate commerce, nor any other clause of the Constitution, imposed any restrictions as to the duration of an embargo, an unlimited prohibition of the use of the shipping of the country was within the power of Congress. On this subject, Mr. Justice Daniel, speaking for the court in the case of United States *v.* Marigold (9 How. 560), says: "Congress are, by the Constitution, vested with the power to regulate commerce with foreign nations; and however, at periods of high excitement, an application of the terms 'to regulate commerce,' such as would embrace absolute prohibition, may have been questioned, yet, since the passage of the embargo and non-intercourse laws, and the repeated judicial sanctions these statutes have received, it can scarcely at this day be open to doubt, that every subject falling legitimately within the sphere of commercial regulation may be partially or wholly excluded, when either measure shall be demanded by the safety or the important interests of the entire nation. The power once conceded, it may operate on any and every subject of commerce to which the legislative discretion may apply it."

If power to regulate commerce extends to an indefinite prohibition of the use of all vessels belonging to citizens of the several states, and may operate, without exception, upon every subject of commerce to which the legislative discretion may apply it, upon what grounds can I say that power to make all needful rules and regulations respecting the territory of the United States is subject to an exception of the allowance or prohibition of slavery therein?

While the regulation is one "respecting the territory," while it is, in the judgment of Congress, "a needful regulation," and is thus completely within the words of the grant, while no other clause of the Constitution can be shown, which requires the insertion of an exception respecting slavery, and while the practical construction for a period of upwards of fifty years forbids such an exception, it would, in my opinion, violate every sound rule of interpretation to force that exception into the Constitution upon the strength of abstract political reasoning, which we are bound to believe the people of the United States thought insufficient to induce them to limit the power of Congress, because what they have said contains no such limitation.

Before I proceed further to notice some other grounds of supposed objection to this power of Congress, I desire to say, that if it were not for my anxiety to insist upon what I deem a correct exposition of the Constitution, if I looked only to the purposes of the argument, the source of the power of Congress asserted in the opinion of the majority of the court would answer those purposes equally well. For they admit that Congress has power to organize and govern the territories until they arrive at a suitable condition for admission to the Union; they admit, also, that the kind of government which shall thus exist should be regulated by the condition and wants of each territory, and that it is necessarily committed to the discretion of Congress to enact such laws for that purpose as that discretion may dictate; and no limit to that discretion has been shown, or even suggested, save those positive prohibitions to legislate, which are found in the Constitution.

I confess myself unable to perceive any difference whatever between my own opinion of the general extent of the power of Congress and the opinion of the majority of the court, save that I consider it derivable from the express language of the Constitution, while they hold it to be silently implied from the power to acquire territory. Looking at the power of Congress over the territories as of the extent just described, what positive prohibition exists in the Constitution, which restrained Congress from enacting a law in 1820 to prohibit slavery north of thirty-six degrees thirty minutes north latitude?

The only one suggested is that clause in the fifth article of the amendments of the Constitution which declares that no person shall be deprived of his life, liberty, or property, without due process of law. I will now proceed to examine the question, whether this clause is entitled to the effect thus attributed to it. It is necessary, first, to have a clear view of the nature and incidents of that particular species of property which is now in question.

Slavery, being contrary to natural right, is created only by municipal law. This is not

only plain in itself, and agreed by all writers on the subject, but is inferable from the Constitution, and has been explicitly declared by this court. The Constitution refers to slaves as "persons held to service in one state, under the laws thereof." Nothing can more clearly describe a *status* created by municipal law. In Prigg *v.* Pennsylvania (10 Pet. 611), this court said: "The state of slavery is deemed to be a mere municipal regulation, founded on and limited to the range of territorial laws." In Rankin *v.* Lydia (2 Marsh. 12, 470), the Supreme Court of Appeals of Kentucky said: "Slavery is sanctioned by the laws of this state, and the right to hold them under our municipal regulations is unquestionable. But we view this as a right existing by positive law of a municipal character, without foundation in the law of nature or the unwritten common law." I am not acquainted with any case or writer questioning the correctness of this doctrine. (See also 1 Burge, Col. and For. Laws, 738, 741, where the authorities are collected.)

The *status* of slavery is not necessarily always attended with the same powers on the part of the master. The master is subject to the supreme power of the state, whose will controls his action towards his slave, and this control must be defined and regulated by the municipal law. In one state, as at one period of the Roman law, it may put the life of the slave into the hand of the master; others, as those of the United States, which tolerate slavery, may treat the slave as a person, when the master takes his life; while in others, the law may recognise a right of the slave to be protected from cruel treatment. In other words, the *status* of slavery embraces every condition, from that in which the slave is known to the law simply as a chattel, with no civil rights, to that in which he is recognised as a person for all purposes, save the compulsory power of directing and receiving the fruits of his labor. Which of these conditions shall attend the *status* of slavery, must depend on the municipal law which creates and upholds it.

And not only must the *status* of slavery be created and measured by municipal law, but the rights, powers, and obligations, which grow out of that *status*, must be defined, protected, and enforced, by such laws. The liability of the master for the torts and crimes of his slave, and of third persons for assaulting or injuring or harboring or kidnapping him, the forms and modes of emancipation and sale, their subjection to the debts of the master, succession by death of the master, suits for freedom, the capacity of the slave to be party to a suit, or to be a witness, with such police regulations as have existed in all civilized states where slavery has been tolerated, are among the subjects upon which municipal legislation becomes necessary when slavery is introduced.

Is it conceivable that the Constitution has conferred the right on every citizen to become a resident on the territory of the United States with his slaves, and there to hold them as such, but has neither made nor provided for any municipal regulations which are essential to the existence of slavery?

Is it not more rational to conclude that they who framed and adopted the Constitution were aware that persons held to service under the laws of a state are property only to the extent and under the conditions fixed by those laws; that they must cease to be available as property, when their owners voluntarily place them permanently within another jurisdiction, where no municipal laws on the subject of slavery exist; and that, being aware of these principles, and having said nothing to interfere with or displace them, or to compel Congress to legislate in any particular manner on the subject, and having empowered Congress to make all needful rules and regulations respecting the territory of the United States, it was their intention to leave to the discretion of Congress what regulations, if any, should be made concerning slavery therein? Moreover, if the right exists, what are its limits, and what are its conditions? If citizens of the United States have the right to take their slaves to a territory, and hold them there as slaves, without regard to the laws of the territory, I suppose this right is not to be restricted to the citizens of slaveholding states. A citizen of a state which does not tolerate slavery can hardly be denied the power of doing the same thing. And what law of slavery does either take with him to the territory? If it be said to be those laws respecting slavery which existed in the particular state from which each slave last came, what an anomaly is this? Where else can we find, under the law of any civilized country, the power to introduce and permanently continue diverse systems of foreign municipal law, for holding persons in slavery? I say, not merely to introduce, but permanently to continue, these anomalies. For the offspring of the female must be governed by the foreign municipal laws to which the mother was subject; and when any slave is sold, or passes by succession on the death of the owner, there must pass with him, by a species of subrogation, and as a kind of unknown *jus in re*, the foreign municipal laws which constituted, regulated, and preserved, the *status* of the slave before his exportation. Whatever theoretical importance may be now supposed to belong to the maintenance of such a right, I feel a perfect conviction that it would, if ever tried, prove to be as impracticable in fact, as it is, in my judgment, monstrous in theory.

I consider the assumption which lies at the basis of this theory to be unsound; not in its just sense, and when properly understood, but in the sense which has been attached to it. That assumption is, that the territory ceded by France was acquired for the equal benefit of all the citizens of the United States. I agree to the position. But it was acquired for their benefit in their collective, not their

individual, capacities. It was acquired for their benefit as an organized political society, subsisting as "the people of the United States," under the Constitution of the United States; to be administered justly and impartially, and as nearly as possible for the equal benefit of every individual citizen, according to the best judgment and discretion of the Congress; to whose power, as the Legislature of the nation which acquired it, the people of the United States have committed its administration. Whatever individual claims may be founded on local circumstances, or sectional differences of condition, cannot, in my opinion, be recognised in this court, without arrogating to the judicial branch of the government powers not committed to it; and which, with all the unaffected respect I feel for it, when acting in its proper sphere, I do not think it fitted to wield.

Nor, in my judgment, will the position, that a prohibition to bring slaves into a territory deprives any one of his property without due process of law, bear examination.

It must be remembered that this restriction on the legislative power is not peculiar to the Constitution of the United States; it was borrowed from *Magna Charta;* was brought to America by our ancestors, as part of their inherited liberties, and has existed in all the states, usually in the very words of the great charter. It existed in every political community in America in 1787, when the ordinance prohibiting slavery north and west of the Ohio was passed.

And if a prohibition of slavery in a territory in 1820 violated this principle of *Magna Charta*, the ordinance of 1787 also violated it; and what power had, I do not say the Congress of the Confederation alone, but the legislature of Virginia, or the legislature of any or all the states of the Confederacy, to consent to such a violation? The people of the states had conferred no such power. I think I may at least say, if the Congress did then violate *Magna Charta* by the ordinance, no one discovered that violation. Besides, if the prohibition upon all persons, citizens as well as others, to bring slaves into a territory, and a declaration that if brought they shall be free, deprives citizens of their property without due process of law, what shall we say of the legislation of many of the slaveholding states which have enacted the same prohibition? As early as October, 1778, a law was passed in Virginia, that thereafter no slave should be imported into that commonwealth by sea or by land, and that every slave who should be imported should become free. A citizen of Virginia purchased in Maryland a slave who belonged to another citizen of Virginia, and removed with the slave to Virginia. The slave sued for her freedom, and recovered it; as may be seen in Wilson *v.* Isabel (5 Call's R. 425). See also Hunter *v.* Hulsher (1 Leigh, 172), and a similar law has been recognised as valid in Maryland, in Stewart *v.* Oaks (5 Har. and John. 107). I am not aware that such laws, though they exist in many states, were ever supposed to be in conflict with the principle of *Magna Charta* incorporated into the state constitutions. It was certainly understood by the convention which framed the Constitution, and has been so understood ever since, that, under the power to regulate commerce, Congress could prohibit the importation of slaves; and the exercise of the power was restrained till 1808. A citizen of the United States owns slaves in Cuba, and brings them to the United States, where they are set free by the legislation of Congress. Does this legislation deprive him of his property without due process of law? If so, what becomes of the laws prohibiting the slave trade? If not, how can a similar regulation respecting a territory violate the fifth amendment of the Constitution?

Some reliance was placed by the defendant's counsel upon the fact that the prohibition of slavery in this territory was in the words, "that slavery, &c., shall be and is hereby *forever* prohibited." But the insertion of the word *forever* can have no legal effect. Every enactment not expressly limited in its duration continues in force until repealed or abrogated by some competent power, and the use of the word "forever" can give to the law no more durable operation. The argument is, that Congress cannot so legislate as to bind the future states formed out of the territory, and that in this instance it has attempted to do so. Of the political reasons which may have induced the Congress to use these words, and which caused them to expect that subsequent legislatures would conform their action to the then general opinion of the country that it ought to be permanent, this court can take no cognisance.

However fit such considerations are to control the action of Congress, and however reluctant a statesman may be to disturb what has been settled, every law made by Congress may be repealed, and saving private rights, and public rights gained by states, its repeal is subject to the absolute will of the same power which enacted it. If Congress had enacted that the crime of murder, committed in this Indian territory, north of thirty-six degrees thirty minutes, by or on any white man, should *forever* be punishable with death, it would seem to me an insufficient objection to an indictment, found while it was a territory, that at some future day states might exist there, and so the law was invalid, because, by its terms, it was to continue in force for ever. Such an objection rests upon a misapprehension of the province and power of courts respecting the constitutionality of laws enacted by the legislature.

If the Constitution prescribe one rule, and the law another and different rule, it is the duty of courts to declare that the Constitution, and not the law, governs the case before them for judgment. If the law include no case save those for which the Constitution has furnished a different rule, or no case which the legislature has the power to govern, then the

law can have no operation. If it includes cases which the legislature has power to govern, and concerning which the Constitution does not prescribe a different rule, the law governs those cases, though it may, in its terms, attempt to include others, on which it cannot operate. In other words, this court cannot declare void an act of Congress which constitutionally embraces some cases, though other cases, within its terms, are beyond the control of Congress, or beyond the reach of that particular law. If, therefore, Congress had power to make a law excluding slavery from this territory while under the exclusive power of the United States, the use of the word "forever" does not invalidate the law, so long as Congress has the exclusive legislative power in the territory.

But it is further insisted that the treaty of 1803, between the United States and France, by which this territory was acquired, has so restrained the constitutional powers of Congress, that it cannot, by law, prohibit the introduction of slavery into that part of this territory north and west of Missouri, and north of thirty-six degrees thirty minutes north latitude.

By a treaty with a foreign nation, the United States may rightfully stipulate that the Congress will or will not exercise its legislative power in some particular manner, on some particular subject. Such promises, when made, should be voluntarily kept, with the most scrupulous good faith. But that a treaty with a foreign nation can deprive the Congress of any part of the legislative power conferred by the people, so that it no longer can legislate as it was empowered by the Constitution to do, I more than doubt.

The powers of the government do and must remain unimpaired. The responsibility of the government to a foreign nation, for the exercise of those powers, is quite another matter. That responsibility is to be met, and justified to the foreign nation, according to the requirements of the rules of public law; but never upon the assumption that the United States had parted with or restricted any power of acting according to its own free will, governed solely by its own appreciation of its duty.

The second section of the fourth article is, "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land." This has made treaties part of our municipal law; but it has not assigned to them any particular degree of authority, nor declared that laws so enacted shall be irrepealable. No supremacy is assigned to treaties over acts of Congress. That they are not perpetual, and must be in some way repealable, all will agree.

If the President and the Senate alone possess the power to repeal or modify a law found in a treaty, inasmuch as they can change or abrogate one treaty only by making another inconsistent with the first, the government of the United States could not act at all, to that effect, without the consent of some foreign government. I do not consider, I am not aware it has ever been considered, that the Constitution has placed our country in this helpless condition. The action of Congress in repealing the treaties with France by the act of July 7th, 1798 (1 Stat. at Large, 578), was in conformity with these views. In the case of Taylor et al. *v.* Morton (2 Curtis's Cir. Ct. R. 454), I had occasion to consider this subject, and I adhere to the views there expressed.

If, therefore, it were admitted that the treaty between the United States and France did contain an express stipulation that the United States would not exclude slavery from so much of the ceded territory as is now in question, this court could not declare that an act of Congress excluding it was void by force of the treaty. Whether or no a case existed sufficient to justify a refusal to execute such a stipulation, would not be a judicial, but a political and legislative question, wholly beyond the authority of this court to try and determine. It would belong to diplomacy and legislation, and not to the administration of existing laws. Such a stipulation in a treaty, to legislate or not to legislate in a particular way, has been repeatedly held in this court to address itself to the political or the legislative power, by whose action thereon this court is bound. (Foster *v.* Nicholson, 2 Peters, 314; Garcia *v.* Lee, 12 Peters, 519.)

But, in my judgment, this treaty contains no stipulation in any manner affecting the action of the United States respecting the territory in question. Before examining the language of the treaty, it is material to bear in mind that the part of the ceded territory lying north of thirty-six degrees thirty minutes, and west and north of the present state of Missouri, was then a wilderness, uninhabited save by savages, whose possessory title had not then been extinguished.

It is impossible for me to conceive on what ground France could have advanced a claim, or could have desired to advance a claim, to restrain the United States from making any rules and regulations respecting this territory, which the United States might think fit to make; and still less can I conceive of any reason which would have induced the United States to yield to such a claim. It was to be expected that France would desire to make the change of sovereignty and jurisdiction as little burdensome as possible to the then inhabitants of Louisiana, and might well exhibit even an anxious solicitude to protect their property and persons, and secure to them and their posterity their religious and political rights; and the United States, as a just government, might readily accede to all proper stipulations respecting those who were about to have their allegiance transferred. But what interest France could have in uninhabited territory, which, in the language of the treaty, was

to be transferred "forever, and in full sovereignty," to the United States, or how the United States could consent to allow a foreign nation to interfere in its purely internal affairs, in which that foreign nation had no concern whatever, is difficult for me to conjecture. In my judgment, this treaty contains nothing of the kind.

The third article is supposed to have a bearing on the question. It is as follows: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States; and in the mean time they shall be maintained and protected in the enjoyment of their liberty, property, and the religion they profess."

There are two views of this article, each of which, I think, decisively shows that it was not intended to restrain the Congress from excluding slavery from that part of the ceded territory then uninhabited. The first is, that, manifestly, its sole object was to protect individual rights of the then inhabitants of the territory. They are to be "maintained and protected in the free enjoyment of their liberty, property, and the religion they profess." But this article does not secure to them the right to go upon the public domain ceded by the treaty, either with or without their slaves. The right or power of doing this did not exist before or at the time the treaty was made. The French and Spanish governments while they held the country, as well as the United States when they acquired it, always exercised the undoubted right of excluding inhabitants from the Indian country, and of determining when and on what conditions it should be opened to settlers. And a stipulation, that the then inhabitants of Louisiana should be protected in their property, can have no reference to their use of that property, where they had no right, under the treaty, to go with it, save at the will of the United States. If one who was an inhabitant of Louisiana at the time of the treaty had afterwards taken property then owned by him, consisting of firearms, ammunition, and spirits, and had gone into the Indian country north of thirty-six degrees thirty minutes, to sell them to the Indians, all must agree the third article of the treaty would not have protected him from indictment under the act of Congress of March 30, 1802 (2 Stat. at Large, 139), adopted and extended to this territory by the act of March 26, 1804 (2 Stat. at Large, 283).

Besides, whatever rights were secured were individual rights. If Congress should pass any law which violated such rights of any individual, and those rights were of such a character as not to be within the lawful control of Congress under the Constitution, that individual could complain, and the act of Congress, as to such rights of his, would be inoperative; but it would be valid and operative as to all other persons, whose individual rights did not come under the protection of the treaty. And inasmuch as it does not appear that any inhabitant of Louisiana, whose rights were secured by treaty, had been injured, it would be wholly inadmissible for this court to assume, first, that one or more such cases may have existed; and, second, that if any did exist, the entire law was void—not only as to those cases, if any, in which it could not rightfully operate, but as to all others, wholly unconnected with the treaty, in which such law could rightfully operate.

But it is quite unnecessary, in my opinion, to pursue this inquiry further, because it clearly appears from the language of the article, and it has been decided by this court, that the stipulation was temporary, and ceased to have any effect when the then inhabitants of the territory of Louisiana, in whose behalf the stipulation was made, were incorporated into the Union.

In the cases of New Orleans *v.* De Armas et al. (9 Peters, 223), the question was, whether a title to property, which existed at the date of the treaty, continued to be protected by the treaty after the state of Louisiana was admitted to the Union. The third article of the treaty was relied on. Mr. Chief Justice Marshall said: "This article obviously contemplates two objects. One, that Louisiana shall be admitted into the Union as soon as possible, on an equal footing with the other states; and the other, that, till such admission, the inhabitants of the ceded territory shall be protected in the free enjoyment of their liberty, property, and religion. Had any one of these rights been violated while these stipulations continued in force, the individual supposing himself to be injured might have brought his case into this court, under the twenty-fifth section of the judicial act." But this stipulation ceased to operate when Louisiana became a member of the Union, and its inhabitants were "admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

The cases of Chouteau *v.* Marguerita (12 Peters, 507), and Permoli *v.* New Orleans (3 How. 589), are in conformity with this view of the treaty.

To convert this temporary stipulation of the treaty, in behalf of French subjects who then inhabited a small portion of Louisiana, into a permanent restriction upon the power of Congress to regulate territory then uninhabited, and to assert that it not only restrains Congress from affecting the rights of property of the then inhabitants, but enabled them and all other citizens of the United States to go into any part of the ceded territory with their slaves, and hold them there, is a construction of this treaty so opposed to its natural meaning, and so far beyond its subject-matter and the evident design of the parties, that I cannot assent to it. In my opinion, this treaty has no bearing on the prerent question.

For these reasons, I am of opinion that so

much of the several acts of Congress as prohibited slavery and involuntary servitude within that part of the territory of Wisconsin lying north of thirty-six degrees thirty minutes north latitude, and west of the river Mississippi, were constitutional and valid laws.

I have expressed my opinion, and the reasons therefor, at far greater length than I could have wished, upon the different questions on which I have found it necessary to pass, to arrive at a judgment on the case at bar. These questions are numerous, and the grave importance of some of them required me to exhibit fully the grounds of my opinion. I have touched no question which, in the view I have taken, it was not absolutely necessary for me to pass upon, to ascertain whether the judgment of the Circuit Court should stand or be reversed. I have avoided no question on which the validity of that judgment depends. To have done either more or less, would have been inconsistent with my views of my duty.

In my opinion, the judgment of the Circuit Court should be reversed, and the cause remanded for a new trial.

Dunn, George Grundy, of Indiana.

CELEBRATED AMENDMENT OF.

IN the House of Representatives, July 29, 1856, the bill of the House, No. 75, reported by Mr. Grow, from the Committee on Territories, entitled, "A bill to annul certain acts of the Legislative Assembly of the territory of Kansas, and to secure to the citizens of said territory their rights and privileges," being before the body, Mr. Dunn of Indiana moved an amendment in the nature of a substitute for the same, the 24th section of which substitute is as follows:—

Sec. 24. And be it further enacted, That so much of the fourteenth section, and also so much of the thirty-second section of the act passed at the first session of the thirty-third Congress, commonly known as the Kansas-Nebraska act, as reads as follows, to wit: "Except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the states and territories, as recognised by the legislation of eighteen huudred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States: Provided, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery"—be and the same is hereby repealed; and the said eighth section of said act of sixth March, eighteen hundred and twenty, is hereby revived and declared to be in full force and effect within the said territories of Kansas and Nebraska: Provided, however, That any person lawfully held to service in either of said territories shall not be discharged from such service by reason of such repeal and revival of said eighth section, if such person shall be permanently removed from such territory or territories prior to the first day of January, eighteen hundred and fifty-eight; and any child or children born in either of said territories, of any female lawfully held to service, if in like manner removed without said territories before the expiration of that date, shall not be, by reason of any thing in this act, emancipated from any service it might have owed had this act never been passed: And provided further, That any person lawfully held to service in any other state or territory of the United States, and escaping into either the territory of Kansas or Nebraska, may be reclaimed and removed to the person or place where such service is due, under any law of the United States which shall be in force upon the subject.

The amendment of Mr. Dunn was carried by yeas 89, nays 77, as follows:—

Those who voted in the affirmative are:—

Messrs. Albright, Allison, Ball, Barbour, Benson, Bishop, Bliss, Bradshaw, Brenton, Buffington, J. H. Campbell, L. D. Campbell, Chaffee, Clawson, Colfax, Comins, Covode, Cumback, Damrell, Dean, Dick, Dodd, DUNN, Durfee, Edie, EDWARDS, Emrie, Flagler, Giddings, Gilbert, Granger, Grow, Hall, Harlan, HARRISON, HAVEN, Holloway, T. R. Horton, V. B. Horton, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Matteson, McCarty, Miller, MOORE, Morgan, Morrill, Nichols, Norton, Oliver, Parker, Pelton, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Sabin, Sage, Sapp, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappan, Thurston, Todd, Trafton, Wade, Wakeman, Walbridge, Waldron, C. C. Washburne, E. B. Washburne, I. Washburne, Jr., Watson, Welch, *Wells, Jr.*, Wood, Woodruff, Woodworth.

Those who voted in the negative are:—

Messrs. *Aiken, Barksdale, Bell,* Bennett, *Bowie,* BROOM, *Burnett,* CAMPBELL, CARLILE, *Caruthers, Caskie, H. Cobb, W. R. W. Cobb,* COX, *Craige, Crawford,* CULLEN, *Davidson,* DAVIS, Day, *Denver, Dowdell, Edmundson, English, Faulkner,* FOSTER, FULLER, *Goode, Greenwood,* J. M. HARRIS, *S. W. Harris, T. L. Harris,* HOFFMAN, *Houston, Jewett, Jones.* KENNETT, *Kidwell,* LAKE, Leiter, *Lumpkin,* H. MARSHALL, *S. S. Marshall, Maxwell, Miller, Millson, Packer, Peck, Phelps, Powell,* PURYEAR, Quitman, READE, READY, RICAUD, RIVERS, *Ruffin, Savage, Shorter, S. A. Smith, W. Smith,* SNEED, *Stephens, Stewart,* SWOPE, *Taylor,* TRIPPE, UNDERWOOD, VALK, *Walker, Warner, Watkins,* WHITNEY, *Winslow, D. B. Wright, J. V. Wright,* ZOLLICOFFER.

Democrats in *italics*, Fillmore Americans in SMALL CAPS, Republicans in roman.

So the amendment was agreed to.

The vote in the affirmative on the passage of the bill as amended was the same as on the amendment, with the exception that Mr. Pike of New Hampshire (Republican), was not present, which made it 88, or one less.

The vote in the negative on the passage of the bill as amended was the same as on the amendment, with the exception that Messrs. Jones of Pa., and Branch of N. C., Democrats, who had not voted on the previous vote, voted in the negative, and Messrs. Bennett of N. Y., and Day of O., Republicans, and Messrs. Fuller of Pa., Hoffman of Md., and Whitney of N. Y., National Americans, who voted on the previous vote in the negative, did not vote at all on its passage, which made the vote in the negative 74, or three less.

The following extract is from Mr. Dunn's speech in the House of Representatives, August 5, 1856, on the Appropriation Bill:—

"I do not desire to say anything on this occasion about the blood that has been shed in Kansas, or about the thunder of artillery that has been levelled against dwellings there; because a great deal more has been said on that subject heretofore than there has been any disposition shown to amend. What I desire is action to stop these evils. This tinkering system, sir—gentlemen must pardon me for so calling it—the system of patching these evils by littles, of going into this vast field of vile weeds (to change the figure) with the hand to pluck up a single stem here and another there, will amount to nothing. The only way to remedy the evil is to take hold of this great mischief by the roots and

tear it all up. If gentlemen propose to come up to the work with the genuine pluck, they must say that appropriations shall not be granted unless the evil is fully remedied. Let them put the axe to the root of every tree. Let the Senate go without its rations, and let the House go without its, and let the President go without his, and let all your Army and Navy, and all your officers in every department, go without theirs. This I would do rather than permit these evils to progress in the direction in which they are now tending—to inevitable and undoubted ruin. Gentlemen come here and propose to stop the pay of the judges and juries, and thereby hope to starve the courts into submission. That will do no good. Stop all, sir. That is the only proper course. And I guaranty that if this House show a proper purpose in regard to this matter, we shall repress the evil. If there is to be no capitulation on easy terms to all, as the fortress cannot be stormed, I would sit quietly down before it and starve the garrison into a surrender."

Elections.

RETURNS OF THAT FOR PRESIDENT IN 1848, 1852, AND 1856.

	1856.				1852.			1848.		
FREE STATES.	*Rep.* Fremont.	*Amer.* Fillmore.	*Dem.* Buchanan.	TOTAL VOTE.	*Whig.* Scott.	*Dem.* Pierce.	*F. S* Hale.	*Whig.* Taylor.	*Dem.* Cass.	*F. S.* V. Buren.
California	20,339	35,113	51,925	107,377	34,971	33,665	100	Admittted since 1848.		
Connecticut	42,715	2,615	34,995	80,325	30,359	33,249	3,160	30,314	27,046	5,005
Illinois	96,189	37,444	105,348	238,981	64,934	80,597	9,966	53,215	56,629	15,804
Indiana	94,375	22,386	118,670	235,431	80,901	95,299	6,934	69,907	74,745	8,100
Iowa	43,954	9,180	36,170	89,304	15,855	17,762	1,606	11,178	12,125	1,126
Maine	67,879	3,325	39,080	109,784	32,543	41,609	8,030	35,276	40,206	12,178
Massachusetts	108,190	19,626	39,240	167,056	56,063	46,880	29,993	61,070	35,281	38,058
Michigan	71,762	1,660	52,136	125,558	33,860	41,842	7,237	23,940	30,687	10,389
New Hampshire	38,345	422	32,789	71,556	16,147	29,997	6,695	14,781	27,763	7,560
New Jersey	28,338	24,115	46,943	99,396	38,556	44,305	350	40,015	36,901	849
New York	276,907	124,604	195,878	597,389	234,882	262,083	25,329	218,583	114,319	120,497
Ohio	187,497	28,126	170,874	386,497	152,526	169,220	31,682	138,359	154,773	35,347
Pennsylvania	147,510	82,175	230,710	460,395	179,122	198,568	8,524	185,730	172,186	11,177
Rhode Island	11,467	1,675	6,580	19,722	7,626	8,735	644	6,779	3,646	730
Vermont	39,561	545	10,569	50,675	22,173	13,044	8,621	23,122	10,948	13,837
16 Wisconsin	66,090	579	52,843	119,512	22,240	33,658	8,814	13,747	15,001	10,418
Total	1,340,618	393,590	1,224,750	2,958,958	1,022,757	1,156,513	157,685	926,016	812,256	291,075

Fremont over Buchanan, 115,868; Pierce over Scott, 133,756; Taylor over Cass, 113,760.

SLAVE STATES.	Fremont.	Fillmore.	Buchanan.	Total.	Scott.	Pierce.	Hale.	Taylor.	Cass.	V. Buren.
Alabama		28,552	46,739	75,291	15,038	26,881		30,482	31,363	
Arkansas		10,787	21,910	32,697	7,404	12,173		7,588	9,300	
Delaware	308	6,175	8,004	14,487	6,293	6,318	62	6,422	5,910	80
Florida		4,833	6,358	11,191	2,875	4,318		4,359	3,233	
Georgia		42,228	56,578	98,806	16,660	34,705		47,544	44,802	
Kentucky	314	67,416	74,642	142,372	57,068	53,806	265	67,141	49,720	
Louisiana		20,709	22,164	42,873	17,255	18,647		18,217	15,370	1
Maryland	281	47,460	39,115	86,856	35,077	40,022	54	37,702	34,528	125
Mississippi		24,195	35,446	59,641	17,584	26,876		25,922	26,587	
Missouri		48,524	58,164	106,688	29,984	38,353		32,671	40,077	
North Carolina		36,886	48,246	85,132	39,058	39,744	59	43,519	34,869	85
South Carolina			No popular vote.		Electors chosen by Legi			slature.		
Tennessee		66,178	73,638	139,816	58,898	57,018		64,705	58,419	
Texas		15,244	28,757	44,001	4,995	13,552		4,509	10,668	3
15 Virginia	291	60,278	89,826	150,395	57,132	72,413		45,265	46,738	9
Total	1,194	479,465	609,587	1,090,246	365,321	444,826	440	436,226	411,539	303

Buchanan over Fillmore, 130,122; over both, 128,928; Pierce over Scott, 79,505; Taylor over Cass, 24,687.

RECAPITULATION.

	Fremont.	Fillmore.	Buchanan.	Total.	Scott.	Pierce.	Hale.	Taylor.	Cass.	V. Buren.
Free States	1,340,618	393,590	1,224,750	2,958,958	1,022,757	1,156,513	157,685	926,016	812,256	291,075
Slave States	1,194	479,465	609,587	1,090,246	365,321	444,826	440	436,226	411,539	303
Total	1,341,812	873,055	1,834,337	4,049,204	1,388,078	1,601,339	158,125	1,362,242	1,223,795	291,378

Buchanan over Fremont, 492,525; Pierce over Scott, 213,261: Taylor over Cass, 138,447.

Fremont received 30 per cent. of the popular vote and 39 per cent. of electors; Fillmore 25 per cent. of votes, and only 2 per cent. of electors; Buchanan 45 per cent. of votes and 59 per cent. of electors.

Elliott, Thos. D., of Mass.

PROPOSITION OF, TO REPEAL FUGITIVE SLAVE LAW.

ON the 28th of July, 1854, in the House of Representatives, Mr. Thomas D. Elliot of Mass., asked leave to introduce the following bill:—

"Be it enacted, &c., That an act entitled An act to amend, and supplementary to an act entitled An act respecting fugitives from justice, and persons escaping from the service of their masters, approved September 18, 1850, be, and the same is hereby repealed."

Mr. Bridges of Pa. objected to leave being granted.

Mr. Elliott moved to suspend the rules, which was lost by yeas and nays, as follows:—

YEAS.—Messrs. Ball of O., Bennett of N. Y., Benson of Me., Campbell of O., Carpenter of N. Y., Corwin of O., Crocker of Mass., *Thos. Davis* of R. I., De Witt of Mass., Dick of Pa., Dickinson of Mass., *Eastman* of Wis., Edmunds of Mass., Thos. D. Elliott of Mass., Everhart of Pa., GIDDINGS of O., Goodrich of Mass., Aaron Harlan of O., Howe of Pa., *Daniel T. Jones* of N. Y., Knox of Ill., Matteson of N. Y., *Mayall* of Me., Morgan of N. Y., Nortou of Ill., Parker of Ind., Pennington of N. J., Pringle of N. Y., David Ritchie

of Pa., Russell of Pa., Sabin of Vt., Sage of N. Y., Sapp of O., Simmons of N. Y., GERRIT SMITH of N. Y., *Andrew Stuart* of O., *Thurston* of R. I., Trout of Pa., Upham of Mass., Wade of O., Walley of Mass., Elihu B. Washburne of Ill., Israel Washburne of Ill., *Wells* of Wis., Tappan Wentworth of Mass.—45.

NAYS.—Messrs. *Aiken* of S. C., *James C. Allen* of Ill., *W. Allen* of Ill., *Ashe* of N. C., *Bailey* of Ga., *Barry* of Miss., *Benton* of Mo., *Bocock* of Va., *Boyce* of S. C., *Breckinridge* of Ky., *Bridges* of Pa., *Brooks* of S. C., *Caruthers* of Mo., *Chamberlain* of Ind., *Chastain* of Ga., *Chrisman* of Ky., *Churchwell* of Tenn., *Clark* of Mich., *Clingman* of N. C., *Cobb* of Ala., Cook of Ia., Cox of Ky., *Craige* of N. C., *Curtis* of Pa., *Davis* of Ind., *Dawson* of Pa., *Disney* of O., *Dowdell* of Ala., *Drum* of Pa., *Dunbar* of La., *Eddy* of Ind., *Edgerton* of O., *Edmundson* of Va., *Elliott* of Ky., *Ellison* of O., *English* of Ind., Farley of Me., *Faulkner* of Va., *Florence* of Pa., *Fuller* of Me., *Goode* of Va., *Greenwood* of Ark., *Grow* of Pa., *Harris* of Ala., *Harris* of Miss., Harrison of O., Haven of N. Y., *Hendricks* of Ind., *Henn* of Ia., *Hibbard* of N. H., Hill of Ky., *Houston* of Ala., Hunt of La., *Johnson* of O., *Jones* of Tenn., *Jones* of La., *Keitt* of S. C., Kerr of N. C., *Kidwell* of Va., *Kittredge* of N. H., *Kurtz* of Pa., *Lamb* of Mo., *Latham* of Cal., *Letcher* of Va., Lindley of Mo., *McMullin* of Va., *McNair* of Pa., *McQueen* of S. C., *Macey* of Wis., *Maurice* of N. Y., *Maxwell* of Fla., Miller of Mo., *Miller* of Ind., *Millson* of Va., *Morrison* of N. H., *Murray* of N. Y., *Nichols* of O., *Noble* of Mich., *Olds* of O., *Oliver* of N. Y., *Orr* of S. C., *Peckham* of N. Y., *Phelps* of Mo., *Phillips* of Ala., *Pratt* of Conn., Preston of Ky., Puryear of N. C., Reese of Ga., *Riddle* of Del., *Robbins* of Pa., Rogers of N. C., *Ruffin* of N. C., *Seward* of Ga., *Shannon* of O., *Shaw* of N. C., *Shower* of Md., *Skelton* of N. J., *Smith* of Tenn., *Smith* of Ala., *Smyth* of Tex., Sollers of Md., *Stanton* of Tenn., *Stanton* of Ky., *Stephens* of Ga., *Stevens* of Mich., *Stratton* of N. J., *Straub* of Pa., *Stuart* of Mich., *Taylor* of N. Y., Taylor of O., Taylor of Tenn., *Vail* of N. J., *Vansant* of Md., *Walbridge* of N. Y., *Walker* of N. Y., *Wheeler* of N. Y., *Witte* of Pa., *Wright* of Miss., *Wright* of Pa., Zollicoffer of Tenn.—120.

Mr. Barksdale of Miss. stated, if he had been in the House he would have voted no.

Those in SMALL CAPS, Free Soilers.

Those in *italics*, Democrats.

Those in roman, Whigs.

Classification according to the politics of the members at the time they voted.

Emancipation Party.

RESOLUTIONS OF, OF ST. LOUIS, MISSOURI.

Whereas, the pro-slavery party of this state, calling themselves National Democrats, by their course in the last session of the legislature renewed the agitation of the slavery question, and forced the emancipation question upon the people; and whereas the Democracy of this city deem this a fit opportunity to declare their sentiments in regard to this question; therefore be it

Resolved, That we heartily endorse the course of our delegates in the last legislature.

Resolved, That the gradual emancipation of slavery in the state of Missouri, in the opinion of this convention, is an open question, and one of vital importance to the people of this state; that we disapprove of the resolutions on this subject introduced by Mr. Carr in the legislature during its last session, as an attempt to gag the free expression of opinion upon the freedom of speech and of the press.

Resolved, That the constitution of this state provides that slaves may be emancipated by the consent of the owners, by making compensation for the same, and that gradual emancipation, upon the terms provided in the constitution is neither "impracticable, unwise, nor unjust," if it shall appear to be for the best interests of the people of this state, and the only mode of ascertaining this important fact is by full and free discussion of the entire subject.

Emigrant Aid Society.

ORIGIN OF.

THE following is the testimony of the Hon. Daniel Mace, of Ind., who was called and sworn before the Kansas Investigating Committee:—

To Mr. Oliver:—

Immediately after the passage of the Kansas-Nebraska act, I, together with a number of others, who were members of Congress and senators, believing that the tendency of that act would be to make Kansas a slave state, in order to prevent it, formed an association here in Washington, called, if I recollect aright, "The Kansas Aid Society." I do not remember all who became members of that society, but quite a number of members who were opposed to slavery in Kansas, of the Lower House, and also of the Senate, became members of it, and subscribed various sums of money. I think I subscribed either $50 or $100; I am not now prepared to say which.

We issued a circular to the people of the country, of the Northern States particularly, in which we set forth what we believed were the dangers of making Kansas a slave state, and urged that steps be taken to induce persons from the North, who were opposed to slavery, to go there and prevent its introduction, if possible. We sent a great many circulars to various parts of the United States, with that object, and also communications of various kinds. I do not now remember what they were. The object was to have persons induced to go to Kansas who would make that their home, and who would, at all elections, vote against the institution of slavery.

I think Mr. Goodrich of Mass. was the president of the society. I am not certain about the vice presidents; probably Mr. Fenton of N. Y., and myself, were vice presidents. The names of the president and vice presidents were attached to our circulars, which we sent throughout the country.

My recollection is, that generally those members of the House and Senate who were opposed to the Kansas-Nebraska act became members of this society, and contributed to it.

The leading primary object of the association was to prevent the introduction of slavery into Kansas, as I stated during the short session of Congress, in answer to a question propounded to me by yourself, I believe. We believed that unless vigorous steps of that kind were taken, Kansas would become a slave state. I do not remember the caption of the subscription paper. I think no other object was mentioned or specified, except the prevention of slavery in Kansas. I think that was the sole object of the movement.

I do not recollect whether Mr. Speaker Banks was a member of that society or not, or whether Senator Seward was or not. Mr. Goodrich kept the books. My impression is, that a majority of those who voted against the bill were members of that organization. I do not remember the total amount of money raised by means of that organization. We had a room here, and employed a secretary, and consequently had expenses to pay. I do not know the amount raised. I think there were persons, members of that association, who were not members of either House of Congress. Mr. Latham was appointed treasurer, but declined; and my impression is, that Mr. Blair became the treasurer; but I may be mistaken about that.

DAN'L. MACE.

Washington City, July 1, 1856.

Commonwealth of Massachusetts, in the year one thousand eight hundred and fifty-five.

An act to incorporate the New England Emigrant Aid Company.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:—Sec. 1. Eli Thayer, Amos A. Lawrence, John M. S. Williams, and Thomas H. Webb, their associates, successors, and assigns, are hereby made a corporation, by the name of the New England Emigrant Aid Company, for the purpose of directing emigration westward, and aiding in providing accommodations for the emigrants after arriving at their places of destination; and for these purposes they have all the powers and privileges, and are subject to all the duties, restrictions, and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Sec. 2. The capital stock of said corporation shall not exceed one million of dollars. Said capital stock may be invested in real and personal estate: *Provided*, the said corporation shall not hold real estate in this Commonwealth to an amount exceeding twenty thousand dollars.

Sec. 3. This act shall take effect from and after its passage.

House of Representatives, February 16, 1855.
Passed to be enacted. DANIEL C. EDDY, Speaker.
In Senate, February 17, 1855.
Passed to be enacted. HENRY W. BENCHLY, President.
February 21, 1855. Approved. HENRY J. GARDNER.

Expunging Resolutions.

On the 18th of February, 1835, Mr. Benton submitted the following resolution to the senate.

Resolved, That the resolution adopted by the Senate on the 28th day of March, 1834, in the following words, "Resolved, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both," be and the same is hereby ordered to be expunged from the journals of the Senate, because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification, and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer, and at a time and under circumstances to involve a peculiar injury to the political rights and pecuniary interests of the people of the United States.

On the 3d of March, 1835, on motion of Mr. Webster the whole subject was laid upon the table, by a vote of 27 to 20.

Mr. Benton immediately renewed the resolution to stand for the second week of the next session.

On the 26th day of Dec. 1836, Mr. Benton again introduced his expunging resolution more elaborate than the one which he had previously introduced, being in the shape of a lengthy preamble, reciting distinctly and clearly all the facts and principles involved, and closing with the following resolution:—

Resolved, That the said resolve be expunged from the journal, and for that purpose that the secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript journal of the session of 1833 and 1834 into the Senate, and in the presence of the Senate draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: Expunged by order of the Senate this — day of —, A. D. 1837.

It passed on the 16th day of March, 1837, by yeas and nays, as follows:—

YEAS.—Messrs. Benton, Brown, Buchanan, Dana, Ewing of Ill., Fulton, Grundy, Hubbard, King of Ala., Linn, Morris, Nicholas, Niles, Page, Rives, Robinson, Ruggles, Sevier, Strange, Tallmadge, Tipton, Walker, Wall, and Wright.

NAYS.—Messrs. Bayard, Black, Calhoun, Clay, Crittenden, Davis, Ewing of O., Hendricks, Kent, Knight, Moore, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster, and White.

Fillmore, Millard.

ERIE LETTER OF.

BUFFALO, Oct. 17, 1838.

SIR: Your communication of the 13th inst., as chairman of the committee appointed by "The Anti-Slavery Society of the County of Erie," has just come to hand. You solicit my answer to the following interrogatories:—

1st. Do you believe that petitions to Congress on the subject of slavery and the slave trade ought to be received, read, and respectfully considered by the representatives of the people?

2d. Are you opposed to the annexation of Texas to this Union, under any circumstances, so long as slaves are held therein?

3d. Are you in favor of Congress exercising all the constitutional powers it possesses to abolish the internal slave trade between the states?

4th. Are you in favor of immediate legislation for the abolition of slavery in the District of Columbia?

Answer.—I am much engaged, and have no time to enter into argument, or explain at length my reasons for my opinion. I shall therefore content myself, for the present, by answering all your interrogatories in the affirmative, and leave for some future occasion a more extended discussion on the subject.

I would, however, take this occasion to say, that in thus frankly giving my opinion, I would not desire to have it understood in the nature of a pledge. At the same time that I seek no disguises, but freely give my sentiments on any subject of interest to those for whose suffrages I am a candidate, I am opposed to give any pledge that shall deprive me hereafter of all discretionary power. My own character must be the guarantee for the general correctness of my legislative deportment. On every important subject I am bound to deliberate before I act, and especially as a legislator—to possess myself of all the information, and listen to every argument that can be adduced by my associates, before I give a final vote. If I stand pledged to a particular course of action, I cease to be a responsible agent, but I become a mere machine. Should subsequent events show, beyond all doubt, that the course I had become pledged to pursue was ruinous to my constituents and disgraceful to myself, I have no alternative, no opportunity for repentance, and there is no power to absolve me from my obligation. Hence the impropriety, not to say absurdity, in my view, of giving a pledge.

I am aware that you have not asked any pledge, and I believe I know your sound judgment and good sense too well to think you desire any such thing. It was, however, to prevent any misrepresentation on the part of others, that I have felt it my duty to say thus much on this subject.

I am, respectfully, your most obedient servant,
MILLARD FILLMORE.

W. Mills, Esq., Chairman.

The following is Mr. Fillmore's letter to the Hon. John Gayle:—

ALBANY, July 31, 1848.

DEAR SIR: I have your letter of the 5th instant, but my official duties have been so pressing, that I have been compelled to neglect my private correspondence. I had also determined to write no letters for publication bearing upon the contest in the approaching canvass. But, as you desire some information for your own satisfaction in regard to the charges brought against me from the South, on the slave question, I have concluded to state briefly my position.

While I was in Congress, there was much agitation on the right of petition. My votes will doubtless be found recorded uniformly in favor of it. The rule upon which I acted was, that every citizen presenting a respectful petition to the body that by the Constitution had the power to grant or refuse the prayer of it, was entitled to be heard; and therefore the petition ought to be received and considered. If right and reasonable, the prayer of it should be granted; but if wrong or unreasonable, it should be denied. I think all my votes, whether on the reception of petitions or the consideration of resolutions, will be found consistent with this rule.

I have none of my Congressional documents here, they being at my former residence in Buffalo, nor have I access to any papers or memoranda to refresh my recollection; but I think at some time while in Congress I took occasion to state, in substance, my views on the subject of slavery in the states. Whether the remarks were reported or not, I am unable to say; but the substance was, that I regarded slavery as an evil, but one with which the national government had nothing to do; that by the Constitution of the United States, the whole power over that question was vested in the several states where the institution was tolerated. If they regarded it as a blessing, they had a constitutional right to enjoy it; and if they regarded it as an evil, they had the power, and knew best how to apply the remedy. I did not conceive that Congress had any power over it, or was in any way responsible for its continuance in the several states where it existed. I have entertained no other sentiments on this subject since I examined it sufficiently to form an opinion; and I doubt not that all my acts, public and private, will be found in accordance with this view.

I have the honor to be, your obedient servant, MILLARD FILLMORE.

Hon. John Gayle.

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The following is Mr. Fillmore's speech, delivered at Albany, in July, 1856:—

Mr. Mayor and Fellow-Citizens:—This overwhelming demonstration of congratulation and welcome almost deprives me of the power of speech. Here, nearly thirty years ago, I commenced my political career. In this building I first saw a legislative body in session; but at that time it never entered into the aspirations of my heart that I ever should receive such a welcome as this in the capital of my native state.

You have been pleased, sir, to allude to my former services and my probable course if I should again be called to the position of Chief Magistrate of the nation. It is not pleasant to speak of one's self, yet I trust that the occasion will justify me in briefly alluding to one or two events connected with my administration. You all know that when I was called to the Executive chair by a bereavement which shrouded a nation in mourning, that the country was unfortunately agitated from one end to the other upon the all-exciting subject of slavery. It was then, sir, that I felt it my duty to rise above every sectional prejudice, and look to the welfare of the whole nation. I was compelled to a certain extent to overcome long-cherished prejudices, and disregard party claims. But in doing this, sir, I did no more than was done by many abler and better men than myself. I was by no means the sole instrument, under Providence, in harmonizing these difficulties. There were at that time noble, independent, high-souled men in both Houses of Congress, belonging to both the great political parties of the country—Whigs and Democrats—who spurned the dictation of selfish party leaders, and rallied around my administration in support of the great measures which restored peace to an agitated and distracted country. Some of these have gone to their eternal rest, with the blessings of their country on their heads, but others yet survive, deserving the benediction and honors of a grateful people. By the blessings of Divine Providence, our efforts were crowned with signal success, and when I left the Presidential chair, the whole nation was prosperous and contented, and our relations with all foreign nations were of the most amicable kind. The cloud that hung upon the horizon was dissipated. But where are we now? Alas! threatened at home with civil war, and from abroad with a rupture of our peaceful relations. I shall not seek to trace the causes of this change. These are the facts, and it is for you to ponder upon them. Of the present administration I have nothing to say, for I know and can appreciate the difficulties of administering this government, and if the present executive and his supporters have with good intentions and honest hearts made a mistake, I hope God may forgive them as I freely do. But, if there be those who have brought these calamities upon the country for selfish or ambitious objects, it is your duty, fellow-citizens, to hold them to a strict responsibility.

The agitation which disturbed the peace of the country in 1850, was unavoidable. It was brought upon us by the acquisition of new territory, for the government of which it was necessary to provide territorial organization. But it is for you to say whether the present agitation, which distracts the country and

threatens us with civil war, has not been recklessly and wantonly produced, by the adoption of a measure to aid in personal advancement rather than in any public good.

Sir, you have been pleased to say, that I have the Union of these states at heart; this, sir, is most true, for if there be one object dearer to me than any other, it is the unity, prosperity, and glory of this great republic; and I confess frankly, sir, that I fear it is in danger. I say nothing of any particular section, much less of the several candidates before the people. I presume they are all honorable men. But, sir, what do we see? An exasperated feeling between the North and the South, on the most exciting of all topics, resulting in bloodshed and organized military array.

But this is not all, sir. We see a political party presenting candidates for the Presidency and Vice Presidency, selected for the first time from the free states alone, with the avowed purpose of electing these candidates by suffrages of one part of the Union only, to rule over the whole United States. Can it be possible that those who are engaged in such a measure can have seriously reflected upon the consequences which must inevitably follow, in case of success? Can they have the madness or the folly to believe that our Southern brethren would submit to be governed by such a Chief Magistrate? Would he be required to follow the same rule prescribed by those who elected him, in making his appointments? If a man living south of Mason and Dixon's line be not worthy to be President or Vice President, would it be proper to select one from the same quarter as one of his cabinet council or to represent the nation in a foreign country? Or, indeed, to collect the revenue, or administer the laws of the United States? If not, what new rule is the President to adopt in selecting men for office, that the people themselves discard in selecting him? These are serious, but practical questions, and in order to appreciate them fully, it is only necessary to turn the tables upon ourselves. Suppose that the South, having a majority of the electoral votes, should declare that they would only have slaveholders for President and Vice President, and should elect such by their exclusive suffrages to rule over us at the North. Do you think we would submit to it? No, not for a moment. And do you believe that your Southern brethren are less sensitive on this subject than you are, or less jealous of their rights? If you do, let me tell you that you are mistaken. And, therefore, you must see that if this sectional party succeeds, it leads inevitably to the destruction of this beautiful fabric reared by our forefathers, cemented by their blood, and bequeathed to us as a priceless inheritance.

I tell you, my friends, that I feel deeply, and therefore I speak earnestly on this subject (cries of "you're right!") for I feel that you are in danger. I am determined to make a clean breast of it. I will wash my hands of the consequences, whatever they may be; and I tell you that we are treading upon the brink of a volcano, that is liable at any moment to burst forth and overwhelm the nation. I might, by soft words, inspire delusive hopes, and thereby win votes. But I can never consent to be one thing to the North and another to the South. I should despise myself, if I could be guilty of such duplicity. For my conscience would exclaim, with the dramatic poet,—

> "Is there not some chosen curse,
> Some hidden thunder in the stores of heaven,
> Red with uncommon wrath, to blast the man
> Who owes his greatness to his country's ruin?"

In the language of the lamented, but immortal Clay: "I had rather be right than be President!"

It seems to me impossible that those engaged in this can have contemplated the awful consequences of success. If it breaks asunder the bonds of our Union, and spreads anarchy and civil war through the land, what is it less than moral treason? Law and common sense hold a man responsible for the natural consequence of his acts, and must not those whose acts tend to the destruction of the government, be equally held responsible?

And let me also add, that when this Union is dissolved, it will not be divided into two republics, or two monarchies, but be broken into fragments, and at war with each other."

Mr. Fillmore concluded with a few remarks with reference to the contrast between the pomp he had witnessed in Europe and the Republican welcome he had received at home.

Florida.

THE bill establishing a territorial government for Florida became a law March 30, 1832. It met with no material opposition in either House of Congress. As it was reported to the Senate, where it originated, it contained the following clause:—

"No slave or slaves shall directly or indirectly be introduced into the said territory, except by a citizen of the United States, removing into the said territory for actual settlement, and being, at the time of such removal, the bona fide owner of such slave or slaves; and every slave imported or brought into the said territory, contrary to the provisions of this act, shall thereupon be entitled to and receive his or her freedom."

On motion of Mr. King of Ala. the Senate struck out the said provision, by yeas and nays as follows:—

YEAS.—Messrs. Barbour of Va., Benton of Mo., Brown of La., D'Wolf of R. I., Eaton of Tenn., Elliott of Ga., Gaillard of S. C., Holmes of Miss., Johnson of Ky., Johnson of La., King of Ala., Lloyd of Md., Macon of N. C., Noble of Ind., Pleasants of Va., Smith of S. C., Southard of N. J., Stokes of N. C., Van Dyke of Del., Walker of Ala., Ware of Ga., Williams of Tenn., Williams of Miss.—23.

NAYS.—Messrs. Barton of Mo., Boardman of Conn., Brown of O., Chandler of Me., Dickerson of N. J., Findlay of Pa., Holmes of Me., King of N. Y., Knight of R. I., Lanman of Conn., Lowrie of Pa., Mills of Mass., Morrill of N. H., Otis of Mass., Palmer of Vt., Parrott of N. H., Ruggles of O., Seymour of Vt., Thomas of Ill., Van Buren of N. Y.—20.

The law as it passed was silent on the subject of slavery, with the exception of a clause prohibiting the importation therein of slaves from any part or place without the limits of the United States.

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In 1838, the people of Florida formed a state constitution without the previous assent of Congress, a census not having been taken since 1830 to ascertain the number of inhabitants therein. It was not, however, until 1845 that Florida was admitted, a census having been taken in the mean time (1840), when it was ascertained that she contained a population of between forty and fifty thousand.

In a debate which took place in the Senate on the 14th of March, 1850, subsequent to the admission of Florida, the cause of the delay of Congress in having admitted her was discussed.

Mr. Yulee of Florida contended that the admission of Florida lingered from 1838 to 1845, because the North was unwilling to depart from the practice which had grown into use of admitting slave and non-slaveholding states in pairs, so Florida was not admitted until Iowa was prepared for admission, when they were both taken into the Union together.

Mr. Douglas denied that such was the cause of the delay in admitting Florida.

Mr. King of Ala. said that the South did not sustain the admission of Florida for the reason that it had not been ascertained that she had the requisite population for that purpose.

On the 13th of February, 1845, the bill reported by Mr. Aaron V. Brown of Tenn., from the Committee on Territories, for the admission of Iowa and Florida into the Union, being before the House, Mr. Morse of Me. moved the following amendment:—

Provided, however, that, so far as relates to Florida, this act shall not take effect until after a convention of delegates, elected by the qualified voters of Florida, shall have so altered the constitution adopted by the convention of delegates on the 11th of July, 1839, as to strike from article 16th, in said constitution, the first and third sections in the following words, namely: Sec. 1st. The General Assembly shall have no power to pass laws for the emancipation of slaves. Sec. 3d. The General Assembly shall have power to pass laws to prevent free negroes, mulattoes, or other persons of color, from emigrating to this state, or from being discharged from on board any vessel in any of the ports of Florida.

Mr. Morse's amendment was rejected on a count by tellers.

Mr. Morse offered an amendment which was word for word a copy of the proviso in the act admitting Missouri into the Union, prohibiting the state from passing any law by which the citizens of either of the states of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

This amendment of Mr. Morse was also rejected on a count by tellers.

The bill admitting Florida and Iowa into the Union, was then passed by yeas and nays as follows:—

YEAS.—Messrs. Anderson of N. Y., Arrington of N. C., Ashe of Tenn., Atkinson of Va., Barringer of N. C., Bayly of Va., Belser of Ala., Bidlack of Pa., E. J. Black of Ga., J. Black of Pa., J. A. Black of S. C., Blackwell of Tenn., Bower of Mo., Bowlin of Mo., Boyd of Ky., Brinkerhoff of O., Brodhead of Pa., A. V. Brown of Tenn., Milton Brown of Tenn., W. J. Brown of Ind., Burke of N. H., Burt of S. C., Caldwell of Ky., Campbell of S. C., Cary of Me., Causin of Md., Chapman of Ala., Chappell of Ga., Chilton of Va., Clinch of Ga., Clingman of N. C., Clinton of N. Y., Cobb of Ga., Coles of Va., Cross of Ark., Cullom of Tenn., Daniel of N. C., Davis of Ky., Davis of Ind., Dawson of La., Dean of O., Dellet of Ala., Dillingham of Vt., Douglas of Ill., Dromgoole of Va., Duncan of O., Ellis of N. Y., Farley of N. J., Ficklin of Ill., Foster of Pa., French of Ky., Fuller of Pa., Goggin of Va., Green of Ky., Grider of Ky., Hale of N. H., Hammett of Miss., Haralson of Ga., Hardin of Ill., Hays of Pa., Henley of Ind., Holmes of S. C., Hoge of Ill., Hopkins of Va., Houston of Ala., Hubard of Va., Hubbell of N. Y., J. B. Hunt of Mich., C. J. Ingersoll of Pa., Jameson of Mo., Cave Johnson of Tenn., Andrew Johnson of Tenn., Jones of Tenn., Kennedy of Ind., Kennedy of Md., Kirkpatrick of N. J., Labranche of La., Leonard of N. Y., Lucas of Va., Lumpkin of Ga., Lyon of Mich., McCauslen of O., Maclay of N. Y., McClelland of Mich., McClernand of Ill., McConnell of Ala., McDowell of O., McKay of N. C., Mathew of O., Morris of Pa., J. Morris of O., Morse of La., Murphy of N. Y., Newton of Va., Norris of N. H., Owen of Ind., Parmenter of Mass., Payne of Ala., Peyton of Tenn., Phœnix of N. Y., Pollock of Pa., Potter of O., Pratt of N. Y., Purdy of N. Y., David S. Reid of N. C., Reding of N. H., Relfe Mo., Rhett of S. C., Ritter of Pa., Roberts of Miss., Rodney of of Del., Russell of N. Y., St. John of O., Saunders of N. C., Senter of Tenn., Seymour of Conn., Simons of Conn., Simpson of S. C., Slidell of La., Smith of Pa., Thomas Smith of Ind., Robert Smith of Ill., Steenrod of Va., Stephens of Ga., Stiles of Ga., Stone of Ky., Stone of O., Strong of N. Y., Summers of Va., Sykes of N. J., Taylor of Va., Thomasson of Ky., Thompson of Miss., Tibbatts of Ky., Tucker of Miss., Weller of O., Wentworth of Ill., Wethered of Md., White of Ky., White of Me., Woodward of S. C., Wright of Ind., Yancey of Ala., Yost of Pa.—145.

NAYS.—Messrs. Abbot of Mass., Adams of Mass., Baker of Mass., Barnard of N. Y., Brengle of Md., Buffington of Pa., Carroll of N. Y., Cranston of R. I., Davis of N. Y., Deberry of N. C., Dickey of Pa., Fish of N. Y., Florence of O., Foot of Vt., Giddings of O., Byram Green of N. Y., Grinnell of Mass., Edward S. Hamlin of O., Harper of O., Hudson of Mass., Hunt of N. Y., Irvin of Pa., Jenks of Pa., Johnson of O., Preston King of N. Y., King of Mass., McIlvaine of Pa., Marsh of Vt., Morse of Me., Moseley of N. Y., Paterson of N. Y., Potter of R. I., Robinson of N. Y., Rockwell of Mass., Rogers of N. Y., Sample of Ind., Schenck of O., Severance of Me., David L. Seymour of N. Y., Smith of N. Y., Caleb B. Smith of Ind., Tilden of O., Tyler of N. Y., Vance of O., Vinton of O., Winthrop of Mass.—46.

In the Senate, on the 1st of March, 1845, the bill from the House for the admission of Iowa and Florida being under consideration, Mr. Evans of Me. moved an amendment identical with the first amendment offered to the bill in the House by Mr. Morse of Maine, and which is in full on the preceding column, relative to striking out those clauses in the Constitution prohibiting the emancipation of slaves and the immigration of free negroes into the state.

Mr. Evans's amendment was lost, as follows:—

YEAS.—Messrs. Choate of Mass., Dayton of N. J., Evans of Me., Francis of R. I., Huntington of Conn., Miller of N. J., Phelps of Vt., Porter of Mich., Simmons of R. I., Upham of Vt., White of Ind., Woodbridge of Mich.—12.

NAYS.—Messrs. Allen of O., Archer of Va., Ashley of Ark., Atchison of Mo., Atherton of N. H., Bagby of Ala., Barrow of La., Bayard of Del., Benton of Mo., Berrien of Ga., Breese of Ill., Buchanan of Pa., Colquitt of Ga., Crittenden of Ky., Dickenson of N. Y., Dix of N. Y., Fairfield of Me., Foster of Tenn., Hannegan of Ind., Haywood of N. C., Henderson of Miss., Huger of S. C., Johnson of Md., Lewis of Ala., McDuffie of S. C., Mangum of N. C., Merrick of Md., Morehead of Ky., Niles of Conn., Semple of Ill., Sevier of Ark., Sturgeon of Pa., Tappan of O., Walker of Miss., Woodbury of N. H.—35.

The bill was then passed by a vote of yeas 36, nays 10.

The affirmative vote on the passage of the bill was the same as the negative vote last re-

corded, on the amendment of Mr. Evans, with the addition of Mr. White of Ind.

The negative vote was as follows:—Messrs. Choate, Evans, Francis, Huntington, Miller, Phelps, Simmons, Upham, and Woodbridge. —9.

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The bill said nothing on the subject of slavery. It was approved on the 3d of March, 1845, and thus became a law.

Foreigners.

ARRIVALS OF, IN THE UNITED STATES.

From 1800 to 1810, . . .		70,000
From 1810 to 1820, . . .		114,000
From 1820 to 1830, . . .		135,986
From 1830 to 1840, . . .		579,368
From 1840 to Sept. 30, 1850, . .		1,677,330
Total to Sept. 30, 1850, . .		2,576,684
From Sept. 30, 1850, to Jan. 1, 1852, . . .	439,437	
From Jan. 1, 1852, to Jan. 1, 1853, . . .	372,725	
From Jan. 1, 1853, to Jan. 1, 1854, . . .	368,643	
From Sept. 1850, to Jan. 1, 1854, ...		1,118,805
Total, ...		3,757,489

Foreign Criminals and Paupers.

ON the 16th of April, 1856, in the House of Representatives, Mr. Henry M. Fuller of Pennsylvania, from the Committee on Foreign Relations of the House, submitted a report upon the subject of foreign criminals and paupers.

The report is too lengthy (being some 150 printed pages) for insertion in this work. Besides, the subject of which it treats is fully elaborated in some of the defences of the American party contained in this work.—See MADISON LETTERS.

Amongst other things, the report contains the following resolves of the government of Wurtemberg relative to the return of emigrants to that country:—

"Whereas, It has repeatedly occurred, that German emigrants to America, and amongst them natives of Wurtemberg, who desired to return home on account of sickness, or incapacity to labor, have been forwarded to this country by the German Emigration Society of New York: and

"Whereas, It is desirable that those who have once emigrated to America, and especially those who have been transported thither at the expense of the state, or the communes, and are unable, whether or not it be from any fault of their own, to earn their subsistence, should not return here to be a burden to the state or the commune (which in that case will have defrayed the expenses of their journey in vain): and

"Whereas, The American authorities are scarcely authorized to send back those who, having once been admitted to the country, cannot earn their subsistence in America: and,

"Whereas, It is much less the business of the German Emigration Society of New York to promote the return of such individuals; therefore

"Resolved, That necessary steps are to be taken to prevent their transportation back to this country."

The report, after arguing the power to protect society, denied by the resolution of the government of Wurtemberg, and the duty to the country to do so, as also the existence of the power in Congress over immigration, and the power of the states as to the same, closes with the following deductions:—

1st. That it is the chief source of intemperance, and the main cause of the alarming increase of that great public evil in our country.

2d. That it has filled our commercial cities with a foreign convict and pauper population, the material of which mobs are made, to such an extent as to endanger the public peace and the public morals, and to be generally regarded as a frightful evil.

3d. That it is a fruitful source of pauperism, and the chief cause of its fearful increase within the last few years.

4th. That it is a prolific source of crime, and that to it the enormous increase of crime may almost wholly be attributed.

5th. That it has brought upon the country a large juvenile vagrant population, now growing up to prey upon society, which is fearfully on the increase, and almost entirely of foreign origin.

6th. That it is the source of ignorance, the mother of crime, filling our country with a people whose vicious propensities predominate over both the moral and intellectual faculties, and who, urged on by ungoverned appetites and passions, with fancied or superstitious objects in view, constitute a population from which the country has nothing to expect but evil to its free institutions.

7th. That it has brought into the country a large body of men who are inimical to our free institutions and our social organization, and who are devoted to dogmas and creeds, which experience as well as all past history have shown to be not only incompatible with republican institutions, or a well regulated constitutional liberty, but antagonistic to the welfare and happiness of mankind; and which, if carried out here, would make this country a pandemonium on earth.

8th. That it has flooded our country with irreligion, immorality, and licentiousness, and is the source from whence infidelity comes. State legislation can reach many of these evils, and it behooves the state legislatures to institute the necessary measures of reform on the subject. Among those which commend themselves as most likely to be effective are:—

1. The adoption of a state policy which will discountenance the esprit du corps, now so studiously cultivated among foreigners in our large cities, which is calculated, if not designed, to keep them foreigners in feelings, sentiments, and habits, though they enjoy the benefits of our institutions and owe allegiance to our laws. Let their separate and distinctive civil and military organizations, wherever they exist, be frowned down, and a policy be pursued which will break up and destroy those foreign organizations, and oblige those belonging to them to identify themselves with the country of their adoption, and to be nought else than what they ought to be—Americans, and only Americans.

2. The rigid enforcement of all license laws authorizing the sale of liquor, promptly punishing those who violate them, and the adoption of a provision in all those laws, like that passedb y the recent legislature of Pennsylvania, prohibiting a license to be granted for the sale of liquor to any other than a citizen of the United States. Experience demonstrates that most of the grog shops in the cities are kept by unnaturalized foreigners, who will thus be excluded from pursuing a business fraught with misery and crime.

3. The adoption of measures, as far as is practicable, to indemnify the state in case those landed upon its shores shall become paupers, and to compel those maintained by the public to earn their support, if possessed of sufficient health and strength to do so, and thus present to them the alternative of honest industry or starvation. A rigid enforcement of such a policy would soon rid the public of the body of mendicants who, too indolent to work, though abundantly able to do so, now crowd our thoroughfares and fill our poor-houses.

4. The more prompt conviction and more certain punishment of all offenders, and the abandonment of that mistaken zeal of philanthropy which now steps in so often between the outraged laws and their violators.

5. The establishment of institutions so as to take charge and provide for all that class of juveniles known as delinquents or vagrants. Though our common schools are in a more advanced state than those in any other part of the world, our reformatory efforts to save neglected and forsaken children have not kept pace with our progress of common school education, and hence our country is now cursed with so large a juvenile population growing up in vice and crime. This is an alarming evil, and demands prompt legislative attention. In a government like ours, where all power is derived from the people, they should be wise, virtuous, and enlightened, lest they abuse it. How can we expect the next generation to be so, if a large portion of it is permitted to grow up in sottish ignorance and brutal sensuality, and sure of becoming adepts in crime long before arriving at manhood? Not only have we been remiss in establishing and maintaining a sufficient number of these juvenile reformatory institutions, but, good as our common schools are, much too is yet required of us in regard to them. Thousands of children, especially those of foreigners, do not enjoy their benefits, though open to them. Thus far no legal measures have been taken to insure all the advantages of a common school education. Is it not a grave question, whether the time is not at hand when the gross neglect of parents to send their children to schools should receive some attention, and steps be taken to guard the public from the evil resulting therefrom?

6. Lastly, and most important of all at the present juncture, is the adoption and enforcement of a truly American policy on all subjects—one which will tend to cultivate and develop an undying attachment to our country, its history and its institutions, and to inspire a profound veneration and respect for the examples of our patriotic revolutionary ancestors. One of the first acts of the Continental Congress was to order an edition of God's Holy Book; and it is not too much to say, perhaps, that beyond all other causes combined which enabled our forefathers to achieve independence, was the deep and universal acquaintance with that holy book, scattered among the children of a former generation, and the training of mind, and heart, and spirit which they received. Nor is it more than the truth, perhaps, to say now that it is the remnant of that spirit which has maintained our republic up to the present time. Is it not then of the first and highest importance, now that the land is flooded with foreign infidels, who, taught at home to repudiate everything to be revered in human institutions, have already here raised the black standard of atheism, and declared a war of extermination against the faith which supported our ancestors in establishing the republic, and the hope which animates us for the future—is it not, in view of all this, the sacred duty of all Americans who love their country, and mean to perpetuate its institutions, to imitate the illustrious example of their sires, and to insist upon having their children taught in our schools, the lessons of wisdom to be found only in the Bible, and thus have that holy book as one of the text-books of our public schools?

Let a policy like this be adopted by the states, and let Congress exercise the powers conferred upon it, to arrest the evils so justly complained of, and the public good, the peace and prosperity of the country, and the welfare and happiness of the people, will be thereby promoted.

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Laws of the several States to prevent the immigration thereof.

Alabama.—Code of, requires master of each vessel arriving in port, to give bonds in the sum of five hundred dollars for each of such persons as are likely to become chargeable to any county, conditioned to pay all such ex-

penses as any county in the state may incur in the support of such person.

California.—Act of April 11, 1850, declares any person bringing into the state any convict or convict, to be guilty of misdemeanor, punishable by imprisonment for not less than three months, and a fine of one thousand dollars for each of such convicts so imported.

The Act of May 3, 1853, requires the owner or consignee of any vessel, importing into the state persons likely to become public charges, a bond in the sum of one thousand dollars for each of such persons, to save the state harmless against all expenses for the support thereof.

Connecticut.—The Revised Statutes of, imposes a fine on any person bringing a foreign convict or convicts into said state, of three hundred and thirty-four dollars for every such convict so imported.

Delaware.—Revised Statutes of, provides that masters of vessels shall first obtain a license from the county authorities, before landing an emigrant, and shall pay a tax upon each one of the same, in order to release him from liabilities to the trustees of the poor.

Georgia.—Act of Feb. 10, 1787, provides for imprisoning foreign convicts arriving within the limits of the state, until such time as they can be sent off. If after being sent off they return, they incur the penalty of death.

Louisiana.—Act of March 21, 1850, requires each person not a citizen of the United States, and above the age of fourteen years, landing at any place within the state, to give bond in one thousand dollars that he or she will not become, within five years, chargeable or dangerous in any manner to the state, its citizens, or any charitable institution within the limits thereof, unless the same is voluntarily supported by foreigners, or citizens of foreign birth. A commutation of the bond is allowed by payment of a head tax.

Maine.—Revised Statutes of, provides that no master of a ship arriving in any port shall land passengers without the permission of the selectmen of the town of arrival, unless he shall have entered into bonds with said town, to save harmless such town, and all other towns in the state, against their becoming chargeable thereupon. Captain of vessel shall forfeit two hundred dollars for each and every passenger coming ashore, to the neglect of the provisions of this act.

Maryland.—Act of 1833, lays a tax of one dollar and fifty cents, to be paid by the master of each vessel arriving in port, upon every alien passenger, or shall in lieu thereof give good and sufficient bond in a sum not exceeding one hundred and fifty dollars, for each of such passengers, that he or she will not become public charges within two years thereafter. Landing of emigrants in neglect of the provisions of this act forfeits, on the part of the captain, one hundred and fifty dollars for each passenger so landed.

The Act of Jan. 30, 1850, is more stringent to the same end.

Massachusetts.—Revised Statutes of, requires a bond of two hundred dollars from the captain of a vessel, on each of his passengers, that he or she will not become public charges.

The acts of April 20, 1837, May 10, 1848, March 16, 1849, March 20, 1850, and May 23, 1853, provide more stringent means to prevent the immigration of alien paupers into that state, and impose heavy penalties, &c.

New Hampshire.—Revised Statutes of, prohibits the master of any vessel from landing an alien passenger, until he shall have first given a bond in two hundred dollars, to save the town harmless from he or she becoming chargeable thereupon.

New Jersey.—Acts of Jan. 28, 1797, Feb. 10, 1819, Feb. 19, 1838, are all directed to prevent the importation of alien paupers, by the imposition of taxes, bonds, &c., to that end. The last act gives to each town or city within which such emigrant arrives, the right to impose a tax of not exceeding ten dollars upon each alien passenger, to be paid by the captain of the vessel bringing them in, before he can land them.

New York.—Act of Dec. 10, 1847, requires the captain of each vessel arriving in port, to give a penal bond for each and every alien passenger landed by him, of five hundred dollars, that he or she will not become a public charge. Forfeitures by failure to comply with provisions of act, constitute a lien on vessel in which the passengers are imported. Acts of May 5, 1847, April 11, 1849, provide additional means to prevent the immigration of foreign paupers, and to secure the expense of their becoming public charges.

Pennsylvania.—Act of March 27, 1789, prohibits the importation of foreign convicts into the Commonwealth, and imposes a fine of fifty pounds and cost upon every captain of vessel or other persons bringing such convicts into the state, for every such convict so brought in, and requires such captain of vessel or other person to enter into a recognisance to transport every such convict beyond the limits of the United States within a reasonable time, in default of which they are to be placed in jail until they do enter into such recognisance.

Act of April 15, 1851, declares the master of a vessel, or other persons, bringing a foreign convict into the state, guilty of misdemeanor, punishable by fine and imprisonment.

Act of June 13, 1836, imposes upon any person, bringing a poor person into the state, a penalty of seventy-five dollars for every such person, and shall be obliged to convey such poor person out of the Commonwealth, or support him at his own expense.

Rhode Island.—Revised Statutes, section 16, imposes a fine of four hundred dollars upon the master of any vessel bringing a

foreign convict, or dissolute character, into the state.

South Carolina.—Act of Nov. 4, 1788, requires that any ship bringing a foreign convict into port shall be obliged to leave said port within ten days, and shall not be permitted to receive on board any lading whatever, upon penalty of the forfeiture of the vessel, and if the master, or any other person having charge thereof, shall land any foreign convict, he shall forfeit and pay for every one so landed five hundred pounds sterling. If he shall not be able to pay such fine, he is to be imprisoned for twelve months.

Texas.—Act of Feb. 11, 1850, requires a bond in the sum of three hundred dollars from the captain of every vessel arriving in port, for each passenger brought in by him, that he or she will not become public charges. Bond to be commuted by the payment of one dollar for each passenger. Refusal or neglect to comply with the provisions of the act, to be visited with a penalty of five hundred dollars for each and every passenger so landed.

Vermont.—Section 26 of Revised Statutes imposes a fine of five hundred dollars upon every person bringing a pauper into any town in the state, wherein such pauper is not lawfully settled.

Virginia.—Section 39 of Code of Virginia, imposes upon the captain of any vessel bringing a convict into the state, a fine of one hundred dollars, and three months' imprisonment.

Free Germans.

Platforms of.

The following is the Platform of the Free Germans of Louisville, Ky.:—

The free Germans of the Union have found it necessary to organize themselves for the purpose of being able to exercise a political activity proportionable to their number and adapted to their principles. There is a fair prospect for success for such an organization, and in this hope the free Germans of Louisville, Kentucky, have proceeded to lay down the following platform, which they unanimously agreed upon in a mass meeting, and make it known to the public at large as the standard of their political course.

* * * * *

The free Germans furthermore indulge in the hope that it will be possible to form a powerful reform party, embracing all who want that liberty now so much endangered, and the progress and happiness of this our common republic to be secured on principles lasting, truly republican and democratic. They wish, after having completed their organization, to establish—with the aid of their liberal-minded fellow-citizens—such a power of votes as to be able, in 1856, to decide the victory in favor of a party of true reformers.

The editors of public papers who will enter into a discussion of the platform—which we invite them to do, *sine ira et studio*, that is, before all, without narrow-minded nativism and blind party spirit—are politely requested to favor us with a copy of the number or numbers containing their arguments. Address Charles Heinsen, editor of the Pioneer, Louisville, Kentucky, letter box 1,157.

Burgeler,
L. Wittig,
Stein,
B. Domschke,
C. Heinsen,
Committee.

Louisville, Ky., March, 1854.

platform.

1. *Slavery Question.*—Notwithstanding that we consider slavery to be a political and moral cancer, that will by and by undermine all republicanism, we deem its sudden abolition neither possible nor advisable. But we, as republicans and men, demand that the further extension of slavery be not constantly urged, whilst not a single step is taken for its extermination. We demand that at length real proofs be given of the good-will so often boasted of to remove the evil; that in particular slavery be excluded from all new territories indiscriminately and for ever, which measure Congress is completely entitled to pass according to the Constitution; we demand this the more, as a republican constitution is guarantied to every new state, and slavery, in truth, cannot be considered a republican element or requisite. We further demand that all and every one of the laws indirectly transporting the principle and the influence of slavery in and upon free states, namely, the fugitive slave law, shall be repealed, as demoralizing and degrading, and as contrary to human rights and to the Constitution; we finally demand that, in all national affairs, the principle of liberty shall be strictly maintained, and even in the several states it be more and more realized by gradual extermination of slavery.

2. *Religious Questions.*—We consider the right of free expression of religious conscience untouchable, as we do the right of free expression of opinion in general; we therefore accord to the believer the same liberty to make known his convictions as we do the non-believer, as long as the rights of others are not violated thereby. But from this very principle of liberty of conscience we are decidedly opposed to all compulsion inflicted to dissenting persuasions by laws unconstitutionally restricting the liberty of expression. Religion is a private matter; it has nothing to do with policy; hence it is despotism to compel citizens by political means to religious manifestations or omissions contrary to their private persuasions. We therefore hold the sabbath laws, thanksgiving days, prayers in Congress and legislatures, the oaths upon the Bible, the introduction of the Bible into the

free schools, the exclusion of "atheists" from legal acts, &c., as an open violation of human rights as well as of the Constitution, and demand their removal.

3. *Measures for the welfare of the people.*—As the foremost of such measures—we consider the free cession of public lands to all settlers; to occupy nature, the soil as exclusive property, this no individual has a right to do; it is, for the time, the common principal fund of that population which inhabits it, and anybody willing to cultivate it has an equal right to appropriate a share of the soil, as far as it is not disposed of, for purposes of common interest. It is high time that the ruinous traffic with the public lands should be abolished, that the wasting of them by speculation should cease, and that the indigent people enter upon their rightful possession.

But if this end shall be fully attained, it will be required to aid poor colonists, at their first settlement, with national means, lest said measures prove useless for these very persons who most need it.

In the closest connexion with the land reform question stands that of immigration, which by its general importance should be raised to the rank of a national affair, and for which a special office of colonization and immigration should be created as a particular department of the United States government. Such a board would have to provide for the various interests of immigrants, who are now helplessly exposed to so many sufferings and wrongs and abuses from the place of embarkation in Europe to the place of their settlement in America. North America is neglecting herself when neglecting the immigration, for immigration is the mother of this republic.

The admission of citizenship must be rendered as easy as possible to the immigrants.

The welfare of a nation cannot be generally and permanently secured unless its laboring classes be made independent of the oppression of the capitalist. Labor has an incontestable claim to the value of its products. Where it is prevented, by the want of the necessary capital, to secure this claim, it is, of course, referred to an alliance with capital of others. But if no just agreement can be obtained by this association with the capitalist, then the state, as the arbitrator of all contending interests, has to interfere. This must either aid the associations of working men by credit banks, or mediate between the claims of the laborer and the capitalist, by fixing a minimum of wages equally the value of the labor, and a maximum of labor answering the demands of humanity. The time of labor shall not exceed ten hours per day.

In letting out state contracts, the preference should be given, if it can be done without running a risk, to associations of workmen, rather than to single contractors. But when given to single contractors, the latter ought to give security for proper wages to the workmen employed by them.

In order to enjoy "life, liberty, and happiness," all indiscriminately must have the use of free schools for all branches of education, in which, wherever a sufficient number of Germans live, a German teacher should be employed.

In order that the attainment of justice may no longer remain a privilege for the possession of money, justice must be dispensed without fees.

4. *Constitutional Questions.*—Considering, as we do, the American Constitution as the best now in existence, we yet think it neither perfect nor unimprovable. In particular we hold the following amendments and additions, likewise acceptable for the state constitution, as timely and proper means to check the prevailing corruption, to wit:

1. All elections, without any exception, should issue directly from the people.

2. Any eligible citizen of any state may be elected as member of Congress by the citizens of any other state, and likewise may any eligible denizen of any county be elected by the citizens of any other county for a member of the state legislature.

3. Any representative and officer may at any time be recalled by the majority of his constitutents and replaced by another.

5. *Free Trade.*—We decidedly profess the principle of free trade, and will support it in all cases where it may be carried through without disadvantage to the people, and where reciprocity is accorded by the other side.

6. *Foreign Policy.*—The policy of neutrality must cease to be an article of our creed, and ought to be abandoned soon, as contrary to the interests of North America. The rights of American citizens and immigrants having declared their intention to become citizens, must the more energetically be protected in foreign countries, since every American appears to monarchical and despotical governments as a representative of revolution against despotism, and this republic ought to honor this point of view as the only one worthy and legitimate.

7. *Rights of Woman.*—The Declaration of Independence says, that "all men are born equal, and endowed with inalienable rights, and to these belong life, liberty, and the pursuit of happiness." We repeatedly adopt this principle, and are of the opinion that woman, too, are among "all men."

8. *Rights of Free Persons.*—In the free states the color of the skin cannot justify a difference of legal rights. There are not born two men of equal color, but still less two men of unequal rights.

9. *Penal Laws.*—It is our opinion, that all penal laws can only have the purpose of correction, but never the absurd purpose of expiation. We therefore consider the penalty of death, which excludes the possibility of correction, to be as irrational as barbarous.

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The following is the platform of the free Germans of Richmond, Va.:—

Reform in the laws of the general government, as well as in those of the states.

We demand: 1. Universal suffrage. 2. The election of all officers by the people. 3. The abolition of the Presidency. 4. The abolition of senates, so that the legislatures shall consist of only one branch. 5. The right of the people to recall their representatives (cashier them) at their pleasure. 6. The right of the people to change the Constitution when they like. 7. All lawsuits to be conducted without expense. 8. A department of the government to be set up for the purpose of protecting immigration. 9. A reduced term for acquiring citizenship.

Reform in the foreign relations of the government.

1. Abolition of all neutrality. 2. Intervention in favor of every people struggling for liberty.

Reform in what relates to religions.

1. A more perfect development of the principle of personal freedom and liberty of conscience; consequently—*a.* Abolition of laws for the observance of the Sabbath; *b.* Abolition of prayers in Congress; *c.* Abolition of oath upon the Bible; *d.* Repeal of laws enacting a religious test before taking an office. 2. Taxation of church property. 3. A prohibtion of incorporations of all church property in the name of ecclesiastics.

Reform in the social condition.

1. Abolition of land monopoly. 2. Ad valorem taxation of property. 3. Amelioration of the condition of the working class—*a.* By lessening the time of work to eight hours for grown persons, and to five hours for children; *b.* By incorporation of mechanics' associations and protective societies; *c.* By granting a preference to mechanics before all other creditors; *d.* By establishing an asylum for superannuated mechanics without means at the public expense. 4. Education of poor children by the state. 5. Taking possession of the railroads by the state. 6. The promotion of education—*a.* By the introduction of free schools, with the power of enforcing the parents to send their children to school, and prohibition of all clerical influence; *b.* By instruction in the German language; *c.* By establishing a German university. 7. The supporting of the slave-emancipation exertions of Cassius M. Clay by Congressional laws. 8. Abolition of the Christian system of punishment and introduction of the human amelioration system. 9. Abolition of capital punishment.

Fremont, John C.

LETTER OF ACCEPTANCE OF.

New York, July 8, 1856.

GENTLEMEN: You call me to a high responsibility by placing me in the van of a great movement of the people of the United States, who, without regard to past differences, are uniting in a common effort to bring back the action of the federal government to the principles of Washington and Jefferson. Comprehending the magnitude of the trust which they have declared themselves willing to place in my hands, and deeply sensible of the honor which their unreserved confidence, in this threatening position of the public affairs, implies, I feel that I cannot better respond than by a sincere declaration that, in the event of my election to the Presidency, I should enter upon the execution of its duties with a single-hearted determination to promote the good of the whole country, and to direct solely to this end all the power of the government, irrespective of party issues and regardless of sectional strifes. The declaration of principles embodied in the resolves of your convention expresses the sentiments in which I have been educated, and which have been ripened into convictions by personal observation and experience. With this declaration and avowal I think it necessary to revert to only two of the subjects embraced in those resolutions, and to these only because events have surrounded them with grave and critical circumstances, and given to them especial importance.

I concur in the views of the convention deprecating the foreign policy to which it adverts. The assumption that we have the right to take from another nation its domains because we want them is an abandonment of the honest character which our country has acquired. To provoke hostilities by unjust assumptions, would be to sacrifice the peace and character of the country, when all its interests might be more certainly secured and its objects attained by just and healing counsels, involving no loss of reputation. International embarrassments are mainly the results of a secret diplomacy, which aims to keep from the knowledge of the people the operations of the government. This system is inconsistent with the character of our institutions, and is itself yielding gradually to a more enlightened public opinion, and to the power of a free press, which, by its broad dissemination of political intelligence, secures in advance to the side of justice the judgment of the civilized world. An honest, firm, and open policy in our foreign relations would command the united support of the nation whose deliberate opinions it would necessarily reflect.

Nothing is clearer in the history of our institutions than the design of the nation, in asserting its own independence and freedom, to avoid giving countenance to the extension of slavery. The influence of the small but compact and powerful class of men interested in slavery, who command one section of the country and wield a vast political control as a consequence in the other, is now directed to turn back this impulse of the Revolution and reverse its principles. The extension of slavery across the continent is the object of the power which now rules the government;

and from this spirit have sprung those kindred wrongs in Kansas, so truly portrayed in one of your resolutions, which prove that the elements of the most arbitrary governments have not been vanquished by the just theory of our own.

It would be out of place here to pledge myself to any particular policy that has been suggested to terminate the sectional controversy engendered by political animosities, operating on a powerful class banded together by a common interest. A practical remedy is the admission of Kansas into the Union as a free state. The South should, in my judgment, earnestly desire such consummation. It would vindicate its good faith. It would correct the mistake of the repeal; and the North, having practically the benefit of the agreement between the two sections, would be satisfied, and good feeling be restored. The measure is perfectly consistent with the honor of the South and vital to its interests. That fatal act which gave birth to this purely sectional strife, originating in the schemes to take from free labor the country secured to it by a solemn covenant, cannot be too soon disarmed of its pernicious force. The only genial region of the middle latitudes left to the emigrants of the Northern states for homes, cannot be conquered from the free laborers who have long considered it as set apart for them in our inheritance, without provoking a desperate struggle.

Whatever may be the persistence of the particular class which seems ready to hazard everything for the success of the unjust scheme it has partially effected, I firmly believe that the great heart of the nation, which throbs with the patriotism of the freemen of both sections, will have power to overcome it. They will look to the rights secured to them by the Constitution of the Union as the best safeguard from the oppression of the class which, by a monopoly of the soil and of slave labor to till it, might in time reduce them to the extremity of laboring upon the same terms with the slaves. The great body of non-slaveholding freemen, including those of the South, upon whose welfare slavery is an oppression, will discover that the power of the general government over the public lands may be beneficially exerted to advance their interests and secure their independence: knowing this, their suffrages will not be wanting to maintain that authority in the Union which is absolutely essential to the maintenance of their own liberties, and which has more than once indicated the purpose of disposing of the public lands in such a way as would make every settler upon them a freeholder.

If the people intrust to me the administration of the government, the laws of Congress in relation to the territories shall be faithfully executed. All its authority shall be exerted in aid of the national will to re-establish the peace of the country on the just principles which have heretofore received the sanction of the federal government, of the states and the people of both sections. Such a policy would leave no aliment to that sectional party which seeks its aggrandizement by appropriating the new territories to capital in the form of slavery, but would inevitably result in the triumph of free labor—the natural capital which constitutes the real wealth of this great country, and creates that intelligent power in the masses alone to be relied on as the bulwark of free institutions.

Trusting that I have a heart capable of comprehending our whole country, with its varied interests, and confident that patriotism exists in all parts of the Union, I accept the nomination of your convention, in the hope that I may be enabled to serve usefully its cause of constitutional freedom. Very respectfully, your obedient servant, J. C. FREMONT.

French Spoliations prior to 1800.

HISTORICAL FACTS AS SET FORTH BY CLAIMANTS.

IN 1793, France and Great Britain being at war, committed extensive depredations on American commerce, and the merchants, alarmed, began to withdraw from the ocean, to the great detriment of the treasury, when the government, through the Secretary of State (Thomas Jefferson), by a circular dated August 27, 1793, assured the merchants that "due attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the laws of nations or to existing treaties; and that, on their forwarding well authenticated evidence of the same, proper proceedings will be adopted for their relief." (Doc. 102, p. 216.)

Relying on these assurances, commercial enterprise received a fresh impulse, and a series of captures by both belligerents followed. England provided for the payment of those made by her, but France, acknowledging her liability, advanced a counter claim for the non-fulfilment of the stipulations of the treaties of 1778 and 1788, guaranteeing for ever her possessions in the West Indies, acquired or to be acquired, as an equivalent for the supplies of men and money furnished by her in our struggle for independence, and which contributed so largely to that happy event.

Two successive missions were sent to France —first, Pinckney, Marshall, and Gerry, in 1797, and Elsworth, Davie, and Murray, in 1799, who offered France thirteen millions of francs (which would now, at simple interest, exceed ten millions of dollars) to purchase a release from those treaty stipulations, which was refused by France as wholly inadequate; and finally these extensive claims of private citizens (comprising upwards of 700 merchant vessels and cargoes, valued at fifteen millions of dollars) were surrendered by the American government to purchase their own release from these stipulations.

William Vans Murray (one of the minis-

ters), says, in a letter to James Madison, Secretary of State, July 1, 1801, "I wish I had been authorized to subscribe to a joint abandonment of treaties and indemnities; as claims, they will always be set off against each other; and I consider the cessation of their claims to treaties as valuable." (Doc. 102, p. 675.)

Robert R. Livingston, minister to France, April 27, 1803, says: "The payment for illegal captures, with damages and indemnities, was demanded on one side, and the renewal of the treaty of 1778 on the other; they were considered as of equal value, and they only formed the subject of the 2d article." (Doc. 102, p. 717.)

James Madison (then Secretary of State), Feb. 6, 1804, says: "The claims from which France was released were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them." (Doc. 102, p. 795.)

John Marshall (one of the ministers) says: "I would positively oppose any admission of the claim of any French citizen, if not accompanied with the admission of the claims of American citizens for property captured and condemned for want of a rolo d'equipage. My reason for conceiving that this ought to be stipulated expressly, was a conviction that if it was referred to commissioners, it would be committing absolutely to chance as complete a right as any individual ever possessed." (Journal, p. 471, No. 316.)

"He (Chief Justice Marshall) stated that, having been connected with the events of that period, and conversant with the circumstances under which the claims arose, he was, from his own knowledge, satisfied that there was the strongest obligation on the government to compensate the sufferers by the French spoliations." (Letter from Hon. W. C. Preston, U. S. Senator, S. C.)

Timothy Pickering (Secretary of State in 1800) says: "If the relinquishment (of these claims) had not been made, the present French government (1824) would be responsible; consequently, the relinquishment by our own government having been made in consideration that the French government relinquished its demand for a renewal of the old treaties, then it seems clear that, as our government applied the merchants' property to buy off those old treaties, the sums so applied should be reimbursed." (Letter 19th November, 1824).

Monsieur Roederer (one of the French ministers who negotiated the treaty of 1800) said, in the legislative assembly, 26th November, 1801: "This suppression (of the 2d article) is a prudent and amicable renunciation of the respective pretensions which were expressed in that article."

Napoleon Bonaparte (First Consul in 1800) says: "The suppression of this article at once put an end to the privileges which France had by the treaties of 1778, and annulled the just claims which America might have made for injuries done in time of peace." (Gourgaud's Memoirs, vol. 2, p. 95.)

The following states have at various times recommended to Congress to make appropriations for the indemnity of sufferers by these spoliations: Maine, Massachusetts, Connecticut, Ohio, Delaware, Alabama, New Hampshire, Rhode Island, New York, Pennsylvania, Maryland, Louisiana, Arkansas.

In January, 1803, a report of the facts, favorable to the claimants, was made by a committee consisting of Giles, of Virginia; Mitchill, of New York; Lowndes, of South Carolina; Milledge, of Georgia; Tallmadge, of Connecticut; Williams, of North Carolina; Davis, of Kentucky, and Gregg, of Pennsylvania.

February 18, 1807. Another committee, consisting of Marion, of South Carolina; Eppes, of Virginia; George Clinton, of New York; Tallmadge, of Connecticut; Cutts, of Massachusetts; Dickson, of Tennessee; Blount, of North Carolina; Findlay, of Pennsylvania, and Tanney, of New Hampshire, made a report, containing the following emphatic declaration: that "this government, by expunging the second article of our convention with France, of the 30th September, 1800, became bound to indemnify the memorialists for those just claims which they otherwise would have rightfully had on the government of France." Subsequent reports to the same effect (twenty-six in number), were made by committees of both Houses, at the head of which stood Edward Livingston, Holmes, Webster, Everett, Wilkins, Chambers, Howard, Archer, Morehead, Cushing, C. J. Ingersoll, Choate, Clayton, and Truman Smith (exclusive of the reports in both Houses of the present Congress), while not a single adverse report has been made by the majority of any committee in either House since the year 1826, when, by a resolution of Congress, they were first put in possession of all the documents connected with these transactions.

The irresistible conclusion from the preceding facts, supported by the uncontradicted testimony of many of the most eminent statesmen known in our country, and who are personally cognisant of those facts, is, that an immense amount of the property of private citizens has been used to purchase for the government a release from treaty obligations, which, had they been insisted on by France, and performed by us, would have led to incalculable national injury.

The Constitution of the United States (article 5 of amendments) provides that "private property shall not be taken for the public use without just compensation."

In the words of Edward Livingston, himself an active participant in the politics of that day, "If so, can there be a doubt, independent of the constitutional provision, that the sufferers are entitled to indemnity? Under that provision, is not this right converted into one that we are under the most solemn obligation to satisfy?"

Remarks of Mr. Prentiss, of Vermont, on the bill concerning French Spoliations previous to 1800, in the Senate, Jan. 13, 1835:—

Mr. Prentiss said, that having been a member of the committee which reported the bill under consideration, it might be expected that he would express some opinion upon its merits. Were it not for this circumstance, said Mr. P., I certainly should not detain the Senate a moment with any remarks of mine: but considering the situation in which the Senate did me the honor to place me in relation to the bill, connected with its acknowledged great importance, both to the country and the claimants, it would not, perhaps, become me to remain entirely silent. I shall not, however, sir, expose myself to the imputation of inexcusable arrogance, as I surely should do, by taking a course which might imply a belief on my part, that I can add anything, especially after the full and able argument of the Senator from Massachusetts, to the discussion which the subject has already received. I shall rather avoid going at large into the matter, and content myself with a somewhat general expression of my opinion, adverting, very briefly, to some of the more prominent facts, principles, and reasons, on which that opinion has been formed.

It may be proper, sir, to observe, in the outset, that I shall forbear to enter at all into the inquiry, about which so much has been said here, whether war in fact existed between the United States and France, the effect of such a state of things upon the claims, or how far the government was bound to proceed in enforcing the claims; because, in my judgment, all these inquiries are superseded by the treaty, are altogether irrelevant, and would confuse and embarrass, rather than elucidate the subject. The United States, in my opinion, are bound by the principles assumed and acted upon in the negotiation, and cannot now recede from them. We are bound, as it respects these claims, to look to the basis on which the treaty was negotiated and concluded; and we are not at liberty to go behind or aside of the negotiation and the treaty, and assume grounds inconsistent with those on which the two governments conducted the negotiations, and upon which the treaty was finally concluded.

Passing by, then, sir, all this, and I say it with becoming deference, as in my apprehension unnecessarily introduced into the discussion, it appears to me that the case, notwithstanding the documents connected with the subject are extremely voluminous, is embraced within very narrow limits. To my mind, it is neither complex nor difficult, but resolves itself, when divested of all irrelevant matter, into two simple points or propositions. The first goes to the validity and justice of the claims originally against France; the second, to the release or surrender of the claims by the government of the United States, in consideration of an equivalent received. If the affirmative of these two propositions is established, the obligation of the United States to indemnify the claimants, would seem to be a conclusion, to which every enlightened mind, guided by a sense of justice and good faith, must necessarily come.

These claims, sir, which are now so much contested, grew out of acts committed by France in violation of the plainest principles of national law; acts characterized by an enormity of violence and injustice, of which there is scarcely a parallel in history. This has already been sufficiently enlarged upon in the course of the discussion here; and on this point I need only to refer, generally, to the instructions to our ministers to France, to their correspondence, to the various acts of Congress passed in 1798 in relation to France, to the debates in Congress of that period, and to the general sense of the nation as expressed in the public journals of the time. These all bear unequivocal testimony to the flagrant and inexcusable wrongs committed by France on the property of our citizens; and they consequently establish beyond all question, the justice of the claims on France for indemnity. Indeed, sir, the justice of the claims was uniformly asserted and urged by the government of the United States throughout the negotiation. Not only so, the justice of the claims was never denied by France. Mr. Livingston, who has examined the subject with his usual characteristic ability and love of justice, in his report says, that the justice of the claims was admitted by various acts of the French government; and he refers particularly to the informal negotiations carried on in 1797, when a commission was proposed to be established to liquidate the amount, to be paid by the United States to the claimants as a loan to France. And Mr. Livingston adds, that the justice of the claims was admitted in all the subsequent negotiations.

France, then, sir, did not, as she certainly could not, deny the validity of the claims. On the contrary, she admitted them, and set up counter claims on her part; claims of indemnity for the non-performance of engagements contained in the treaties of alliance and commerce of 1778. These engagements, and particularly that which has been so often referred to here, guaranteeing for ever to France her West India islands, it is well known, were extremely perplexing and embarrassing to the government of the United States. They had put in jeopardy the neutrality and peace of the country. France insisted upon the execution of these engagements, and also demanded a compensation for their non-performance.

It is said, sir, that there was no foundation for these demands on the part of France, because the guarantee was not a subsisting guarantee, but had been put an end to, together with the other engagements in the treaties, by the act of Congress of 1798. Yes, sir, the act of Congress referred to, it is true, did profess to annul the treaties; and it was

that very act which consummated the breach of the treaties on the part of the United States, and showed conclusively that France was right, at least, in the fact upon which she founded her claims. The breach of the treaties commenced at an early day, and had continued for years, and that breach was rendered entire, complete, and perfect, by the act of which gentlemen speak. Scarcely more than a dozen years had elapsed, after France had sent her fleets and armies to fight for the United States the battles of freedom, and help achieve their independence, before they forgot and began to disregard the engagements they had entered into with her. For this there could be no possible excuse but on the principle of self-preservation. Solemn obligations rested upon the United States, and nothing but necessity, absolute, invincible necessity, arising out of the new and extraordinary state of things existing in Europe, could be urged as an excuse for the non-performance of the obligations. But if unexpected events, and unprecedented circumstances abroad, rendered the United States unable to fulfil their engagements, in terms, without hazarding their national prosperity, and perhaps their national existence, they could at least yield, and were bound by every principle to render to France, a reasonable equivalent.

Admitting, sir, that the United States might well excuse themselves from a specific execution of the stipulations in the treaties, on the special and extraordinary grounds stated, they could not absolve themselves from the obligation which common reason and common justice would substitute in place of the stipulated duties. The act of Congress, it is true, was a solemn and formal declaration, on the part of the United States, that they would not execute the treaties; but it did not annul the general obligation growing out of the treaties, or extinguish the right of France to insist upon the alternative, either of their fulfilment, or an indemnity in lieu of their fulfilment. In what code of laws or morals, it may be asked, is the principle to be found, which enables one contracting party, by his own act and at his own will, to cancel the obligation of a contract, and completely annul all right whatever of the other party under it? On general principles of law, when a contract is broken by a refusal to perform it, a new right results—a right to demand and have a compensation in damages for the non-performance. Neither the act of Congress which declared the treaties void and no longer obligatory, nor the great inconvenience and danger which might attend the execution of them, could extinguish, or in any way affect, the right of France, at any rate, to an indemnity. That right, at least, still remained, notwithstanding the refusal or inability of the United States to perform their engagements, and could be avoided, if avoided at all, only upon other justifiable grounds, existing distinct from and independent of those considerations. The most that can be said is, that, by the act the United States prescribed to themselves their own rule of action under the treaties. This they might do. They could enact for themselves, but could not enact for France, and to say that their refusal or even incapacity to execute the treaties, destroyed all right of France, arising out of the treaties, and especially the right to an indemnity for their non-performance, would be giving to those considerations an effect which does not belong and cannot be legitimately ascribed to them.

The stipulations in the treaties, it should be remembered, sir, were, in terms absolute, unqualified, perpetual engagements; and if the United States should not recognise them as subsisting obligations, to be specifically executed by them, they could not deny, and did not deny, that France was entitled to an equivalent for their non-performance. It is to be observed that the United States did not set up the unwarrantable depredations committed by France upon their commerce, in bar or avoidance of her claims, but urged these wrongful acts as grounds of distinct, substantive claims on the part of the United States against her. The respective claims were treated as independent, cross claims, existing and resting on their own separate foundations, and to be settled and adjusted according to their separate, intrinsic merits. France insisted, and continued to insist, upon her demands, up to the conclusion of the treaty of 1800. In the formation of that treaty, the claims of both governments were recognised as subsisting claims, and agreed to be made the subject of further negotiation at a future period. By a provision, however, subsequently annexed to the treaty by the French government, and assented to by the United States, the claims of the two governments were mutually released or surrendered; those on one side being given up in consideration of the abandonment of those on the other.

This, sir, is, essentially and in short, the history of the negotiation; and the summary of the whole matter is, that, in the final result, the government of the United States released France from the private claims of our citizens, for a like release, on the part of France, of claims growing out of national obligations imposed upon the United States by treaties. That the release of the claims on the one side was considered and treated as an equivalent for the release of the claims on the other, is evident from the whole course of the negotiation, from the treaty itself, and also from the letter of Mr. Madison to Mr. Pinckney, which has already been several times adverted to in the debate. That letter is so direct to the point, and its language withal so express and emphatic on the subject, it may not be amiss to recur to it again.

Mr. Madison says: "The claims from which France was released were admitted by France; and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them."

Mr. Madison, from his connexion with the

government, must have known the understanding which existed at the time; and no one can doubt that his intimate acquaintance with public affairs enabled him to give a true construction to the transaction. His assertion is high authority to show that, in the understanding of the government, as well as in fact, the United States did receive an equivalent or valuable consideration for the release of the claims. That this was so, is further manifest from the instructions given to our ministers to France in 1797, which were particularly referred to a few days since by the senator from Rhode Island. By those instructions, our ministers were authorized to stipulate with the French government to pay them the sum of two hundred thousand dollars annually, in lieu of the guarantee engagement.

In short, sir, without going further into particulars, I think it may be safely affirmed that this view of the case is supported by the whole mass of documentary evidence; and it appears to me that no one can read the volume of documents connected with the subject, without being entirely satisfied, in the first place, that the claims were just, and, in the second place, that they were relieved for a valuable consideration received.

If these two propositions are true: if the claims were just, were so admitted by France, and were surrendered as an equivalent for the discharge of the United States from important national obligations, the government of the United States has appropriated private property to public use; and according to the fundamental law of the land, as well as the principles of national justice, it is bound to make compensation to the injured individuals.

Sir, I hope I may be pardoned for saying, that I have spent a considerable portion of my humble life in studying the principles of law and equity, and applying them to the affairs and transactions of men; and if I have imbibed any just conception of those principles, it would be difficult to present a case against the government of more clear and undeniable equity. I may also add, that perhaps no one here has less reason to favor these claims than I have. In the state from which I come, there is not probably an individual who will derive from this bill the value of a cent. The people there have no interest in the matter, other than an interest to preserve inviolate the public faith, and maintain, unimpaired, the character of the government and the country for honor and justice. In this they have, and I trust will always feel, a deep interest. It never can be otherwise with a people, where liberty and law prevail, where truth and justice are revered, and maintain their proper ascendancy over the minds of men. Such a people will neither barter away national honor for money, nor withhold money at the expense of the national honor and justice; and I could hardly fail to incur reproach from the people of the state I represent, if I were to refuse my vote in favor of claims, the payment of which is demanded, as in my judgment it clearly is in this case, by the high considerations of national honor and national justice.

Sir. to falsify one's own words and acts, we can readily see, would disgrace an individual; and I am altogether unable to understand how the same thing can fail to dishonor the government. The simple question presented for my consideration and decision, and for the consideration and decision of every honorable senator, is, is this money justly due from the government? And in deciding this short question, I, for one, cannot allow myself to yield to arguments, however ingenious or plausible, which are founded upon assumptions totally repugnant to the whole tenor of the negotiations with France, and flatly contradicted by the uniform declarations and acts of the American government.

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The French Spoliation Bill passed Congress twice: once during the 29th and again during the 33d Congress. It was vetoed both times.

President Polk's veto message is as follows:—

Washington, Aug. 8, 1846.

To the Senate of the United States:

I return to the Senate, in which it originated, the bill entitled "An act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st of July, 1801," which was presented to me on the 6th instant, with my objections to its becoming a law.

In attempting to give the bill the careful examination it requires, difficulties presented themselves in the outset, from the remoteness of the period to which the claims belong, the complicated nature of the transactions in which they originated, and the protracted negotiations to which they led between France and the United States. The short time intervening between the passage of the bill by Congress, and the approaching close of their session, as well as the pressure of other official duties, have not permitted me to extend my examination of the subject into its minute details. But, in the consideration that I have been able to give to it, I find objections of a grave character to its provisions.

For the satisfaction of the claims provided for it is proposed to appropriate five millions of dollars. I can perceive no legal or equitable ground upon which this large appropriation can rest. A portion of the claims have been more than half a century before the government, in its executive or legislative departments, and all of them had their origin in events which occurred prior to 1800. Since 1802 they have been from time to time before Congress. No greater necessity or propriety exists for providing for these claims at this time than has existed for near a half a century; during all which period this questionable measure has never until the present time received the favorable consideration of Congress. It is scarcely probable, if the claims had been

regarded as obligatory upon the government, or constituting an equitable demand upon the treasury, that those who were contemporaneous with the events which gave rise to it, should not long since have done justice to the claimants. The treasury has often been in a condition to enable the government to do so without inconvenience, if the claims had been considered just. Mr. Jefferson, who was fully cognisant of the early dissensions between the government of the United States and France, out of which the claims arose, in his annual message in 1808, adverted to the large surplus then in the treasury, and its "probable accumulation," and inquired whether it should lie "unproductive in the public vaults;" and yet these claims, though then before Congress, were not recognised or paid. Since that the public debt of the Revolution and of the war of 1812 has been extinguished, and at several periods since the treasury has been in possession of large surpluses over the demands upon it. In 1836 the surplus amounted to many millions of dollars, and, for want of proper objects to which to apply it, it was directed by Congress to be deposited with the states.

During this extended course of time, embracing periods eminently favorable for satisfying all just demands upon the government, the claims embraced in this bill met with no favor in Congress, beyond the reports of committees, in one or the other branch. These circumstances alone are calculated to raise strong doubts in respect of these claims; and especially as all information necessary to a correct judgment concerning them has been long before the public. These doubts are strengthened in my mind by the examination I have been enabled to give to the transaction in which they originated.

The bill assumes that the United States have become liable in those ancient transactions to make reparation to the claimants for injuries committed by France. Nothing was obtained for claimants by negotiation; and the bill assumes that the government has become many ways responsible for these claims. The limited time allowed me, before your adjournment, makes it impossible to reiterate the facts and arguments by which, in preceding Congresses, these claims have been successfully resisted. The present is a period particularly unfavorable for the satisfaction of claims of so large an amount, and, to say the least of them, of so doubtful a character. There is no surplus in the treasury. A public debt of several millions has been created within the last few years. We are engaged in a foreign war, uncertain as to its duration, and involving heavy expenditures; to prosecute which war Congress has, at its present session, authorized a further loan. So that, in effect, the government, should this bill become a law, would have to borrow money and increase the public debt to pay these claims. It is true that, by the provisions of the bill, payment is directed to be made in land scrip instead of money, but the effect upon the treasury will be the same. The public lands constitute one of the sources of public revenue, and if these claims be paid in land scrip, it will, from the date of the issue, to a great extent, cut off from the treasury the annual income from the sale of the public lands; because payments for the lands sold by the government may be expected to be made in scrip until it is all redeemed. If these claims be just, they ought to be paid in money, and nothing less valuable. The bill provides that they shall be paid in land scrip, whereby they are in effect to be a mortgage upon the public lands in the new states—a mortgage, too, held in great part, if not wholly, by non-residents of the states in which the lands lie, who may secure these lands to the amount of several millions of acres, and then demand for them exorbitant prices from the citizens of other states who may desire to purchase them for settlements, or they may keep them out of the market, and thus retard the prosperity and growth of the state in which they are situated. Why this unusual mode of satisfying claimants upon the treasury has been resorted to, does not appear. It is not consistent with a sound public policy. If it be done in this case, it may be done in all others. It will form a precedent for the satisfaction of all other stale and questionable claims, and would undoubtedly be resorted to by all claimants who, after successive trials, shall fail to have their claims recognised and paid in money by Congress.

The bill proposes to pay five millions of dollars, to be paid in land scrip, and provides "that no claim or memorial shall be received by the commissioners" authorized by the act, "unless accompanied by a release or discharge of the United States from all other and further compensation the claimant may be entitled to receive under the provision of the act." These claims are estimated to amount to a much larger sum than five millions of dollars, and yet the claimant is required to release to the government all other compensation, and to accept his share of a fund known to be inadequate.

If these claims be well founded, it would be unjust to the claimants to repudiate any portion of them, and the remaining sum could hereafter be recovered. The bill proposes to pay these claims, not in the currency known to the Constitution, and not to their full amount.

Passed, as this bill has been, near the close of the session, and when many measures of importance necessarily demanded the attention of Congress, and possibly without that full and deliberate consideration which the large sum it appropriates, and the existing state of the treasury and of the country, demand, I deem it to be my duty to withhold my approval, that it may hereafter undergo the revisions of Congress. I have come to this conclusion with regret. In interposing my objections to its becoming a law, I am truly sensible that it should be an extreme case which would make it the duty of the executive

to withhold his approval of any bill passed by Congress upon the ground of its expediency alone. Such a case I consider this to be.

JAMES K. POLK.

Fugitive Slaves.

SEE third clause of second section of fourth article of Constitution of the United States.

The act of February 12, 1793, provided:—

"Sec. 3. That when a person held to labor in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the Circuit or District Courts of the United States, residing or being within the state, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall be made, and upon proof, to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the state or territory from which he or she fled.

"Sec. 4. That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney, when so arrested, pursuant to the authority herein given or declared; or shall harbor or conceal such person, after notice that he or she was a fugitive from labor, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars."

JUDICIAL AND OTHER OPINIONS ON THE SUBJECT.

Judge Baldwin, in the case of Johnson *v.* Tompkins, said:—

"The foundations of the government are laid and rest on the rights of property in slaves, and the whole structure must fall by disturbing the corner stone."

Edmund Randolph, in the Virginia Convention, said:—

"Were it right to mention what passed in convention on the occasion, I might tell you that the Southern states—even South Carolina herself—conceived this property to be secured by these words."

Judge Iredell, in the North Carolina Convention, referring to the Fugitive Slave clause in the Constitution, said:—

"In some of the Northern states they have emancipated all of their slaves. If any of our slaves go there, and remain there a certain time, they would by the present laws be entitled to their freedom, so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the Southern states, and to prevent it, this clause is inserted in the Constitution."

Charles Cotesworth Pinckney, in the South Carolina Convention, said:—

"We have obtained a right to recover our slaves, in whatever part of America they may take refuge, which is a right we had not before."

Chief Justice Tilghman, of Pa., in the case of Wright *v.* Deacon, said:—

"Whatever may be our opinions on the subject of slavery, it is well known that our Southern brethren would not have consented to have become parties to a constitution, under which the United States have enjoyed so much prosperity, unless their property in slaves had been secured. This Constitution has been adopted by the free consent of the citizens of Pennsylvania, and it is the duty of every man, whatever may be his office or station, to give it a fair and candid construction."

The Chief Justice cites the provision in the second section of the fourth article of the Constitution, and observes:—

"Here is the principle: the fugitive is to be delivered up on claim of the master. But it required a law to regulate the manner in which this principle should be reduced to practice. It was necessary to establish some mode in which the claim should be made, and the fugitive be delivered up."

The judge then quotes the enactment on the subject by Congress, and concludes the opinion as follows:—

"It plainly appears from the whole scope and tenor of the Constitution, and act of Congress, that the fugitive was to be delivered up on a summary proceeding, without the delay of a formal trial in a court of common law. But if he had really a right to freedom, that right was not impaired by this proceeding. He was placed just in the situation in which he stood before he fled, and might prosecute his right in the state to which he belonged."

William Rawle, a distinguished jurist of the state of Pennsylvania, in his Essay on the Constitution of the United States, speaking of fugitives from justice and fugitives from service or labor, says:—

"To the two latter descriptions of persons no asylum can by the Constitution of the United States be afforded. The states are considered as a common family, whose harmony would be endangered if they were to protect and detain such fugitives when demanded in one case by the executive authority of the state, or pursued in the other by the person claiming an interest in their service."

Alexander Hamilton made the following statement to the New York Convention assembled at Poughkeepsie, in June, 1788, to pass on the new constitution submitted to the states by the General Convention assembled at Philadelphia. It is extracted from Elliot's Debates, p. 212:—

"In order that the committee may understand clearly the principles on which the General Convention acted, I think it necessary to explain some preliminary circumstances.

"Sir, the natural situation of this country seems to divide its interest into different classes. There are navigating and non-navigating states—the Northern are properly the navigating states: the Southern appear to possess neither the means nor the spirit of navigation. This difference of situation naturally produces a dissimilarity of interests and views respecting foreign commerce. It was the interest of the Northern states that there should be no restraints on their navigation, and that they should have full power, by a majority in Congress, to make commercial regulations in favor of their own and in restraint of the navigation of foreigners. The Southern states wished to impose a restraint on the Northern, by requiring that two-thirds in Congress should be requisite to pass an act in regulation of commerce: they were apprehensive that the restraints of a navigation law would discourage foreigners, and by obliging them to employ the shipping of the Northern states, would probably enhance their freight. This being the case, they insisted strenuously on having this provision engrafted in the Constitution; and the Northern states were as anxious in opposing it." * * * * * * * *

"Much has been said of the impropriety of representing men who have no will of their own: whether this be reasoning or declamation I will not presume to say. It is the unfortunate situation of the Southern states to have a great part of their population as well as property in blacks. The regulation complained of was one result of the spirit of accommodation which governed the Convention; and without this indulgence no union could possibly have been formed. And, sir, considering some peculiar advantages which we derive, it is entirely just that they should be gratified. The Southern states possess certain staples, tobacco, rice, indigo, &c. [and now, above all, cotton], which must now be capital objects in treaties of commerce with foreign nations; and the advantages which they necessarily procure in these treaties, will be felt throughout all the states.

"It became necessary, therefore, to compromise, or the

Convention would have dissolved without effecting anything. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No. Every man who hears me—every wise man in the United States would have condemned them. The Convention were obliged to appoint a committee for accommodation. In this committee the arrangement was formed as it now stands, and their report was accepted. It was a delicate point, and it was necessary that all parties should be indulged."

—

Mr. Justice Story in Book 3, chap. 40, of his Commentaries on the Constitution of the United States, considers together the subject of fugitive offenders and fugitive slaves. After quoting the clause respecting fugitives from service, he says:—

"This clause was introduced into the Constitution solely for the benefit of the slaveholding states, to enable them to reclaim their fugitive slaves who should have escaped into other states where slavery was not tolerated. The want of such a provision under the Confederation was felt as a grievous inconvenience by the slaveholding states, since in many states no aid whatsoever would be allowed to the owners, and sometimes, indeed, they met with open resistance."

And in the next section he thus expresses himself:—

"It is obvious that these provisions for the arrest and removal of fugitives of both classes contemplate summary ministerial proceedings, and not the ordinary course of judicial investigations, to ascertain whether the complaint be well founded, or the claim of ownership be established beyond all legal controversy. In cases of suspected crimes, the guilt or innocence of the party is to be made out at his trial, and not upon the preliminary inquiry whether he shall be delivered up. All that would seem in such cases to be necessary is, that there should be prima facie evidence before the executive authority to satisfy its judgment that there is probable cause to believe the party guilty, such as upon an ordinary warrant would justify his commitment for trial. And in the cases of fugitive slaves there would seem to be the same necessity of requiring only prima facie proofs of ownership, without putting the party to a formal assertion of his rights, by a suit at the common law. Congress appear to have acted upon this opinion; and, accordingly, in the statute upon this subject, have authorized summary proceedings before a magistrate, upon which he may grant a warrant for a removal."

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In the case of The Commonwealth *v.* Griffin, Chief Justice Parker, of Massachusetts, holds this language:—

"This brings the case to a single point, whether the statute of the United States, giving power to seize a slave without a warrant, is constitutional? It is difficult, in a case like this, for persons who are not inhabitants of slaveholding states, to prevent prejudice from having too strong an effect on their minds. We must reflect, however, that the Constitution was made with some states, in which it would not occur to the mind to inquire whether slaves were property. It was a very serious question when they came to make the Constitution, what should be done with their slaves. They might have kept aloof from the Constitution. That instrument was a compromise. It was a compact by which all are bound. We are to consider, then, what was the intention of the Constitution. The words of it were used out of delicacy, so as not to offend some in the Convention whose feelings were abhorrent to slavery; but we there entered into an agreement that slaves should be considered as property. Slavery would still have continued, if no Constitution had been made.

"The Constitution does not prescribe the mode of reclaiming a slave, but leaves it to be determined by Congress. It is very clear that it was not intended that application should be made to the executive authority of the state. It is said that the act which Congress has passed on this subject, is contrary to the amendment of the Constitution, securing the people in their persons and property against seizures, &c., without a complaint upon oath. But all the parts of the instrument are to be taken together. It is very obvious that slaves are not parties to the Constitution, and the amendment has relation to the parties.

"It is said that when a seizure is made, it should be made conformably to our laws. This does not follow from the Constitution; and the act of Congress says that the person to whom the service is due may seize, &c. Whether the statute is a harsh one, is not for us to determine.

"But it is objected, that a person may in this summary manner seize a freeman. It may be so, but this would be attended with mischievous consequences to the person making the seizure."

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In the case of Jack and Martin, Chief Justice Nelson, of New York, now of the Supreme Court of the United States, indulged in similar reasons. He said:—

"The counsel for the plaintiff in error contends, the mode of making the claim and of delivering up the fugitive, is a subject exclusively of state regulation, with which Congress has no right to interfere; and, upon this view, the constitutionality of the law of this state is sought to be sustained.

"It is material to look into the object of this clause of the Constitution, the evil to be guarded against, and the nature and character of the rights to be protected and enforced, in order to comprehend its meaning, and determine what powers, and to what extent, may be rightfully claimed under it.

"At the adoption of the Constitution, a small minority of the states had abolished slavery within their limits, either by positive enactment or judicial adjudication; and the Southern states are known to have been more deeply interested in slave labor than those of the North, where slavery yet to some extent existed, but where it must have been seen it would probably soon disappear. It was natural for that portion of the Union to fear that the latter states might, under the influence of this unhappy and exciting subject, be tempted to adopt a course of legislation that would embarrass the owners pursuing their fugitive slaves, if not discharge them from service, and invite escape by affording a place of refuge. They already had some experience of the perplexities in this respect, under the Confederation, which contained no provision on the subject; and the serious and almost insurmountable difficulties that this species of property occasioned in the Convention, were well calculated to confirm their strongest apprehensions. To this source must be attributed, no doubt, the provision of the Constitution, and which directly meets the evil, by not only prohibiting the states from enacting any regulation discharging the slave from service, but by directing that he shall be delivered up to the owner. It implies a doubt whether they would, in the exercise of unrestrained power, regard the rights of the owner, or properly protect them by local legislation. The object of the provision being thus palpable, it should receive a construction that will operate most effectually to accomplish the end consistent with the terms of it. This we may reasonably infer will be in accordance with the intent of the makers, and will regard, with becoming respect, the rights of those especially interested in its execution. Which power, then, was it intended should be charged with the duty of prescribing the mode in which this injunction of the Constitution should be carried into effect, and enforcing its execution—the states or Congress? It is very clear, if left to the former, the great purpose of the provision might be defeated, in spite of the Constitution. The states might omit any legislation on the subject, and thereby leave the owner without any known means by which to assert his rights; or they might so encumber and embarrass the prosecution of them, as that their legislation on the subject would be tantamount to denial. That all this could not be done, or omitted, without disregarding the spirit of the Constitution is true, but the provision itself is founded upon the assumption that without it the acknowledged rights of the owners would not be observed or protected: it was made in express terms to guard against a possible act of injustice by the state authorities. The idea that the framers of the Constitution intended to leave the regulation of this subject to the states, when the provision itself obviously sprung out of their fears of partial and unjust legislation by the states, in respect to it, cannot readily be admitted. It would present an inconsistency of action, and an unskilfulness in the adaption of means for the end in view, too remarkable to have been overlooked by a much less wise body of men. They must naturally have seen and felt, that the spirit apprehended to exist in the states, which made this provision expedient, would be able to frustrate its object in regulating the mode and manner of carrying it into effect; that the remedy of the evil and the security of rights would not be complete, unless this power was also vested in the national government."

Judge Nelson's opinion was affirmed by the court of last resort.

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Chancellor Walworth, in giving an opinion upon the same case, said:—

"However much, therefore, we may deplore the existence of slavery in any part of the Union, as a national as well as a local evil, yet, as the right of the master to reclaim his fugitive slave is secured to him by the Federal Constitution,

no good citizen, whose liberty and property is protected by that Constitution, will interfere to prevent this provision from being carried into full effect, according to its spirit and effect; and even where the forms of law are resorted to for the purpose of evading the constitutional provision, or to delay the remedy of the master in obtaining a return of his fugitive slave, it is undoubtedly the right, and may become the duty, of the court in which any proceedings for that purpose are instituted, to set them aside, if they are not commenced and carried on in good faith, and upon probable grounds for believing that the claim of the master to the service of the supposed slave is invalid."

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Mr. Justice Story of the Supreme Court of the United States, in the case of Prigg *v.* The State of Pennsylvania, thus defines the rights of the slave owner under that article of the Constitution:—

"The clause manifestly contemplates the existence of a positive unqualified right on the part of the owner of the slave, which no state law or regulation can in any way qualify, regulate, control, or restrain. The slave is not to be discharged from service or labor in consequence of any state law or regulation. The question can never be, how much the slave is discharged from, but, whether he is discharged from any, by the natural or necessary operation of state laws or state regulations. The question is not one of quantity or degree, but of withholding or controlling the incidents of a positive and absolute right.

"If this be so, then all the incidents to the right attach also; the owner must therefore have the right to seize and repossess the slave, which the local laws of his own state confer upon him as property.

"Upon this ground we have not the slightest hesitation in holding that, under and in virtue of the Constitution, the owner of a slave is clothed with entire authority, in every state of the Union, to seize and recapture his slave, whenever he can do it, without any breach of the peace, or any illegal violence. In this sense and to this extent this clause of the Constitution may properly be said to execute itself; and to require no aid from legislation, state or national.

"But the clause of the Constitution does not stop here; nor indeed, consistently with its professed objects, could it do so. Many cases must arise in which if the remedy of the owner were confined to the mere right of seizure and recaption, he would be utterly without any adequate redress. He may not be able to lay his hands upon the slave. He may not be able to enforce his rights against persons who either secrete or conceal, or withhold the slave. He may be restricted by local legislation as to the modes of proof of his ownership, as to the courts in which he shall sue, and as to the actions which he may bring, or the process he may use to compel the delivery of the slave. Nay, the local legislation may be utterly inadequate to furnish the appropriate redress, by authorizing no process *in rem*, or no specific mode of repossessing the slave, leaving the owner at best, not that right which the Constitution designed to secure,—a specific delivery and repossession of the slave, but a mere remedy in damages; and that perhaps against persons utterly insolvent or worthless. The state legislation may be entirely silent on the whole subject, and its ordinary remedial process framed with different views and objects; and this may be innocently as well as designedly done, since every state is perfectly competent and has the exclusive right to prescribe the remedies in its own judicial tribunals, to limit the time as well as the mode of redress, and to deny jurisdiction over cases, which its own policy and its own institutions either prohibit or discountenance.

"If, therefore the clause of the Constitution had stopped at the mere recognition of the right without providing or contemplating any means by which it might be established and enforced, in cases where it did not execute itself, it is plain that it would have been, in a great variety of cases, a delusive and empty annunciation.

"And this leads us to the consideration of the other part of the clause, which implies at once a guarantee and duty. It says: 'But he (the slave) shall be delivered up on claim of the party to whom such labor or service is due?' By whom to be delivered up? In what mode to be delivered up? How, if a refusal takes place, is the right of delivery to be enforced? Upon what proofs? When and under what circumstances shall the possession of the owner, after it is obtained, be conclusive of his right, so as to preclude any further inquiry and examination into it by local tribunals or otherwise, while the slave is in possession of the owner, or in transitu to the state from which he fled?

"These and many other questions will readily occur upon the slightest attention to the clause, and it is obvious that they can receive but one satisfactory answer. They require the aid of legislation to protect the right, to enforce the delivery, and to secure the subsequent possession of the slave.

"If indeed the Constitution guaranties the right, and if it requires the delivery upon the claim of the owner (as cannot well be doubted), the natural inference certainly is, that the national government is clothed with the appropriate authority and functions to enforce it. The fundamental principle applicable to all cases of this sort, would seem to be, that where the end is required, the means are given; and where the duty is enjoined, the ability to perform it is contemplated to exist on the part of the functionaries to whom it is intrusted. The clause is found in the National Constitution and not in that of any state. It does not point out any state functionaries, or any state action, to carry its provisions into effect. On the contrary, the natural and necessary conclusion is, that the national government is bound, through its own proper departments, legislative, judicial, and executive, to carry into effect all the rights and duties imposed by the Constitution.

"It will probably be found, when we look to the character of the Constitution of the United States itself—the objects which it seeks to attain—the power which it employs—the duties which it enjoins, and the rights which it secures—as well as to the known historical facts that many of its provisions were matters of compromise of opposing interests and opinions—that no uniform rule of interpretation can be applied, which may not allow, even if it does not positively demand, many modifications in its application to particular clauses. Perhaps the safest rule of interpretation, after all, will be found to be to look to the nature and object of the particular powers, duties, rights, with all the light and aid of contemporary history; and to give to the words of each just such operation and force, consistent with their legitimate meaning, as may fairly secure and attain the ends proposed. It is historically well known that the object of the clause in the Constitution, relating to persons owing service and labor in one state, escaping into another, was to secure to the citizens of the slaveholding states the complete right and title of ownership in their slaves, as property, in every state of the Union, into which they might escape from the state where they were held in servitude.

"The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding states; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed. Its true design was to guard against the doctrines and principles prevailing in the non-slaveholding states, by preventing them from intermeddling with, or obstructing, or abolishing, the rights of the owners of slaves. The clause in the Constitution relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right, on the part of the owner of the slave, which no state law or regulation can in any way qualify, regulate, control, or restrain. Any state law or regulation which interrupts, limits, delays, or postpones the rights of the owner to the immediate command of his service or labor, operates, *pro tanto*, a discharge of the slave therefrom. The owner of a fugitive slave has the same right to seize and take him, in a state to which he has escaped, that he has in the state from which he fled. The court have not the slightest hesitation in holding that under and in virtue of the Constitution, the owner of the slave is clothed with the authority, in every state of the Union, to seize and recapture his slave.

"The right to seize and retake fugitive slaves, and the duty to deliver them up, in whatever state of the Union they may be found, is, under the Constitution, recognised as an absolute, positive right and duty, pervading the whole Union with an equal and supreme force, uncontrolled, and uncontrollable, by state sovereignty and state legislation. The right and duty are coextensive and uniform, in remedy and operation, throughout the whole Union. The owner has the same security, and the same remedial justice, and the same exemption from state regulations and control, through however many states he may pass with the fugitive slave in his possession, *in transitu* to his domicil."

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The late Senator Butler of S. C., has furnished a historical review of public sentiment at the period referred to, which is valuable for the high source from which it emanates:—

"For many years the clause immediately under consideration had a self-sufficing efficacy, having all the incidents and advantages conceded to it of an extradition treaty. The common practice of the times was an honest and imposing commentary on the intention and object of the provision. A slave escaping into a non-slaveholding state could be pursued, and in general could be as easily apprehended there as in the state from which he had made his escape. It was not uncommon for judges to remand to a slave state, to be tried, a person of color, upon an issue involving his freedom; and state courts and judicial and ministerial officers of non-slaveholding states were in the constant habit of using, as a

matter of recognised obligation, their power and agency in bringing about the delivery of a fugitive slave to his pursuing master. The right of the owner to apprehend, where the slave could be identified as a fugitive, was not disputed, much less impeded by state laws or the violence of irresponsible mobs. The paramount authority of the Constitution and its active energy were acknowledged by common consent. It executed its provisions by the active co-operation of state authority, in the fulfilment of what they then recognised as a constitutional duty. The duty to deliver up, seemed to be regarded as equal to the right of the owner to demand his escaping servant. The term 'deliver up' had a meaning so pregnant and obvious, that it carried with it all the obligations by common consent, growing out of its use; as it imparted a conceded right, so it was regarded as containing a perfect obligation. The dictate of good faith found in the non-slaveholding states no disposition to evade or deny its obligations. The framers of the Constitution were then the living and honest expounders of its meaning and active operation. The jealousy of political interest was not then strong enough for hostile and unconstitutional legislation."

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Fugitive Slave Law of 1850.

An act to amend and supplementary to the act entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," approved February 12, 1793.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the persons who have been or may hereafter be appointed commisssioners in virtue of any act of Congress, by the Circuit Courts of the United States, and who, in consequence of such appointment, are authorized to exercise the powers that any justice of the peace, or other magistrate of any of the United States, may exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing, the same, under and by virtue of the thirty-third section of the act of the 24th of September, 1789, entitled, "An act to establish the judicial courts of the United States," shall be, and are hereby, authorized and required to exercise and discharge all the powers and duties conferred by this act.

Sec. 2. And be it further enacted, That the superior court of each organized territory of the United States shall have the same power to appoint commissioners to take acknowledgments of bail and affidavits, and to take depositions of witnesses in civil causes, which is now possessed by the Circuit Court of the United States; and all commissioners who shall hereafter be appointed for such purposes by the superior court of any organized territory of the United States, shall possess all the powers, and exercise all the duties, conferred by law upon commissioners appointed by the United States for similar purposes, and shall moreover exercise and discharge all the powers and duties conferred by this act.

Sec. 3. And be it further enacted, That the Circuit Courts of the United States, and the superior courts of each organized territory of the United States, shall from time to time enlarge the number of commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this act.

Sec. 4. And be it further enacted, That the commissioners above named shall have concurrent jurisdiction with the judges of the Circuit and District Courts of the United States in their respective circuits and districts within the several states, and the judges of the superior courts of the territories, severally and collectively, in term-time and vacation; and shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the restrictions herein contained, to the state or territory from which such persons may have escaped or fled.

Sec. 5. And be it further enacted, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, on the motion of such claimant, by the Circuit or District Court for the district of such marshal; and after arrest of such fugitive by such marshal or his deputy, or whilst at any time in his custody under the provisions under this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable on his official bond to be prosecuted for the benefit of such claimant for the full value of the service or labor of said fugitive, in the state, territory, or district, whence he escaped; and the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered, within their counties, respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid to summon and call to their aid the bystanders, or posse comitatus of the proper county, when necessary to insure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run and be executed by said officers anywhere in the state within which they are issued.

Sec. 6. And be it further enacted, That when a person held to service or labor in any

state or territory of the United States, has heretofore or shall hereafter escape into another state or territory of the United States, the person or persons to whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized by power of attorney, in writing, acknowledged and certified under the seal of some legal officer or court of the state or territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district, or county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where the same can be done without process, and by taking, or causing such person to be taken, forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the state or territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority, as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due, as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the state or territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make out and deliver to such claimant, his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the state or territory in which such service or labor was due, to the state or territory in which he or she was arrested, with authority to such claimant, or his or her agent or attorney, to use such reasonable force and restraint as may be necessary, under the circumstances of the case, to take and remove such fugitive person back to the state or territory whence he or she may have escaped as aforesaid. In no trial or hearing, under this act, shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first section mentioned shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the state or territory from which he escaped, and shall prevent all molestation of such person or persons, by any process issued by any court, judge, magistrate, or other person whomsoever.

Sec. 7. And be it further enacted, That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid; or shall rescue or attempt to rescue such fugitive from service or labor from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person, so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the district or territorial courts aforesaid, within whose jurisdiction the said offence may have been committed.

Sec. 8. And be it further enacted, That the marshals, their deputies, and the clerks of the said district and territorial courts, shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and where such services are rendered exclusively in the arrest, custody, and delivery of the fugitive to the claimant, his or her agent or attorney, or where such supposed fugitive may be discharged out of custody for the want of sufficient proof as aforesaid, then such fees are to be paid in the whole by such claimant, his agent or attorney; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, upon the delivery of the said certificate to the claimant, his or her agent or attorney; or a fee of five dollars in cases where the proof shall not, in the opinion of such commissioner, warrant such certificate and delivery, inclusive of all services incident to such arrest and examination, to be paid in either case by the claimant, his or her agent or attorney. The person or persons authorized to execute the process to be issued by such commissioners, for the arrest and detention of fugitives from service or labor as aforesaid, shall also be entitled to a fee of five dollars each for each

person he or they may arrest and take before any such commissioner as aforesaid, at the instance and request of such claimant; with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them; such as attending at the examination, keeping the fugitive in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner; and in general for performing such other duties as may be required by such claimant, his or her attorney or agent, or commissioner in the premises, such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid by such claimants, their agents or attorneys, whether such supposed fugitives from service or labor be ordered to be delivered to such claimants by the final determination of such commissioner or not.

Sec. 9. And be it further enacted, That upon affidavit made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force from his or their possession before he can be taken beyond the limits of the state in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the state whence he fled, and there to deliver him to said claimant, his agent or attorney. And to this end, the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary to overcome such force, and to retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed by law for transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

Sec. 10. And be it further enacted, That when any person held to service or labor in any state or territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon, the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record, authenticated by the attestation of the clerk and of the seal of the said court, being produced in any other state, territory, or district, in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other officer authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence, if necessary, either oral or by affidavit, in addition to what is contained in the said record, of the identity of the person escaping, he or she shall be delivered up to the claimant. And the said court, commissioner, judge, or other person authorized by this act to grant certificates to claimants of fugitives, shall, upon the production of the record and other evidences aforesaid, grant to such claimant a certificate of his right to take any such person identified and proved to be owing service or labor as aforesaid, which certificate shall authorize such claimant to seize or arrest and transport such person to the state or territory from which he escaped: Provided, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence, the claim shall be heard and determined upon other satisfactory proofs, competent in law.

HOWELL COBB,
Speaker of the House of Representatives.

WILLIAM R. KING,
President of the Senate pro tempore.

Approved, September 18, 1850.

MILLARD FILLMORE.

Opinion of the Attorney General, obtained by Mr. Fillmore previous to signing the preceding act:—

Attorney General's Office, 18th Sep. 1850.

Sir: I have had the honor to receive your note of this date, informing me that the bill commonly called the Fugitive Slave bill, having passed both Houses of Congress, had been submitted to you for your consideration, approval, and signature, and requesting my opinion whether the sixth section of that act, and especially the last clause of that section, conflicts with the provision of the Constitution which declares that "the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it?"

It is my clear conviction that there is nothing in the last clause, nor in any part of the sixth section, nor indeed in any part of the provisions of the act, which suspends, or was intended to suspend, the privilege of the writ of habeas corpus, or is in any manner in conflict with the Constitution.

The Constitution, in the second section of the fourth article, declares, that "no person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the

party to whom such service or labor may be due."

It is well known and admitted, historically and judicially, that this clause of the Constitution was made for the purpose of securing to the citizens of slaveholding states the complete ownership in their slaves, as property, in any and every state or territory of the Union into which they might escape. (Prigg *v.* Commonwealth of Pennsylvania, 16 Pet. 539.) It devolved on the general government, as a solemn duty, to make that security effectual. Their power was not only clear and full, but, according to the opinion of the court in the above cited case, it was exclusive; the states, severally, being under no obligation, and having no power to make laws or regulations in respect to the delivery of fugitives. Thus the whole power, and with it the whole duty, of carrying into effect this important provision of the Constitution was with Congress. And, accordingly, soon after the adoption of the Constitution, the act of the 12th February, 1793, was passed, and that proving unsatisfactory and inefficient, by reason (among other causes) of some minor errors in its details, Congress are now attempting by this bill to discharge a constitutional obligation, by securing more effectually the delivery of fugitive slaves to their owners. The sixth and most material section in substance declares, that the claimant of the fugitive slave may arrest and carry him before any one of the officers named and described in the bill, and provides that these officers and each of them shall have judicial power and jurisdiction to hear, examine, and decide the case in a summary manner; that, if upon such hearing, the claimant, by the requisite proof, shall establish his claim to the satisfaction of the tribunal thus constituted, the said tribunal shall give him a certificate, stating therein the substantial facts of the case, and authorizing him, with such reasonable force as may be necessary, to take and carry said fugitive back to the state or territory whence he or she may have escaped, and then in conclusion proceeds as follows: "The certificates in this and the first section mentioned shall be conclusive of the right of the person or persons, in whose favor granted, to remove such fugitive to the state or territory from which he escaped, and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever."

There is nothing in all this that does not seem to me to be consistent with the Constitution, and necessary, indeed, to redeem the pledge which it contains—that such fugitives "shall be delivered up on claim" of their owners.

The Supreme Court of the United States has decided that the owner, independent of any aid from state or national legislation, may, in virtue of the Constitution and his own right of property, seize and recapture his fugitive slave, in whatsoever state he may find him, and carry him back to the state or territory from which he escaped. (Prigg *v.* Commonwealth of Pennsylvania, 16 Pet. 539.) This bill, therefore, confers no right on the owner of the fugitive slave; it only gives him an appointed and peaceable remedy, in place of the more exposed and insecure, but not less lawful mode of self-redress. And as to the fugitive slave, he has no cause to complain of this bill; it adds no coercion to that which his owner himself might, at his own will, rightfully exercise; and all the proceedings which it institutes are but so much of orderly judicial authority, interposed between him and his owner, and consequently of protection to him, and mitigation of the exercise directly by the owner himself of his personal authority. This is the constitutional and legal view of the subject, as sanctioned by the decisions of the Supreme Court; and to that I limit myself.

The act of the 12th February, 1793, before alluded to, so far as it respects any constitutional question that can arise out of this bill, is identical with it. It authorizes the like arrest of the fugitive slave, the like trial, the like judgment, the like certificate, with the like authority to the owner, by virtue of that certificate as his warrant, to remove him to the state or territory from which he escaped. And the constitutionality of that act, in all those particulars, has been affirmed by the adjudications of state tribunals, and by the courts of the United States, without a single dissent, so far as I know.—(Baldwin's C. C. R. 577, 579.)

I conclude, therefore, that so far as the act of the 12th February, 1793, has been held to be constitutional, this bill must also be so regarded, and that the custody, restraint, and removal, to which the fugitive slave may be subjected, under the provisions of this bill, are all lawful, and that the certificate to be granted to the owner is to be regarded as the act and judgment of a judicial tribunal having competent jurisdiction.

With these remarks as to the constitutionality of the general provisions of the bill, and the consequent legality of the custody and confinement to which the fugitive slave may be subjected under it, I proceed to a brief consideration of the more particular question you have propounded in reference to the writ of habeas corpus, and of the last clause of the sixth section, above quoted, which gives rise to that question.

My opinion, as before expressed, is, that there is nothing in that clause or section which conflicts with, or suspends, or was intended to suspend, the privilege of the writ of habeas corpus. I think so, because the bill says not one word about that writ; because, by the Constitution, Congress is expressly forbidden to suspend the privilege of this writ, "unless when in cases of rebellion or invasion the public safety may require it;" and therefore the suspension by this act (there being neither rebellion nor invasion) would be a plain and palpable violation of the Constitu-

tion ; and no intention to commit such a violation of the Constitution, of their duty, and their oaths, ought to be imputed to them upon mere constructions and implications; and thirdly, because there is no incompatibility between these provisions of the bill and the privilege of the writ of habeas corpus, in its utmost constitutional latitude.

Congress, in the case of fugitive slaves, as in all other cases within the scope of its constitutional authority, has the unquestionable right to ordain and prescribe, for what causes, to what extent, and in what manner, persons may be taken into custody, detained, or imprisoned. Without this power they could not fulfil their constitutional trust, nor perform the ordinary and necessary duties of government. It was never heard that the exercise of the legislative power was any encroachment upon or suspension of the privilege of the habeas corpus. It is only by some confusion of ideas that such a conflict can be supposed to exist. It is not within the province or privilege of this great writ to loose those whom the law has bound. That would be to put a writ granted by the law, in opposition to the law—to make one part of the law destructive of another. This writ follows the law, and obeys the law. It is issued upon proper complaint, to make inquiry into the causes of commitment or imprisonment, and its sole remedial power and purpose is to deliver the party from "all manner of illegal confinement." (3 Black. Com. 131.) If, upon application to the court or judge for this writ, or if, upon its return, it shall appear that the confinement complained of was lawful, the writ in the first instance would be refused, and in the last the party would be remanded to his former lawful custody.

The condition of one in custody as a fugitive slave, under this law, so far as respects the writ of habeas corpus, is precisely the same as that of all other prisoners under the laws of the United States. The privilege of that writ remains alike to all of them, but to be judged of—granted or refused—discharged or enforced—by the proper tribunal, according to the circumstances of each case, and as the commitment and detention may appear to be legal or illegal.

The whole effect of the law may be thus briefly stated. Congress has constituted a tribunal with exclusive jurisdiction, to determine summarily, and without appeal, who are fugitives from service or labor under the second section of the fourth article of the Constitution, and to whom such service or labor is due. The judgment of every tribunal of exclusive jurisdiction, where no appeal lies, is of necessity conclusive upon every other tribunal, and therefore the judgment of the tribunal created by this act is conclusive upon all tribunals. Wherever this judgment is made to appear, it is conclusive of the right of the owner to retain in his custody the fugitive from his service, and to remove him back to the place or state from which he escaped. If it is shown upon the application of the fugitive for a writ of habeas corpus, it prevents the issuing of the writ—if upon the return, it discharges the writ and restores or maintains the custody.

The view of the law of this case is fully sustained by the decision of the Supreme Court of the United States in the case of Tobias Watkins, where the court refused to discharge upon the ground that he was in custody under the sentence of a court of competent jurisdiction, and that judgment was conclusive upon them. (3 Pet. 202.)

The expressions used of the last clause of the sixth section, that the certificate therein alluded to "shall prevent all molestation" of the persons to whom granted, "by any process issued," &c., probably mean, only what the act of 1793 meant, by declaring a certificate under that act a sufficient warrant for the removal of a fugitive, and certainly do not mean a suspension of the habeas corpus.

I conclude by repeating my conviction, that there is nothing in the bill in question which conflicts with the Constitution, or suspends, or was intended to suspend, the privilege of the writ of habeas corpus.

I have the honor to be, very respectfully, sir, your obedient servant,

J. J. CRITTENDEN.

To the President.

Fuller, Henry M., of Pa.

ANSWER OF, TO INTERROGATORIES IN HOUSE OF REPRESENTATIVES, JANUARY 12, 1856.

Mr. Clerk, I voted for the resolution offered by the gentleman from Tennessee [Mr. Zollicoffer] yesterday, because I cordially approve of the principle embodied in that resolution. Early in the session I felt it a duty, in justice to myself and to those with whom I had been acting, to declare the opinions I entertained and the course of action I should pursue upon certain questions of public policy. I desire to say now, sir, what I believe is known to the majority—if not to all—of those who have honored me with their confidence, that I have been ready at any and all times to withdraw my name from this protracted canvass. I have felt unwilling to stand, or to *appear* to stand, in the way of any fair organization of this body.

In answer to the specific interrogatories here presented, I say that I do not regard the Kansas and Nebraska bill as promotive of the formation of free states; and I will further say, sir, that I do not believe that it is promotive of the formation of slave states. The second interrogatory relates to the constitutionality of the Wilmot proviso. I was not a member of the Congress of 1850, and have never been called upon to affirm or deny the constitutionality of the Wilmot proviso.

I have never assumed the position, that "if territorial bills (silent upon the subject of slavery, and leaving the Mexican laws to operate) were defeated, he [I] would vote for a bill with the Wilmot proviso in it." That

question relates to the legislative action of the distinguished gentleman from Illinois, [Mr. Richardson.] My political existence commenced since that flood. I was not a member of that Congress, and having never taken any public position upon that subject heretofore, I am willing, in all frankness and candor, to do so now; and I do so with great deference and respect for those distinguished men who, in times past, have entertained and expressed different opinions. Public history informs us that slavery existed before the Constitution, and, in my judgment, now exists independent of the Constitution. When the people of the confederated states met by their representatives in convention, to form that Constitution, slavery existed in all but one of the states of the Confederacy. The people, through their representatives, having an existing and acknowledged right to hold slaves, conceded this—the right to prohibit importation—after the year 1808. They made no cession, so far as regarded the existence of domestic slavery. They claimed—and it was granted—the right of reclamation in case of escape. They claimed—and it was granted—the right of representation as an element of political power. And I hold, in the absence of express authority, that Congress has no constitutional right to legislate upon the subject of slavery. I hold that the territories are the common property of all the states, and that the people of all the states have a common right to enter upon and occupy those territories, and they are protected in that occupation by the flag of our common country; that Congress has no constitutional power either to legislate slavery into, or exclude it from, a territory. Neither has the territorial legislature, in my judgment, any right to legislate upon that subject, except so far as it may be necessary to protect the citizens of the territory in the enjoyment of their property, and *that* in pursuance of its organic law, as established by Congressional legislation. When the citizens of the territory shall apply for admission into the Union, they may determine for themselves the character of their institutions (by their state constitution); and it is their right then to declare whether they will tolerate slavery or not, and, thus, fairly deciding for themselves, should be admitted into the Union as states without reference to the subject of slavery. The Constitution was formed by the people of the states for purposes of mutual advantage and protection. The states are sovereignties, limited only so far as they have surrendered their powers to the general government. The general government, thus created and limited, acts with certain positive, defined, and clearly ascertained powers. Its legislation and administration should be controlled by the Constitution; and it cannot justly employ its powers thus delegated to impair or destroy any existing or vested rights belonging to the people of any of the states.

In addition to the above he made the following answer to Mr. Barksdale's interrogatories:—

Mr. Clerk, I shall answer the questions specifically and directly, reserving to myself the privilege of more full explanation hereafter.

"Are you in favor of restoring the Missouri restriction, or do you go for the entire prohibition of slavery in all the territories of the United States?"

I am opposed to any legislation upon those subjects, for reasons already given.

"Are you in favor of abolishing slavery in the District of Columbia and the United States forts, dock-yards, &c.?"

I am not, sir.

"Do you believe in the equality of the white and black races in the United States, and do you wish to promote that equality by legislation?"

I do not, sir. I acknowledge a decided preference for white people.

"Are you in favor of the entire exclusion of adopted citizens and Roman Catholics from office?"

Mr. Clerk, I think with General Washington—and he is a very high authority—that it does not comport with the policy of this country to appoint foreigners to office to the exclusion of native-born citizens. But I wish to say that I proscribe no man because of his religion; I denounce no man because of his politics. I accord to all the largest liberty of opinion and of expression, of conscience and of worship. I care not, sir, what creed a man may profess; I care not to what denomination he may belong; be he Mohammedan, Jew, or Gentile, I concede to him the right to worship according to the dictates of his own judgment. I invade no man's altar, and would not disturb any man's vested rights. Whatever we have been, whatever we are, and whatever we may be, rests between us and Heaven. I allow no mortal to be my mediator; and, judging no man, will by no man be judged. With regard to those of foreign birth, I do not desire to exclude them. I say to them: "Come, enter upon the public lands; occupy the public territory; build up for yourselves homes, acquire property, and teach your children to love the Constitution and laws which protect them;" but I do say that in all matters of legislation, and in all matters of administration, *Americans should govern America.*

"Do you favor the same modification of the tariff now that you did at the last session of Congress?"

I was not a member of the last Congress; and all that I would now ask upon the subject of the tariff is, "to be let alone."

Gorsuch, Rev. J. S.

LETTER OF, TO GOV. JOHNSTON, OF PA., ON THE MURDER OF HIS FATHER BY A FUGITIVE SLAVE.

Washington, Sept. 18, 1851.

THE undersigned, a son of the late Edward Gorsuch, the victim of abolitionist enthusiasm and high-handed rebellion, is sorry that so painful a duty is imposed upon him as that to which he now addresses himself. He writes to you, sir, with no vindictive feelings, but

only to assure you, what he desires every one to know, that he thinks the lack of official promptness on your part has resulted in the escape, hitherto, of the slaves, and some of the principal murderers of his father. It would have tended in some degree to relieve the anxiety of the family and friends of the deceased to have known that the governor of the state in which this foul murder was committed had acted as promptly and efficiently as the circumstances demanded.

I know that you passed within a few yards of where the body of my father lay, the afternoon of the same day on which he was murdered. The cars stopped at the door of the house. Some of the passengers went in to look at the ghastly spectacle; but, sir, you did not. You, who ought, because of your responsible station, to have been most interested, showed the least concern. And this is not to be wondered at. It would seem natural that then you should have been rejoicing at this—the first fruits of your official and personal hostility to the rendition of fugitive slaves. Did we not well know what you have done to render inoperative the law under whose protection my father entered your state to secure his property in a manner strictly legal, some excuse might be found in our minds for your strange inactivity. But we knew your course. We had watched it with pain, and we did not expect you would be induced to change it even at this extraordinary crisis.

Allow me to call your attention to a fact which, perhaps, you will remember. Those slaves for whom my father was searching were to be free at the age of twenty-eight. They were detected in selling stolen wheat to a free negro. Before the writ which was gotten out against him could be served, he escaped to Pennsylvania. This brother of mine, now so near to death, was sent to you with a requisition from the Governor of Maryland for that free negro, "Abe Johnson;" but you would not deliver him up, and sent my brother home convinced that further effort in that respect was unnecessary. That "Abe Johnson," it is said, was present among the rebels on last Thursday morning.

I have read some letters which you wrote to some gentlemen of Philadelphia, who were urging you to action. I have marked the strong contrast between your words and actions. Now, sir, if you were so anxious to vindicate the honor of your state, so proud to have these offenders arrested, why did you not imitate the noble example of the Executive of the United States? Why did you not issue your proclamation as soon as you reached Philadelphia? If it ought to have been done at all, were there not stronger reasons to have it done on the *first* day, when the murderers were at hand, than on the *fifth*, when most of them had escaped? You cannot plead ignorance of the riot, for it was well known to you. You will not pretend to say that it was more necessary when several prominent actors in that tragedy were arrested, and the whole neighborhood had been scoured by vigorous young gentlemen from Maryland, by a host of your own citizens, and United States military, than when every one that desired the punishment of these murderers and traitors was afraid to move—when the rioters, still wet with the blood of innocent and peaceable men, were triumphing in their victory, and their confederates congratulating themselves upon successful treason? Why, sir, did you not show your promptness then? You applaud the decision, energy, and promptness of the Lancaster county officers, and in this I most heartily concur; but in proportion as you praise them, you condemn yourself. You knew of the insurrectionary movement before they did. If they had waited, as you did, until the fifth day to do what ought to have been done on the first, you could not have applauded them. You must, therefore, sir, be self-condemned.

Do you know that thirty-six hours passed before one writ was taken out against these men? Do you know that Mr. Thompson, the state's attorney, and Mr. Reigart, to protect their own lives and to quell the spirit of resistance which fortified the traitors and terrified the loyal, had to collect a posse of men from iron works and diggings on the railroad? Do you know that not a magistrate or constable would act until compelled? that the sheriff refused to act? that your attorney general, true to his superior, would not aid these men, whose activity you now so zealously commend?

With these facts, sir, before us, we cannot be charged with calumny in saying that we do honestly believe that your proclamation would never have seen the light, had you not feared that the activity of others would censure your own indifference.

We believe that the majority of Pennsylvanians are right. We have been pleased at the zeal and gratified with the sympathies of many we have met. But, sir, if the laws shall now be sustained—if the country shall be satisfied that Pennsylvania is right—if the South is to find that this law will not be inefficient—be assured that not one particle of the honor will be given to the governor. We will not say that he has acted traitorously—that by his previous course he has been the indirect occasion of this outrage—that the blood of Edward Gorsuch is on his skirts; but we must say that he has not been "clear in his great office," but recreant to the trust imposed in him.

Much more in sorrow than in anger, I subscribe myself your much injured friend,

J. S. Gorsuch.

Hon. W. F. Johnston, Gov. of Pa.

Gott, Daniel, of N. Y.

Celebrated Resolution of.

In the House of Representatives, on the 21st of Dec., 1848, Mr. Gott introduced the following resolution:—

Whereas, the traffic now prosecuted in this metropolis of the republic in human beings, as chattels, is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout Christendom, and a serious hindrance to the progress of republican liberty among the nations of the earth: Therefore Resolved, That the committee for the District of Columbia be instructed to report a bill as soon as practicable, prohibiting the slave trade in said District.

The resolution was adopted by yeas and nays as follows:—

YEAS.—Messrs. Abbott of Mass., Ashmun of Mass., Belcher of Me., Bingham of Mich., Blackman of N. Y., Blanchard of Pa., Butler of Pa., Canby of O., Cathcart of Ind., Collamer of Vt., Conger of N. Y., Cranston of R. I., Crowell of O., Cummins of O., Darling of Wis., Dickey of Pa., Dickinson of O., Dixon of Conn., Daniel Duncan of O., Edwards of O., Embree of Ind., Evans of O., Faran of O., Farrelly of Pa., Fisher of O., Freedly of Pa., Frics of O., Giddings of O., Gott of N. Y., Greeley of N. Y., Gregory of N. J., Grinnell of Mass., Hale of Mass., Hall of N. Y., Hampton of N. J., Moses Hampton of Pa., Henley of Ind., Henry of Vt., Holmes of N. Y., Hubbard of Conn., Hudson of Mass., Hunt of N. Y., Joseph R. Ingersoll of Pa., Irvin of Pa., James H. Johnson of N. H., Kellogg of N. Y., King of Mass., Lahm of O., William T. Lawrence of N. Y., Sidney Lawrence of N. Y., Leffer of Ia, Lord of N. Y., Lynde of Wis., McClelland of Mich., McIlvaine of Pa., Mann of Pa., Mann of Mass., Marsh of Vt., Marvin of N. Y., Morris of O., Mullin of N. Y., Newell of N. J., Nicoll of N. Y., Palfrey of Mass., Peaslee of N. H., Peck of Vt., Pettit of Ind., Pollock of Pa., Putnam of N. Y., Reynolds of N. Y., Richey of O., Robinson of Ind., Rockhill of Ind., Rockwell of Mass., Rockwell of Conn., Rose of N. Y., Root of O., Rumsey of N. Y., St. John of N. Y., Sherrill of N. Y., Silvester of N. Y., Slingerland of N. Y., Smith of Ill., Starkweather of O., Stuart of Mich., Strohm of Pa., Tallmadge of N. Y., James Thompson of Pa., Thompson of Ia., Thurston of R. I., Tuck of N. H., Turner of Ill., Van Dyke of N. J., Vinton of O., Warren of N. Y., Wentworth of Ill., White of N. Y., Wilson of N. H.—98.

NAYS.—Messrs. Adams of Ky., Barringer of N. C., Beale of Va., Bedinger of Va., Bocock of Va., Botts of Va., Bowlin of Mo., Boyd of Ky., Boydon of N. C. Bridges of Pa., Brown of Va., Brown of Pa., Brown of Miss., Buckner of Ky., Burt of S. C., Chapman of Md., Chase of Tenn., Clark of Me., Clark of Ky., Cobb of Geo., Cobb of Ala., Cocke of Tenn., Crisfield of Md., Crozier of Tenn., Daniel of N. C., Donnell of N. C., Dunn of Ind., Evans of Md., Featherston of Miss., Ficklin of Ill., Flournoy of Va., French of Ky., Fulton of Va., Gaines of Ky., Gentry of Tenn., Goggin of Va., Green of Mo., Hall of Mo., Hammons of Me., Haralson of Geo., Harmanson of La., Harris of Ala., Hill of Tenn., Houston of Ala., Houston of Del., Inge of Ala., Charles J. Ingersoll of Pa., Iverson of Geo., Jameson of Mo., Johnson of Tenn., Jones of Tenn., Jones of Geo., Kennon of O., King of Geo., La Sere of La., Ligon of Md., Lincoln of Ill., Lumpkin of Geo., McClernand of Ill., McDowell of Va., McLane of Md., Meade of Va., Miller of O., Morehead of Ky., Morse of La., Outlaw of N. C., Pendleton of Va., Peyton of Ky., Pitsbury of Texas, Preston of Va., Sawyer of O., Shepherd of N. C., Simpson of S. C., Smart of Me., Stanton of Tenn., Stephens of Geo., Strong of Pa., Thibodeaux of La., Thomas of Tenn., Thompson of Ind., Tomkins of Miss., Toombs of Geo., Venable of N. C., Wallace of S. C., Wiley of Me., Williams of Me., Woodward of S. C.—88.

Hartford Convention.

PLATFORM OF.

RESOLVED, That it be and hereby is recommended to the legislatures of the several states represented in this convention, to adopt all such measures that may be necessary effectually to protect the citizens of said states from the operation and effects of all acts which have been or may be passed by the Congress of the United States, which shall contain provisions subjecting the militia or other citizens to forcible drafts, conscriptions, or impressments not authorized by the Constitution of the United States.

Resolved, That it be and is here recommended to the said legislatures, to authorize an immediate and earnest application to be made to the government of the United States, requesting their consent to some arrangement whereby the said states may, separately or in concert, be empowered to assume upon themselves the defence of their territory against the enemy; and a reasonable portion of the taxes collected within said states, may be paid into the respective treasuries thereof and appropriated to the payment of the balance due said states and to the future defence of the same. The amount so paid into the said treasuries to be credited, and the disbursements made as aforesaid to be charged to the United States.

Resolved, That it be and hereby is recommended to the legislatures of the aforesaid states, to pass laws (where it has not already been done) authorizing the governors or commanders-in-chief of their militia to make detachments from the same, or to form voluntary corps, as shall be most convenient and conformable to their constitutions, and to cause the same to be well armed, equipped, disciplined, and held in readiness for service; and upon the request of the governor of either the other states, to employ the whole of such detachment or corps, as well as the regular forces of the states, or such part thereof as may be required and can be spared consistently with the safety of the state, in assisting the state making such request to repel any invasion thereof, which shall be made or attempted by the public enemy.

Resolved, That the following amendments of the Constitution of the United States be recommended to the states represented as aforesaid, to be proposed by them for adoption by the state legislatures, and in such cases as may be deemed expedient by a convention chosen by the people of the states.

And it is further recommended, that the states shall persevere in their efforts to obtain such amendments until the same shall be effected.

First. Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers of free persons, including those bound to serve for a term of years, and excluding Indians not taxed and all other persons.

Second. No new state shall be admitted into the Union by Congress, in virtue of the power granted by the Constitution, without the concurrence of two-thirds of both Houses.

Third. Congress shall not have power to lay an embargo on the ships or vessels of the citizens of the United States, in the ports or harbors thereof, for more than sixty days.

Fourth. Congress shall not have power without the concurrence of two-thirds of both Houses, to interdict the commercial intercourse between the United States and any foreign nation, or the dependencies thereof.

Fifth. Congress shall not make nor declare war, or authorize acts of hostility against any foreign nation without the concurrence of two-thirds of both Houses, except such acts of hostility be in defence of the territories of the United States when actually invaded.

Sixth. No person who shall hereafter be naturalized, shall be eligible as a member of

the Senate or House of Representatives of the United States, nor capable of holding any civil office under the authority of the United States.

Seventh. The same person shall not be elected President of the United States a second time; nor shall the President be elected from the same state two terms in succession.

Resolved, That if the application of these states to the government of the United States, recommended in a foregoing resolution, should be unsuccessful, and peace should not be concluded, and the defence of these states should be neglected, as it has been since the commencement of the war, it will, in the opinion of this convention, be expedient for the legislatures of the several states to appoint delegates to another convention to meet at Boston, in the state of Massachusetts, on the third Thursday of June next, with such powers and instructions as the exigency of a crisis so momentous may require.

Resolved, That the Hon. George Cabot, the Hon. Chauncey Goodrich, and the Hon. Daniel Lyson, or any two of them, be authorized to call another meeting of this convention, to be held in Boston, at any time before new delegates shall be chosen as recommended in the above resolution, if in their judgment the situation of the country shall urgently require it.

Hartford, Jan. 4th, 1814.

George Cabot,	James Hillhouse,
Nathan Dane,	John Treadwell,
William Prescott,	Zephania Swift,
Harrison G. Otis,	Nathaniel Smith,
Timothy Bigelow,	Calvin Goddard,
Joshua Thomas,	Roger M. Sherman,
Samuel S. Wilde,	Daniel Lyman,
Joseph Lyman,	Samuel Ward,
Stephen Longfellow, jr.,	Edward Manton,
Daniel Waldo,	Benjamin Razard,
Hodijah Baylies,	Benjamin West,
George Bliss,	Mills Olcott,
Chauncey Goodrich,	William Hall, jr.

Illinois.

On the 18th of January, 1809, a bill reported by a committee of the House in pursuance of the prayer of the grand jury of the county of St. Clair, in Indiana territory, to divide said territory, and constitute the western portion of the same Illinois territory, passed that body by a vote of yeas 69, nays 37. It passed the Senate on the 31st of January, and became a law by the approval of the President on the 3d of February, 1809.

On the 4th of April, 1818, a bill passed the House in pursuance of the prayer of the territorial legislature of Illinois, authorizing the people thereof to form a state constitution, and providing for the admission of such state into Union.

The bill passed the Senate on the 14th of April, 1818, with sundry amendments reported by the committee of public lands, which were agreed to by the House, and it became a law on the 18th of April, 1818, by the approval of the President.

On the 23d of November, 1818, the constitution of the new state of Illinois having been submitted to Congress, a joint resolution declaratory of the admission thereof was before the house, when Mr. Tallmadge of N. Y. opposed the passage of the resolution, for the reason that there was no evidence of the size of the population of said territory reaching the standard prescribed by the law in the last session, and because slavery was not sufficiently prohibited therein.

The resolution passed the House by a vote of yeas 117, nays 34, and the Senate on the 1st of December without a division, and was approved by the President on the 3d of December, 1818.

Negro Law of.

In 1853, the legislature of Illinois enacted the following law:—

"If any negro or mulatto, bond or free, shall hereafter come into this state and remain ten days, with the intention of residing in the same, every such negro or mulatto shall be deemed guilty of a high misdemeanor, and for the first offence shall be fined the sum of fifty dollars, to be recovered before any justice of the peace in the county where said negro or mulatto may be found. * * * If the said negro or mulatto shall be found guilty, and the fine assessed be not paid forthwith, it shall be the duty of said justice to commit said negro or mulatto to the custody of the sheriff of said county, or otherwise keep him, her, or them in custody; * * * the said justice shall, at public auction, proceed to sell said negro or mulatto to any person who wilt pay said fine and costs for the shortest time; and the said purchaser shall have a right to compel said negro or mulatto to work for and serve out said time," &c.

In pursuance of this statute, the following advertisement recently appeared in an Illinois paper:

State of Illinois, } ss.
St. Clair county. }

Legal Notice.—Whereas, Jackson Redman, a mulatto, was, on the 7th day of April, A. D. 1857, complained against, arrested, and brought before me, the undersigned, a justice of the peace for said county, and was tried by a jury of twelve men, who found him guilty of high misdemeanor, and, as a first offence, fined him in the sum of $50 —agreeably to the provisions of the act of February 12, 1853, to prevent the immigration of negroes or mulattoes; and judgment having been rendered against the said John Redman, for the amount of said fine and costs of suit, which has not been paid, whereupon he was placed in the custody of the sheriff of said county for safe keeping, until he is further dealt with as is required by law:

This, therefore, is to give notice that, at 1 o'clock, P. M., on the 18th day of April, 1857, at my office, in Belleville, in said county, I will proceed to sell, at public auction, the services of the said Jackson Redman to any person or persons who will pay said fine and costs, for the shortest time—according to the provisions of the act aforesaid.

Posted this 8th day of April, A. D. 1857.

Casper Thiell, Justice of the Peace.

Resolutions of American Party of Illinois, adopted June 11, 1855.

"That the time has arrived when the American party of the United States are called upon to take open, fearless, and unreserved ground upon the great question of slavery, that is now

agitating the people of every section of this Union; and that the intense excitement and agitation which at the present time are distracting our country upon the subject of slavery have been caused by the repeal of the Missouri Compromise; and that that repeal was uncalled for, a gross violation and disregard of a sacred compact, entered into between the two great sections of this confederacy, and in the highest degree destructive to the peace and welfare of this Union. That a restoration of the Missouri Compromise, as it will restore the territory for which it was originally made to the same situation in which it was before that line was unnecessarily destroyed, so it will restore peace and harmony to the country, without injury or injustice to any portion of the Union, that while it will only give to freedom that which with due solemnity and in good faith was long since conveyed to her under the contract, it will equally preserve the full and undisputed rights acquired under it by the South, and that therefore the Missouri Compromise should be restored, and that in all political national contests the American party in the state of Illinois will demand of its candidates for office, among other qualifications, their open and undisguised opinions upon this subject.

"The essential modification of the naturalization laws by extending the time of residence required of those of foreign birth to entitle them to citizenship. A total repeal of all state laws allowing any but citizens of the United States the right of suffrage. But a careful avoidance of all interference with rights of citizenship already acquired under existing laws.

"Resistance to the corrupting influences and aggressive policy of the Romish Church, unswerving opposition to all foreign influence, or interference of foreign emissaries, whether civil or ecclesiastical."

Immigration.

Synopsis of the Treatise of Louis Schade of Washington, D. C.

If in 1789, when the Constitution went into operation, the policy had been adopted of a total exclusion of all foreigners, how would it up to this time have worked?

In 1790, the population of the United States, including whites and free colored persons, was 3,231,930. If all increase from immigration had been cut off, the surplus of births over deaths would have constituted the only growth in our population. A very interesting problem then presents itself. Upon that policy, if adopted in 1790, what would be the present population of the United States? By the census returns for 1850, we find the number of births to be 548,835, and the deaths 271,890,—confining ourselves to the white and free colored population. The difference, being 276,945, was the increase of population for 1850 from excess of births over deaths. The whole population in 1850, of whites and free colored persons, was 19,987,573. The increase, therefore, from the excess of births over deaths, was one and thirty-eight hundredths per cent. We take 1850 as an example to ascertain the percentage of increase from this single source of growth. To show that the percentage of increase evidenced by the census of 1850 is reliable, I furnish a table carefully made out of the increase in other countries from statistical returns. It is as follows:—

Table No. 1.—*Showing the increase of population by the surplus of births over deaths.*

Year.	Name of the country.	Number of inhabitants.	Number of births in the respective year.	Number of deaths in the respective year.	Per cent. of increase of the total population.
1850	United States	19,987,573*	548,835*	271,890*	1.38*
1850	England and Wales	17,927,609	593,422	368,986	1.25
1851	France	35,783,170	943,061	784,433	0.44
1835	Russia	59,000,000	2,173,055	1,731,834	0.74
1849	Prussia	16,331,187	691,562	498,862	1.17
1850	Holland	3,056,591	105,338	67,588	1.23
1850	Belgium	4,426,202	120,107	92,820	0.61
1849	Portugal	3,473,758	114,331	88,992	0.72
1852	Saxony	1,987,832	80,322	58,739	1.08

As would be expected, it is seen that the excess of births over deaths in the United States is larger than in any other country; and hence I have no hesitation in adopting the percentage of annual increase of one and thirty-eight hundredths as reliable. This furnishes us a rule to solve the problem before stated. The population in 1790 was 3,231,930. Excluding all immigration, the increase of population each year would be at the rate of 1.38 per cent. This increase added each year to the aggregate of the preceding year, down to 1850, will give us the population of the United States in 1850 as it would have been upon the policy of excluding all immigration. In the following table will be also shown what our population in 1850 would have amounted to if immigration had been stopped in 1800, 1810, 1820, 1830, or 1840, taking the actual population of those years as a starting point. The calculation is a long and tedious one, but the result is mathematically certain. It is this: The population in 1790 being 3,231,930,

* The United States census of 1850 gives the births and deaths of the white and free colored population in one column, without any separation; therefore, it has become necessary to include the free colored population in all other tables hereafter given. As to the slave population, the writer sees, for his purpose, no necessity to mention anything of it at all, as it has no connexion whatever with the immigration.

and being increased alone by the surplus of births over deaths, would in 1850 amount to 7,555,423 whites and free colored persons, including 200,000 for Louisiana, Florida, California, and those territories which were acquired since 1790. But upon turning to the actual returns of the census of 1850, we find the number of whites and free colored persons to be 19,987,573. It appears, then, that if the policy of excluding immigration had been adopted in 1790, our present population would be 7,555,423, instead of its actual number of 19,987,573—a difference in pop. of 12,432,150.

TABLE No. 2.—*Showing the increase of the white and free colored population of the United States, if without immigration since the respective years* 1790 *to* 1840, *after the ratio of increase in* 1850:

Year.	Annual increase of the white and free colored population if without immigration since 1790.	Annual surplus of births.	Annual increase of the white and free colored population if without immigration since 1800.	Annual surplus of births.
1790	3,231,930			
1791	3,276,530	44,600		
1792	3,321,746	45,216		
1793	3,367,586	45,840		
1794	3,414,058	46,472		
1795	3,461,172	47,114		
1796	3,508,936	47,764		
1797	3,557,359	48,423		
1798	3,606,450	49,091		
1799	3,656,219	49,769		
1800	3,706,674	50,455	4,412,884	
1801	3,757,826	51,152	4,473,781	60,897
1802	3,809,684	51,858	4,535,519	61,738
1803	3,862,257	52,573	4,598,109	62,590
1804	3,915,556	53,299	4,661,562	63,453
1805	3,969,590	54,034	4,725,991	64,329
1806	4,024,358	54,768	4,791,209	65,216
1807	4,079,895	55,537	4,857,327	66,118
1808	4,136,197	56,302	4,924,358	67,031
1809	4,193,276	57,079	4,992,314	67,958
1810	4,251,143	57,867	5,061,207	68,893
1811	4,309,808	58,665	5,131,051	69,844
1812	4,369,283	59,475	5,201,859	70,808
1813	4,429,579	60,296	5,273,644	71,785
1814	4,490,707	61,128	5,346,409	72,765
1815	4,552,678	61,971	5,420,189	73,780
1816	4,615,504	62,826	5,494,990	74,801
1817	4,679,197	63,693	5,570,820	75,830
1818	4,743,769	64,572	5,647,697	76,877
1819	4,809,233	65,464	5,724,733	77,036
1820	4,875,600	66,367	5,803,734	79,001
1821	4,942,883	67,283	5,883,825	80,091
1822	5,011,094	68,211	5,965,021	81,196
1823	5,080,247	69,153	6,047,338	82,317
1824	5,150,354	70,107	6,130,791	83,453
1825	5,221,428	71,074	6,215,295	84,504
1826	5,293,473	72,055	6,301,066	85,771
1827	5,366,522	73,049	6,388,020	86,954
1828	5,440,580	74,058	6,476,174	88,154
1829	5,515,659	75,079	6,565,545	89,371
1830	5,591,775	76,116	6,656,149	90,604
1831	5,668,941	77,166	6,748,003	91,854
1832	5,747,172	78,231	6,841,125	93,122
1833	5,826,482	79,310	6,935,532	94,407
1834	5,906,887	80,405	7,031,242	95,710
1835	5,988,402	81,515	7,128,273	97,031
1836	6,071,041	82,639	7,226,643	98,370
1837	6,154,821	83,780	7,326,470	99,727
1838	6,239,757	84,936	7,427,576	101,106
1839	6,325,865	86,108	7,530,076	102,500
1840	6,413,161	87,296	7,633,991	103,915
1841	6,501,662	88,501	7,739,340	105,349
1842	6,591,384	89,722	7,846,142	106,802
1843	6,682,345	90,961	7,954,418	108,276
1844	6,774,561	92,216	8,064,188	109,770
1845	6,868,049	93,488	8,175,473	111,285
1846	6,962,828	94,779	8,288,294	112,821
1847	7,059,115	96,287	8,402,672	114,378
1848	7,156,530	97,415	8,518,628	115,956
1849	7,255,300	98,770	8,636,185	117,557
1850	7,355,423	100,123	8,755,364	119,179

TABLE No. 2—*Continued.*

Year.	Annual increase of the white and free colored population if without immigration since 1810.	Annual surplus of births.	Annual increase of the white and free colored population if without immigration since 1820.	Annual surplus of births.
1810	6,048,450			
1811	6,131,918	83,468		
1812	6,216,538	84,620		
1813	6,302,326	85,788		
1814	6,389,298	86,972		
1815	6,477,470	88,172		
1816	6,566,859	89,389		
1817	6,657,481	90,622		
1818	6,749,354	91,873		
1819	6,842,495	93,141		
1820	6,936,921	94,426	8,100,093	
1821	7,032,650	95,729	8,211,874	111,781
1822	7,129,700	97,050	8,325,197	113,323
1823	7,228,089	98,389	8,440,184	114,987
1824	7,327,836	99,747	8,556,658	116,474
1825	7,428,960	101,124	8,674,739	118,081
1826	7,531,479	102,519	8,794,449	119,711
1827	7,635,413	103,934	8,915,802	121,353
1828	7,740,781	105,368	9,038,840	123,038
1829	7,847,603	106,822	9,163,575	124,735
1830	7,955,899	108,296	9,290,032	126,457
1831	8,065,691	109,792	9,418,234	128,202
1832	8,176,997	111,306	9,548,205	129,971
1833	8,404,238	114,399	9,678,970	130,765
1834	8,520,216	115,978	9,812,539	133,569
1835	8,637,794	117,578	9,947,952	135,413
1836	8,756,995	119,201	10,085,233	137,281
1837	8,877,841	120,846	10,224,409	139,176
1838	9,000,355	122,514	10,365,505	141,096
1839	9,124,559	124,204	10,508,548	143,043
1840	9,250,477	125,918	10,653,565	145,017
1841	9,378,133	127,656	10,800,584	147,019
1842	9,507,551	129,418	10,949,632	149,048
1843	9,638,755	131,204	11,100,727	151,104
1844	9,771,769	133,014	11,253,917	153,190
1845	9,906,619	134,850	11,409,221	155,304
1846	10,043,330	136,711	11,566,668	157,447
1847	10,182,927	138,597	11,726,288	159,620
1848	10,323,451	140,524	11,888,110	161,822
1849	10,465,914	142,463	12,052,165	164,055
1850	10,610,343	144,429	12,218,484	166,319

TABLE No. 2—*Continued.*

Year.	Annual increase of the white and free colored population if without immigration since 1830.	Annual surplus of births.	Annual increase of the white and free colored population if without immigration since 1840.	Annual surplus of births.
1830	10,856,977			
1831	11,006,803	149,826		
1832	11,158,696	151,893		
1833	11,312,686	153,990		
1834	11,468,801	156,115		
1835	11,627,070	158,269		
1836	11,787,523	160,453		
1837	11,950,190	162,667		
1838	12,115,102	164,912		
1839	12,282,290	167,188		
1840	12,451,785	169,495	14,581,998	
1841	12,623,619	171,834	14,783,229	201,231
1842	12,797,824	174,205	14,985,237	202,008
1843	12,974,333	176,509	15,192,033	206,796
1844	13,153,378	179,045	15,401,683	209,650
1845	13,334,874	181,496	15,614,226	212,543
1846	13,518,895	184,021	15,829,702	216,476
1847	13,705,455	186,560	16,048,151	218,449
1848	13,894,590	189,135	16,269,615	221,464
1849	14,086,335	191,745	16,494,135	224,520
1850	14,280,726	194,391	16,721,674	227,539

To these are are to be added the results for Louisiana (1803); Florida (1821); California, New Mexico, Texas, and Oregon. Louisiana had in 1803, 77,000 inhabitants, of which

53,000 were slaves. Florida, in 1821, had about 10,000. California and New Mexico, at the time of their acquisition, had about 60,000. Texas and Oregon only brought back into the Union citizens who had emigrated thither but a short time before. If we put them down in 1850, after the above scale, with 200,000 white and free colored persons, the writer thinks he has done them more than ample justice.

TABLE No. 3.—*Recapitulation.*

The United States would have in 1850—		Total white and free colored population.
If without immigration since 1790 -	7,555,423	
For Louisiana, Florida, &c. - - -	200,000	
		7,555,423
If without immigration since 1800 -	8,755,364	
For Louisiana, Florida, &c. - - -	200,000	
		8,955,364
If without immigration since 1810 -	10,610,343	
For Florida, &c. - - - - - - -	100,000	
		10,710,343
If without immigration since 1820 -	12,218,484	
For Florida, &c. - - - - - - -	100,000	
		12,318,484
If without immigration since 1830 -	14,280,726	
For New Mexico and California -	50,000	
		14,330,726
If without immigration since 1840 -	16,721,674	
For New Mexico and California -	50,000	
		16,771,674
They had actually, however - - - - -		19,987,573

This will be to many an astonishing result: but I am well assured of the correctness of this statement.

As I have shown above that the mean (1.38 per cent.) by which I have made up these tables corresponds well with that of other countries, I will also compare the result. It will be found that no European country has actually increased in the same period so much as the United States would have, if, instead of a population of 19,987,573, they had in 1850 only 7,555,423. The figures in the following table are taken from official returns.

TABLE No. 4.—*Increase of various European nations since the last decennium of the 18th century.*

England and Wales -	in 1790	8,675,000	Increase - = 2.06
Do. do. -	in 1851	17,922,768	
Austria - - - - -	in 1792	23,500,000	do. - - = 1.55
Do. - - - - -	in 1851	36,514,466	
France - - - - -	in 1789	26,000,000	do. - - = 1.37
Do. - - - - -	in 1851	35,783,170	
Prussia - - - - -	in 1797	8,660,000	do. - - = 1.88
Do. - - - - -	in 1849	16,331,187	
Spain - - - - -	in 1797	10,351,075	do. - - = 1.33
Do. - - - - -	in 1849	14,216,219	
Sweden - - - - -	in 1790	2,150,493	do. - - = 1.54
Do. - - - - -	in 1849	3,316,335	
Sardinia (Island) - -	in 1790	456,990	do. - - = 1.19
Do. do. - -	in 1848	547,948	
United States* - - -	in 1790	3,231,930	do. - - = 2.33
Without immigration since 1790 - - - -	in 1850	7,555,423	

This table clearly proves the above estimate of the population of the United States, without immigration since 1790, to be not only a correct one, but even exhibiting a higher increase than any other country. England, the highest among them, is still, with one year more increase, twenty-seven on the hundred behind the United States. Some persons may think doubtful that the actual increase of England and Wales is so close to that of the United States, as there has been every year a large emigration. But it must be remembered that England has had in return a considerable immigration from Ireland, Scotland, and even from the continent of Europe, invited by the enormous rise of her manufactures and commerce. England is not only a very healthy country, but also inhabited by a healthy people. Besides, it is a known fact that the population of manufacturing districts increases more than that where agriculture is the principal branch of occupation.

But there is another point of great importance. The people of the United States, left without immigration, would not have increased 1.38 per cent. every year. Proof hereof is found in Massachusetts. This state had, in 1850, 830,066 native and 164,448 foreign born inhabitants, or *one* foreigner to *five* natives. The marriages were, during the years 1849 to 1851, Americans 18,286, or 220 in 10,000 of their own race; foreigners 7440, or 450 in 10,000. This is 104.5 per cent. of foreign over native ratio. The births were in Massachusetts in the three years 1849, '50, and '51, of American parents 47,982, or 578 in 10,000 of their own race; foreign 24,523, or 1491 in 10,000 of their own race. In Boston there were, American 7278, or 966 in 10,000; foreign 13,032, or 2053 in 10,000 of their own race. Of the 32,000 born in Massachusetts in 1854, 16,470 were of American parentage, while some 14,000 were of parents one or both foreigners; and the increase from foreign parents was more than twice what it was from native parents. At the same rate shortly we shall have more children born in Massachusetts from foreigners than from natives; for in five years the American births have not increased 1000, while the foreign have increased more than 5000. In Suffolk county already the births in foreign families are more than twice as numerous as in American, being 3735 in the former, and 1737 in the latter. Of the parents of Boston children, in 1854, the largest number was from Ireland, 2824 fathers and 2957 mothers, while there were but 410 fathers and 524 mothers natives of the city, and 533 fathers and 475 mothers natives of Massachusetts, out of Boston, or of other states. Cambridge had born of foreign parents 422 children to 208 Americans; Fall River, 223 to 88; Lawrence, 322 to 146; Lowell, 596 to 427; Roxbury, 383 to 168; Salem, 344 to 120; Taunton, 221 to 142; and Worcester, 421 foreign to 320 American. The foreigners in Massachusetts are chiefly of Celtic origin. In twenty years from the present time, one-half of the young men and women in the state will be of direct Celtic descendency. As the traces of a negro descendency disappear already in the third or fourth generation, I should think that in Massachusetts the Pilgrim and revolutionary blood, if it is not already so, must, in very short time, become at least very thin.

The cause of the large increase of foreign births is simply that, whilst of the native population in 1850 there were only 49.07 per cent. over the 15th year of age, the average

* White and free colored.

amount of foreigners, of the same age, who arrived in 1854 and 1855, was 77.63 per cent.

Number of white inhabitants of the United States in 1850 under 15 years	8,002,715	40.93 pr. ct.
Do. over 15 years	11,550,353	59.07 "
	19,553,068	100.00 "
Number of immigrants in 1854 under 15 years	100,013	21.72 "
Do. over 15 years	360,461	78.28 "
	460,474	100.00 "
Number of immigrants in 1855 under 15 years	53,045	23.02 "
Do. over 15 years	177,431	76.98 "
	230,476	100.00 "

Suppose that there are now five millions of foreigners in this country, they will, from this cause, produce just as much, and increase in the same degree, as 6,610,169 natives. Before the mortality tables of the United States were published, statisticians and political writers usually believed that the foreign born died in a greater proportion than the natives. But I always doubted it from the reason that over one-half of the deaths occurs under the age of twenty. Of the foreigners living in this country, however, only one-fourth is below that age, and especially the children are wanting, amongst which the mortality is always proportionally the greatest. The census has shown that I was not in error. According to a statement therein contained, the per-centage of native deaths, excluding slaves, was 1.494, whilst that of the foreign was only 1.469. I take only the aggregate ratio of the total number of deaths in the United States, without going into details, as I do not believe in its correctness, being convinced that the ratio is too high in favor of the natives and against the foreigners. According to this mortality report, there died in New York, one out of 32 foreigners; in Massachusetts, one of every 60; in New Jersey, one of every 110; and in Maryland, one of every 116. These discrepancies are too great to bear any similarity to truth. But it matters nothing for my purpose, as it yet shows that, contrary to former supposition, the foreigners have at most the same and not a greater ratio of deaths than the native population.

According to the above calculation, the immigrants and their descendants number in 1850:—

Since 1790 - - - -	12,432,150
" 1800 - - - -	11,032,109
" 1810 - - - -	9,277,230
" 1820 - - - -	8,669,089
" 1830 - - - -	5,656,847
" 1840 - - - -	3,215,899

At the first glance it will seem almost incredible that the excess from immigration should alone amount in the single decade of 1840 to 1850 to 3,215,899. But it must be remembered that the immigration within these years, as given by the custom-house reports, amounted to not less than 1,677,330, without those of which the custom-houses give no returns, and which Dr. Chickering, in his essay on immigration, puts down at 50 per cent of the total number. Should their natural increase resemble that of the foreign population in Massachusetts, as stated above, none will find my hypothetical statement out of reach of probability.

These astounding results enable us to discuss intelligibly the effects of immigration upon our national progress in the great elements of strength and greatness, and wealth and prosperity. If immigration had been cut off in 1790, our population in 1850 would have been about what it actually was in 1820. Immigration, then, has put us thirty years forward in this important element of national prosperity. Our increase in all the departments of national progress has been in the exact ratio of our increase in population. Whilst the latter has increased sixfold, our commercial exports have increased, in the same period, eightfold, and our imports threefold.

Year.	Value of imports.	Value of exports.	Commercial fleet.	Revenues.
			Tons.	
1789-91	$52,200,000	$19,012,041	502,146	$4,399,473
1800	91,252,768	70,971,780	972,492	10,624,997
1810	85,400,000	66,757,974	1,424,783	9,299,737
1820	74,450,000	69,691,699	1,280,166	16,779,331
1830	70,876,920	73,819,508	1,191,776	24,280,888
1840	131,571,950	104,805,891	2,180,764	16,993,858
1850	178,136,318	151,898,720	3,535,454	43,375,798
1855	261,468,520	275,156,846	5,212,001	65,203,930

None can fail to see in these figures the great benefit this country has derived from the increased immigration. Enormous is the increase of shipping, revenues and commerce, from 1840 to 1845. Our imports increased 200 per cent., our exports 300 per cent., our commercial fleet 100 per cent., and our revenues more than 300 per cent. Since 1840, immigration has been chiefly directed to this country. Compare, again, 1850 with 1855, and the blindest man will perceive that the sudden rise of wealth and power this country owes chiefly to immigration. But for the influence of immigration, the wonderful works of improvement, which have added so much to our national wealth and prosperity, could not have been accomplished. To this we are indebted, in an eminent degree, for the thousands of miles of railroad and canal communication which now cover our vast domain like a net-work, and furnish ready and profitable facilities for realizing the benefits of the productive energies and enterprise of every industrial pursuit. To this we are indebted for the reduction of the vast wilderness of the west and northwest to the dominion of civilization and industry, swelling the amount of our annual revenues, increasing to an almost limitless extent our commercial wealth, and placing us in the front rank of nations as an agricultural, manufacturing, and commercial people. To immigration we are indebted in no small degree for the rapid addition of state after state to the confederacy, until we have

spanned the continent with more than double our original number. But it cannot be necessary to dwell upon results so astounding to foreign nations, and so flattering to our own national pride. To appreciate them, we have but to imagine twelve millions of our population withdrawn, and reflect upon the amazing contrast that would now be presented with a population little more than one-third of its present number! This contrast will be better appreciated, if we imagine the following eighteen of the bright stars which now illustrate the galaxy of states expunged from our national banner: Alabama, Arkansas, California, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, Texas, Wisconsin, Virginia, and New York. These states have a free white population of twelve millions, the amount of increase resulting from immigration. Instead of setting up a just claim to being the most happy, and prosperous, and powerful nation on the earth, able to command respect all over the world, to maintain our rights on sea and land against any foreign combination, and by the moral power of our republican example to shake the hoary thrones of monarchs in the Old World, we should be a fourth rate national power, subject to constant dangers of foreign invasion, and poorly able to defy the aggressions of a foreign enemy. These results prove the wisdom of the fathers of the republic in resisting the attempts of the British king to prevent immigration into the colonies, and illustrate the soundness of the policy which has enacted liberal naturalization laws and given encouragement to foreign immigration.

Men do not come here merely for the purpose of improving their physical condition. This is especially shown by the sudden decrease of immigration since the political ascendancy of the American party. Exactly one hundred per cent. less have arrived in 1855 than in the preceding year 1854.

In 1854, landed	460,474
In 1855 "	230,476
Decrease . . .	229,998

In order to have an idea of the loss this country has sustained hereby, it will not be amiss to state that the population of Delaware and Florida together is yet far below the number of persons this policy has kept away in 1855. Rhode Island had in 1850 only 147,545, and may have now about 180,000. Only imagine that one year of this policy has cost us already more than the present population of two states like Delaware and Florida! How much will it cost us if this sway should be extended to four years more? This is the real and true standard with which to measure the prudence of the principles of the American Order. It is more than probable that the immigration of 1856 will be even far behind that of 1855, if one may judge after the comparatively small number who have arrived in the first quarter of this year. After that rate the whole immigration will hardly exceed 50,000. This shows sufficiently that the immigrants come to this country just as much for political freedom as material well-being. It is true, the people of the United States, as a power, can use means to prevent immigration, and prohibit it if they will. But, in doing so, an original and distinguished principle of the government must be abrogated; and, having done this, we descend to a level with the arbitrary and proscriptive thrones of Europe. But the loss of the laborious immigrant will soon be felt. As already stated, the most of the immigrants wended their way to the prairies of the Far West, buying from the government with their own money the public lands, in order to wrest a livelihood from the bosom of mother earth. Their labors have enriched not only the cultivator, but the country and the native-born citizen. Others again remained in the great Atlantic cities, where their herculean energies have been employed in the erection of public works. Men of genius, artists, scholars, came with this tide of immigration; and, while they have been able to find employment for themselves, they have also vastly contributed to the intellectual stores of this country. A remarkable instance of the public spirit and generosity of foreign born citizens may be seen in the fact that the three leading scientific or educational institutions in the United States were founded by men born in other lands. I allude to the great Astor Library, of New York, endowed by the German, John Jacob Astor; the Girard College, in Philadelphia, endowed by the Frenchman, Stephen Girard; and the Smithsonian Institution, at Washington, endowed by the Englishman, John Smithson.

It is not a high estimate if we put down the immigration in five years, from 1850 to 1855, at about two and a half millions. Suppose this number brought with them in value only 30 dollars per head, which is the very lowest estimate; and they have enriched the country in the very short space of five years, by an amount equal to $75,000,000. It is also a very safe calculation to say that these immigrants have paid $150,000,000 into the treasury of the United States for public lands. The revolutions of 1848 gave emigration a vast impulse, and drove masses of men of excellent quality to our shores. Whether we consider the amount of money, principally specie, brought with them, or the amount paid into the treasury for public lands, or the advantages conferred upon the native population by their industry and their skill, we may well hesitate in alarm and surprise, that any movement looking to the arrest or curtailment of the tide of immigration should for one moment have been encouraged by any portion of the American people. The principles of the American order, if carried out, would degrade the emigrant to the low position of an East Indian pariah, or a Russian serf, excepting

only that he could not be sold. They would doom him to a fate far worse than the hardest despotism of the Old World. There, at least, he would have the consciousness of not suffering alone, as the whole population, and not a part of it, would have no more rights than himself. Here he would be marked out as an inferior, useful only to dig canals and build railroads, to fight like the Helots of old, to act as hewer of wood and drawer of water to those who falsely call themselves superior beings. And not this only. While this is sought to be made the lot of the white adopted citizens—while the laboring classes are appealed to deny equal privileges to the foreign born fellow-being of their own race—behold their efforts making in the free states to elevate the negro to the political rights and privileges of the whites!

"Americans must rule America!"—that is the constant war-cry of the opponents of immigration. There are at present in the United States twenty-seven millions of inhabitants, of which five millions are foreigners. The Senate contains 62 and the House 234 members. Should the five millions be equally represented in their specific qualification as foreigners, of the Senators 14 and of the House 53 should be foreign-born citizens. But there is not a single foreign-born member in Congress. Are the Democratic members for whom foreign-born citizens have cast their votes, not as good, intelligent, and wise as those who have been elected by a mere native vote? The American party speak constantly of their revolutionary inheritance, their "glorious sires of '76." Will they inform me how many of them can trace back their lineage to the time of the Revolution? Are not at least two-thirds of their number descendants of those who arrived in the country since 1790? Was not, in New York, even their candidate for governor a son of a foreigner? Are not, with the only exception of *two*, all the 148 or 149 of them elected to the New York state legislature sons of foreign parents? The answer to these questions will put to shame the warfare which is waging upon the policy of the founders of this republic. It is not simply a warfare upon the foreign-born citizens diffused throughout the Union, identified in interest with our institutions; connected by the closest ties with native born citizens; engaged in industrial pursuits, which add to the national wealth and prosperity; levelling mountains and filling up valleys for our great internal improvements; felling the forests, and spreading the area of productive agriculture in the far West; shouldering their muskets when the tocsin of war sounds; and fighting and dying bravely on the battle-field by the side of native Americans. A warfare upon such a body of men is bad enough in all conscience; but the warfare is against the principles on which our Revolution was started and was consummated—against the policy engrafted upon our Constitution, and carried out by liberal naturalization laws in Congress; and against the prosperity of the nation, which has received one of its chief impulses from this policy.

Independent Democrats.

Appeal of, to the People of the United States.

Washington, Jan. 19, 1854.

Fellow-Citizens: As Senators and Representatives in the Congress of the United States, it is our duty to warn our constituents whenever imminent danger menaces the freedom of our institutions or the permanency of our Union.

Such danger, as we firmly believe, now impends, and we earnestly solicit your prompt attention to it.

At the last session of Congress, a bill for the organization of the territory of Nebraska passed the House of Representatives with an overwhelming majority. That bill was based on the principle of excluding slavery from the new territory. It was not taken up for consideration in the Senate, and consequently failed to become a law.

At the present session a new Nebraska bill has been reported by the Senate Committee on Territories, which, should it unhappily receive the sanction of Congress, will open all the unorganized territory of the Union to the ingress of slavery.

We arraign this bill as a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region immigrants from the Old World, and free laborers from our own states, and convert it into a dreary region of despotism, inhabited by masters and slaves.

Take your maps, fellow-citizens, we entreat you, and see what country it is which this bill, gratuitously and recklessly, proposes to open to slavery.

From the southwestern corner of Missouri pursue the parallel of 36 deg. 30 min. north latitude, westerly across the Arkansas, across the north fork of Canadian to the northeastern angle of Texas; then following the northern boundary of Texas to the western limit of New Mexico; then proceed along that western line to its northern termination; then again turn westwardly and follow the northern line of New Mexico to the crest of the Rocky Mountains; then ascend northwardly along the crest of that mountain range to the line which separates the United States from the British possessions in North America, on the 49th parallel of north latitude; then pursue your course eastwardly along that line to the White Earth River, which falls into the Missouri from the north; descend that river to its confluence with the Missouri; descend the Missouri, along the western border of Minnesota, of Iowa, of Missouri, to the point where it ceases to be a boundary line, and enters the state to which it gives its name; then continue your southward course along the western limit

of that state to the point from which you set out. You have now made the circuit of the proposed territory of Nebraska. You have traversed the vast distance of more than three thousand miles. You have traced the outline of an area of four hundred and eighty-five thousand square miles; more than twelve times as great as that of Ohio.

This immense region, occupying the very heart of the North American continent, and larger, by thirty-three thousand square miles, than all the existing free states, excluding California—this immense region, well watered and fertile, through which the middle and northern routes from the Atlantic to the Pacific must pass—this immense region, embracing all the unorganized territory of the nation, except the comparatively insignificant district of Indian Territory north of Red River, and between Arkansas and Texas, and now for more than thirty years regarded by the common consent of the American people as consecrated to freedom, by statute and by compact —this immense region, the bill now before the Senate, without reason and without excuse, but in flagrant disregard of sound policy and sacred faith, proposes to open to slavery.

We beg your attention, fellow-citizens, to a few historical facts.

The original settled policy of the United States, clearly indicated by the Jefferson proviso of 1784, and by the ordinance of 1787, was non-extension of slavery.

In 1803, Louisiana was acquired by purchase from France. At that time there were some twenty-five or thirty thousand slaves in this territory, most of them within what is now the state of Louisiana; a few, only, further north, on the west bank of the Mississippi. Congress, instead of providing for the abolition of slavery in this new territory, permitted its continuance. In 1812 the state of Louisiana was organized and admitted into the Union with slavery.

In 1818, six years later, the inhabitants of the territory of Missouri applied to Congress for authority to form a state constitution, and for admission into the Union. There were, at that time, in the whole territory acquired from France, outside of the state of Louisiana, not three thousand slaves.

There was no apology in the circumstances of the country for the continuance of slavery. The original national policy was against it, and not less the plain language of the treaty under which the territory had been acquired from France.

It was proposed, therefore, to incorporate in the bill authorizing the formation of a state government, a provision requiring that the constitution of the new state should contain an article providing for the abolition of existing slavery, and prohibiting the further introduction of slaves.

This provision was vehemently and pertinaciously opposed; but finally prevailed in the House of Representatives by a decided vote. In the Senate it was rejected, and, in consequence of the disagreement between the two Houses, the bill was lost.

At the next session of Congress the controversy was renewed with increased violence. It was terminated, at length, by a compromise. Missouri was allowed to come into the Union with slavery, but a section was inserted in the act authorizing her admission, excluding slavery, for ever, from all the territory acquired from France, not included in the new state, lying north of thirty-six degrees thirty minutes.

We quote the prohibitory section:*

"Sec. 8. Be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes of north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than as the punishment of crimes, shall be and is hereby for ever prohibited."

The question of the constitutionality of this prohibition was submitted by President Monroe to his cabinet. John Quincy Adams was then Secretary of State; John C. Calhoun was Secretary of War; William H. Crawford was Secretary of the Treasury; and William Wirt was Attorney General. Each of these eminent men, three of them being from slave states, gave a written opinion, affirming its constitutionality, and thereupon the act received the sanction of the President, himself also from a slave state.

Nothing is more certain in history than the fact, that Missouri could not have been admitted as a slave state, had not certain members from the free states been reconciled to the measure by the incorporation of this prohibition into the act of admission. Nothing is more certain than that this prohibition has been regarded and accepted by the whole country as a solemn compact against the extension of slavery into any part of the territory acquired from France, lying north of thirty-six degrees thirty minutes, and not included in the new state of Missouri. The same act—let it be ever remembered—which authorized the formation of a constitution for the state, without a clause forbidding slavery, consecrated, beyond question and beyond honest recall, the whole remainder of the territory to freedom and free institutions for ever. For more than thirty years—during more than half the period of our national existence under our present Constitution—this compact has been universally regarded and acted upon as inviolable American law. In conformity with it, Iowa was admitted as a free state, and Minnesota has been organized as a free territory.

It is a strange and ominous fact, well calculated to awaken the worst apprehensions, and the most fearful forebodings of future calamities, that it is now deliberately purposed to repeal this prohibition, by implication or directly—the latter, certainly, the manlier way—and thus to subvert this compact, and allow slavery in all the yet unorganized territory.

* Act March 6, 1820—3 U. S. Statutes at Large, 545.

We cannot, in this address, review the various pretences under which it is attempted to cloak this monstrous wrong; but we must not altogether omit to notice one.

It is said that the territory of Nebraska sustains the same relations to slavery as did the territory acquired from Mexico prior to 1850, and that the pro-slavery clauses of the bill are necessary to carry into effect the compromises of that year.

No assertion could be more groundless.

Three acquisitions of territory have been made by treaty. The first was from France. Out of this territory have been created the three slave states of Louisiana, Arkansas, and Missouri, and the single free state of Iowa. The controversy which arose in relation to the then unorganized portion of this territory was closed in 1820, by the Missouri act, containing the slavery prohibition, as has been already stated. This controversy related only to territory acquired from France. The act, by which it was terminated, was confined, by its own express terms, to the same territory, and had no relation to any other.

The second acquisition was from Spain. Florida, the territory thus acquired, was yielded to slavery without a struggle, and almost without a murmur.

The third was from Mexico. The controversy which arose from this acquisition is fresh in the remembrance of the American people. Out of it sprung the acts of Congress, commonly known as the compromise measures of 1850, by one of which California was admitted as a free state; while two others, organizing the territories of New Mexico and Utah, exposed all the residue of the recently acquired territory to the invasion of slavery.

These acts were never supposed to abrogate or touch the existing exclusion of slavery from what is now called Nebraska. They applied to the territory acquired from Mexico, and to that only. They were intended as a settlement of the controversy growing out of that acquisition, and of that controversy only. They must stand or fall by their own merits.

The statesmen whose powerful support carried the Utah and New Mexico acts, never dreamed that their provisions would ever be applied to Nebraska. Even at the last session of Congress, Mr. Atchison, of Missouri, in a speech in favor of taking up the former Nebraska bill, on the morning of the 4th of March, 1853, said: "It is evident that the Missouri Compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this territory now, as next year, or five or ten years hence." These words could not have fallen from this watchful guardian of slavery, had he supposed that this territory was embraced by the pro-slavery provisions of the compromise acts. This pretension had not then been set up. It is a palpable after-thought.

The compromise acts themselves refute this pretension. In the third article of the second section of the joint resolution for annexing Texas to the United States, it is expressly declared that "in such state or states as shall be formed out of said territory north of said Missouri Compromise line, slavery or involuntary servitude, except for crime, shall be prohibited;"* and in the act for organizing New Mexico and settling the boundary of Texas, a proviso was incorporated, on the motion of Mr. Mason of Virginia, which distinctly preserves this prohibition, and flouts the bare-faced pretension that all the territory of the United States, whether south or north of the Missouri Compromise line, is to be open to slavery. It is as follows:—

"Provided, That nothing herein contained shall be construed to impair or qualify anything contained in the third article of the second section of the joint resolution for annexing Texas to the United States, approved March 1, 1845, either as regards the number of states that may hereafter be formed out of the state of Texas, or otherwise."†

Here is proof, beyond controversy, that the principle of the Missouri act prohibiting slavery north of 36 deg. 30 min., far from being abrogated by the compromise acts, is expressly affirmed; and that the proposed repeal of this prohibition, instead of being an affirmation of the compromise acts, is a repeal of a very prominent provision of the most important act of the series. It is solemnly declared in the very compromise acts "that nothing herein contained shall be construed to impair or qualify" the prohibition of slavery north of 36 deg. 30 min., and yet, in the face of this declaration, that sacred prohibition is said to be overthrown. Can presumption further go? To all who, in any way, lean upon these compromises, we commend this exposition.

The pretences, therefore, that the territory, covered by the positive prohibition of 1820, sustains a similar relation to slavery with that acquired from Mexico, covered by no prohibition except that of disputed constitutional or Mexican law, and that the compromises of 1850 require the incorporation of the pro-slavery clauses of the Utah and New Mexico bill in the Nebraska act, are mere inventions, designed to cover up from public reprehension meditated bad faith. Were he living now, no one would be more forward, more eloquent, or more indignant, in his denunciation of that bad faith, than Henry Clay, the foremost champion of both compromises.

In 1820 the slave states said to the free states, "Admit Missouri with slavery and refrain from positive exclusion south of thirty-six degrees thirty minutes, and we will join you in perpetual prohibition north of that line." The free states consented. In 1854 the slave states say to the free states, "Missouri is admitted; no prohibition of slavery south of thirty-six degrees thirty minutes has been attempted; we have received the full consideration of our agreement; no more is to be gained by adherence to it on our part; we, therefore, propose to cancel the compact." If this be not Punic faith, what is it? Not

* Act March 1, 1845—5 U. S. Statutes at Large, 797.

† Congressional Globe, 1849–1850, p. 1552; act September 9, 1850—9 U. S. Statutes at Large, 446.

without the deepest dishonor and crime can the free states acquiesce in this demand.

We confess our total inability properly to delineate the character or describe the consequences of this measure. Language fails to express the sentiments of indignation and abhorrence which it inspires; and no vision, less penetrating and comprehensive than that of the All-Seeing, can reach its evil issues.

To some of its more immediate and inevitable consequences, however, we must attempt to direct your attention.

What will be the effect of this measure, should it unhappily become a law, upon the proposed Pacific railroad? We have already said that two of the principal routes, the central and the northern, traverse this territory. If slavery be allowed there, the settlement and cultivation of the country must be greatly retarded. Inducements to the immigration of free laborers will be almost destroyed. The enhanced cost of construction, and the diminished expectation of profitable returns, will present almost insuperable obstacles to building the road at all; while, even if made, the difficulty and expense of keeping it up, in a country from which the energetic and intelligent masses will be virtually excluded, will greatly impair its usefulness and value.

From the rich lands of this large territory also, patriotic statesmen have anticipated that a free, industrious, and enlightened population will extract abundant treasures of individual and public wealth. There, it has been expected, freedom-loving emigrants from Europe, and energetic and intelligent laborers from our own land, will find homes of comfort and fields of useful enterprise. If this bill shall become a law, all such expectation will turn to grievous disappointment. The blight of slavery will cover the land. The homestead law, should Congress enact one, will be worthless there. Freemen, unless pressed by a hard and cruel necessity, will not, and should not, work beside slaves. Labor cannot be respected where any class of laborers is held in abject bondage.

We earnestly request the enlightened conductors of newspapers printed in the German and other foreign languages to direct the attention of their readers to this important matter.

It is of immense consequence, also, to scrutinize the geographical character of this project. We beg you, fellow-citizens, to observe that it will sever the east from the west of the United States by a wide slaveholding belt of country, extending from the Gulf of Mexico to British North America. It is a bold scheme against American liberty, worthy of an accomplished architect of ruin. Texas is already slaveholding, and occupies the Gulf region from the Sabine to the Rio Grande, and from the Gulf of Mexico to the Red River. North of the Red River, and extending between Texas and Arkansas, to the parallel of thirty-six degrees thirty minutes, lies the Indian territory, about equal in extent to the latter state, in which slavery was not prohibited by the act of 1820. From thirty-six degrees thirty minutes to the boundary line between our own country and the British possessions, stretching from west to east through more than eleven degrees of longitude, and from south to north through more than twelve degrees of latitude, extends the great territory, the fate of which is now to be determined by the American Congress. Thus you see, fellow-citizens, that the first operation of the proposed permission of slavery in Nebraska, will be to stay the progress of the free states westward, and to cut off the free states of the Pacific from the free states of the Atlantic. It is hoped, doubtless, by compelling the whole commerce and the whole travel between the east and the west to pass for hundreds of miles through a slaveholding region, in the heart of the continent, and by the influence of a federal government controlled by the slave power, to extinguish freedom and establish slavery in the states and territories of the Pacific, and thus permanently subjugate the whole country to the yoke of a slaveholding despotism. Shall a plot against humanity and democracy, so monstrous, and so dangerous to the interests of liberty throughout the world, be permitted to succeed?

We appeal to the people. We warn you that the dearest interests of freedom and the Union are in imminent peril. Demagogues may tell you that the Union can be maintained only by submitting to the demands of slavery. We tell you that the safety of the Union can only be insured by the full recognition of the just claims of freedom and man. The Union was formed to establish justice, and secure the blessings of liberty. When it fails to accomplish these ends, it will be worthless, and when it becomes worthless it cannot long endure.

We entreat you to be mindful of that fundamental maxim of democracy, equal rights and exact justice for all men. Do not submit to become agents in extending legalized oppression and systematized injustice over a vast territory yet exempt from these terrible evils.

We implore Christians and Christian ministers to interpose. Their divine religion requires them to behold in every man a brother, and to labor for the advancement and regeneration of the human race.

Whatever apologies may be offered for the toleration of slavery in the states, none can be urged for its extension into territories where it does not exist, and where that extension involves the repeal of ancient law, and the violation of solemn compact. Let all protest, earnestly and emphatically, by correspondence, through the press, by memorials, by resolutions of public meetings and legislative bodies, and in whatever other mode may seem expedient, against this enormous crime.

For ourselves, we shall resist it by speech and vote, and with all the abilities which God has given us. Even if overcome in the impending struggle, we shall not submit. We

shall go home to our constituents; erect anew the standard of freedom, and call on the people to come to the rescue of the country from the domination of slavery. We will not despair: for the cause of human freedom is the cause of God.

S. P. CHASE, Senator from Ohio.
CHARLES SUMNER, Senator from Mass.
J. R. GIDDINGS, EDWARD WADE, } Representatives from Ohio.
GERRITT SMITH, } Representative from New York.
ALEX. DE WITT, } Representative from Mass.

Independent, or Sub-Treasury.

On the 16th of January, 1838, Mr. Wright of N. Y., from the Committee on Finance, reported an Independent Treasury Bill.

It passed the Senate on the 4th of March, 1838, by yeas and nays as follows:—

YEAS.—Messrs. Allen of O., Benton of Mo., Brown of N. C., Clay of Ala., Cuthbert of Ga., Fulton of Ark., Hubbard of N. H., King of Ala., Linn of Mo., Lumpkin of Ga., Lyon of Mich., Morris of O., Mouton of La., Niles of Conn., Norvell of Mich., Pierce of N. H., Roane of Va., Robinson of Ill., Sevier of Ark., Smith of Conn., Strange of N. C., Trotter of Miss., Walker of Miss., Wall of N. J., Williams of Me., Wright of N. Y.—27.

NAYS.—Messrs. Bayard of Del., Buchanan of Pa., Calhoun of S. C., Clay of Ky., Clayton of Del., Crittenden of Ky., Davis of Mass., Grundy of Tenn., Knight of R. I., McKean of Pa., Merrick of Md., Nicholas of La., Prentiss of Vt., Preston of S. C., Rives of Va., Robbius of R. I., Ruggles of Me., Smith of Ind., Southard of N. J., Spence of Md., Swift of Vt., Tallmadge of N. Y., Tipton of Ind., Webster of Mass., White of Tenn.—25.

Mr. Calhoun was in favor of the bill as it was at one time shaped, but voted against it because that portion of it providing for a hard money currency was stricken out.

It was rejected in the House on the 25th of June, 1838, by yeas and nays as follows:—

YEAS.—Messrs. Anderson of Me., Andrews of N. H., Atherton of N. H., Bauks of Va., Beatty of Pa., Beirne of Va., Bicknell of N. Y., Birdsall of N. Y., Boone of Ind., Bouldin of Va., Brodhead of N. Y., Bronson of N. Y., Buchanan of Pa., Bynum of N. C., Cambreleng of N. Y., Chaney of O., Chapman of Ala., Cleveland of Ga., Clowney of S. C., Coles of Va., Conner of N. C., Craig of Va., Crary of Mich., Cushman of N. H., Davee of Me., De Graff of N. Y., Dromgoole of Va., Duncan of O., Elmore of S. C., Farrington of N. H., Fairfield of Me., Fletcher of Vt., Fry of Pa., Gallup of N. Y., Glascock of Ga., Grant of N. Y., Gray of N. Y., Griffin of S. C., Haley of Conn., Hammond of S. C., Hamer of O., Harrison of Mo., Hawkins of N. C., Haynes of Ga., Holsey of Ga., Holt of Conn., Howard of Md., Hubley of Pa., Hunter of O., Hunter of Va., Ingham of Conn., Jackson of N. Y., Johnson of Va., Jones of N. Y., Jones of Va., Keim of Pa., Kemble of N. Y., Klingensmith of Pa., Leadbetter of O., Lewis of Ala., Logan of Pa., Loomis of N. Y., Martin of Ala., McKay of N. C., R. McClellan of N. Y., A. McClellan of Tenn., McClure of Pa., Miller of Mo., Montgomery of N. C., Moore of N. Y., Morgan of Va., S. W. Morris of Pa., Murray of Ky., Noble of N. Y., Owens of Ga., Palmer of N. Y., Parker of N. Y., Parmenter of Mass., Parris of Me., Paynter of Pa., Pennybacker of Va., Petriken of Pa., Phelps of Conn., Pickens of S. C., Plummer of Pa., Potter of Pa., Pratt of N. Y., J. H. Prentiss of N. Y., Riley of Pa., Rhett of S. C., Richardson of S. C., Rives of Va., Sawyer of N. C., Sheffer of Pa., Shepler of O., Snyder of Ill., Spencer of N. Y., Taylor of N. Y., Thomas of Md., Titus of N. Y., Toucey of Conn., Towns of Ga., Turney of Tenn., Vail of N. Y., Wagener of Pa., Webster of O., Weeks, W. Whittlesley of Conn., Williams of N. H., Worthington of Md., Yell of Ark.—111.

NAYS.—Messrs. Adams of Mass., Alexander of O., Allen of Vt., J. U. Allen of O., Aycrigg of N. J., Bell of Tenn., Biddle of Pa., Bond of O., Borden of Mass., Briggs of Mass., Calhoun of Mass., Calhoun of Ky., Campbell of Tenn., Campbell of S. C., Carter of Me., Casey of Ill., Chambree of Ky., Chatham of Tenn., Childs of N. Y., Clark of N. Y. Coffin of O., Corwin of O., Cranston of R. I., Crockett of Tenn., Curtis of N. Y., Cushing of Mass., Darlington of Pa., Dawson of Ga., Davies of Pa., Deberry of N. C., Dennis of Md., Dunn of Ind., Edwards of N. Y., Evans of Me., Everett of Vt., Ewing of Ind., Fletcher of Mass., Fillmore of N. Y., Foster of N. Y., Garland of Va., Garland of La., Goode of O., Graham of N. C., Graham of Ind., Grantland of Ga., Graves of Ky., Grennell of Mass., Hall of Vt., Halstead of N. J., Harlan of Ky., Harper of O., Hastings of Mass., Hawes of Ky., Henry of Pa., Herod of Ind., Hoffman of N. Y., Hopkins of Va., Jenifer of Md., Johnson of La., Johnson of Md., Kennedy of Md., Kilgore of O., Legare of S. C., Lincoln of Mass., Lyon of Ala., Mallory of Va., Mason of N. Y., Mason of Va., Mason of O., Maury of Tenn., May, Maxwell of N. J., McKennan of Pa., Menefee of Ky., Mercer of Va., Milligan of Del., Mitchell of N. Y., M. Morris of Pa., Morris of O., Naglee of Pa., Noyes of Me., Ogle of Pa., Patterson of N. Y., Pearce of Md., Peck of N. Y., Phillips of Mass., Pope of Ky., Potts of Pa., Prentiss of Miss., Rariden of Ind., Randolph of N. J., Reed of Mass., Rencher of N. C., Ridgway of O., Robertson of Va., Robinson of Me., Rumsey of Ky., Russell of N. Y., Sergeant of Pa., A. H. Sheppard of N. C., C. Shepard of N. C., Shields of Tenn., Sibley of N. Y., Slade of Vt., Southgate of Ky., Stanley of N. C., Stuart of Va., Stone of Tenn., Stratton of N. J., Taliaferro of Va., Thompson of S. C., Tillinghast of R. I., Toland of Pa., Underwood of Ky., Vanderveer of N. Y., A. J. White of Ind., White of Ky., Whittlesey of O., Williams of N. C., Williams of Ky., J. L. Williams of Tenn., C. H. Williams of Tenn., Wise of Va., Word of Miss., Yorke of N. J.—125.

Mr. Foster of N. Y. moved to reconsider the vote by which the bill was lost, and it was determined in the negative. Yeas 21; nays 205.

On the 23d of January, 1840, the Independent Treasury Bill, introduced by Mr. Wright, of N. Y., passed the Senate by yeas and nays as follows:—

YEAS.—Messrs. Allen of O., Benton of Mo., Brown of N. C., Buchanan of Pa., Calhoun of S. C., Clay of Ala., Cuthbert of Ga., Fulton of Ark., Grundy of Tenn., Hubbard of N. H., King of Ala., Linn of Mo., Lumpkin of Ga., Mouton of La., Norvell of Mich., Pierce of N. H., Roane of Va., Sevier of Ark., Smith of Conn., Strange of N. C., Tappan of O., Walker of Miss., Williams of Me., Wright of N. Y.—24.

NAYS.—Messrs. Betts of Coun., Clay of Ky., Clayton of Del., Crittenden of Ky., Davis of Mass., Dixon of R. I., Henderson of Miss., Knight of R. I., Merrick of Md., Nicholas of La., Phelps of Vt., Prentiss of Vt., Preston of S. C., Robinson of Ill., Ruggles of Me., Smith of Ind., White of Ind., Young of Ill.—18.

It passed the House on the 30th of June, 1840, by yeas and nays, as follows:—

YEAS.—Messrs. Allen of N. Y., Anderson of Me., Atherton of N. H., Banks of Va., Beatty of Pa., Beirne of Va., Black of Ga., Blackwell of Tenn., Boyd of Ky., Brewster of N. Y., Aaron V. Brown of Tenn., Brown of Miss., Burke of N. H., Butler of S. C., Butler of Ky., Bynum of N. C., Carr of Ind., Carroll of Md., Chapman of Ala., Clifford of Me., Coles of Va., Colquitt of Ga., Connor of N. C., Cooper of Ga., Cooper of N. J., Craig of Va., Crary of Mich., Cross of Ark., Dana of N. Y., Davee of Me., Davis of Pa., Davis of Ind., Dickerson of N. J., Doan of O., Doig of N. Y., Dromgoole of Va., Duncan of O., Earl of N. Y., Eastman of N. H., Ely of N. Y., Fine of N. Y., Fletcher of Vt., Floyd of N. Y., Fornance of Pa., Galbraith of Pa., Gerry of Pa., Griffin of S. C., Hammond of Pa., Hand of N. Y., Hastings of O., Hawkins of N. C., Hill of N. C., Hillen of Md., Holleman of Va., Holmes of S. C., Hook of Pa., Hopkins of Va., Hubbard of Ala., Jackson of N. Y., Jameson of Mo., Johnson of Va., Johnson of Tenn., Jones of N. Y., Jones of Va., Keim of Pa., Kemble of N. Y., Kille of N. J., Leadbetter of O., Leet of Pa., Leonard of N. Y., Lewis of Ala., Lowell of Me., Lucas of Va., McClellan of Tenn., McCulloh of Pa., McKay of N. C., Mallory of N. Y., Marchand of Pa., Medill of O., Miller of Mo., Montanya of N. Y., Montgomery of N. C., Samuel W. Morris of Pa., Newhard of Pa., Parrish of O., Parmenter of Mass., Parris of Mc., Paynter of Pa., Petrikin of Pa., Pickens of S. C., Prentiss of N. Y., Ramsey of Pa., Reynolds of Ill., Rhett of S. C., Rives of Va., Robinson of Del., Rogers of N. Y., Rogers of S. C., Ryall of N. J., Samuels of Va., Shaw of N. H., Shephard of N. C., Smith of Me., Smith of Vt., Smith of Ind., Starkweather of O., Steenrod of Va., Strong of N. Y., Sumter of S. C., Swearingen of O., Sweney of O., Taylor of O., Francis Thomas of Md., Philip F. Thomas of Md., Jacob Thompson of Miss., Turney of Tenn., Vanderpoel of N. Y., Vroom of N. J., David D. Wagener of Pa., Watterson of Tenn., Weller of O., Williams of N. H., Williams of Mass., Worthington of Md.—124.

NAYS.—Messrs. Adams of Mass., Alford of Ga., Allen of O., Andrews of Ky., Baker of Mass., Barnard of N. Y., Bell of Tenn., Biddle of Pa., Bond of O., Botts of Va., Briggs of Mass., Brockway of Conn., Calhoun of Mass., Campbell of S.

C., Campbell of Tenn., Carter of Tenn., Casey of Ill., Chinn of La., Chittenden of N. Y., Clark of N. Y., Cooper of Pa., Crabb of Ala., Cranston of R. I., Crockett of Tenn., Curtis of N. Y., Cushing of Mass., Davies of Pa., Davis of Ky., Dawson of Ga., Deberry of N. C., Dennis of Md., Dellet of Ala., Edwards of N. Y., Evans of Me., Everett of Vt., Fillmore of N. Y., James Garland of Va., Garland of La., Gates of N. Y., Gentry of Tenn., Giddings of O., Goggin of Va., Goode of O., Graham of N. C., Graves of Ky., Green of Ky., Grinnell of N. Y., Habersham of Ga., Hall of Vt., Hastings of Mass., Hawes of Ky., Henry of Pa., Hill of Va., Hoffman of N. Y., Hunt of N. Y., James of Pa., Jenifer of Md., Johnston of N. Y., Johnson of Md., Kempshall of N. Y., King of Ga., Lincoln of Mass., McCarty of Va., Marion of N. Y., Mason of O., Mitchell of N. Y., Monroe of N. Y., Morgan of N. Y., Calvary Morris of O., Naylor of Pa., Nisbet of Ga., Ogle of Pa., Osborne of Conn., Palen of N. Y., Peck of N. Y., Pope of Ky., Proffit of Ind., Randall of Me., Randolph of N. J., Rariden of Ind., Rayner of N. C., Reed of Mass., Ridgway of O., Russell of N. Y., Saltonstall of Mass., Sergeant of Pa., Simonton of Va., Slade of Vt., Smith of Conn., Stanly of N. C., Stuart of Ill., Taliaferro of Va., Thompson of S. C., Tillinghast of R. I., Toland of Pa., Triplett of Ky., Trumbull of Conn., Underwood of Ky., Wagner of N. Y., Warren of Ga., White of La., White of Ky., Wick of Ind., Williams of Conn., Williams of N. C., Joseph L. Williams of Tenn., Christopher H. Williams of Tenn.—107.

On the 4th day of June, 1841, Mr. Clay introduced from the Committee on Finance in the Senate, a bill to repeal the Independent Treasury Law.

On the 9th of June the Senate was brought to a vote, and passed the repealing law by yeas and nays as follows:—

YEAS.—Messrs. Archer of Va., Barrow of La., Bates of Mass., Bayard of Del., Berrien of Ga., Choate of Mass., Clay of Ky., Clayton of Del., Dixon of R. I., Evans of Me., Graham of N. C., Henderson of Miss., Huntington of Conn., Ker of Md., Mangum of N. C., Merrick of Md., Miller of N. J., Morehead of N. C., Phelps of Vt., Porter of Mich., Prentiss of Vt., Preston of S. C., Rives of Va., Simmons of R. I., Smith of Ind., Southard of N. J., Tallmadge of N. Y., White of Ind., Woodbridge of Mich.—29.

NAYS.—Messrs. Allen of O., Benton of Mo., Calhoun of S. C., Clay of Ala., Fulton of Ark., King of Ala., McRoberts of Ill., Nicholson of Tenn., Pierce of N. H., Sevier of Ark., Smith of Conn., Sturgeon of Pa., Tappan of O., Walker of Miss., Williams of Me., Woodbury of N. H., Wright of N. Y., Young of Ill.—18.

On the 9th of August, 1841, the repealing bill was brought to a vote in the House, and passed by yeas and nays as follows:—

YEAS.—Messrs. Adams of Mass., Allen of Me., Andrews of Ky., Andrews of O., Arnold of Tenn., Ayerigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Barton of Va., Birdseye of N. Y., Black of Pa., Blair of N. Y., Boardman of Conn., Borden of Mass., Botts of Va., Briggs of Mass., Brockway of Conn., Bronson of Me., M. Brown of Tenn., J. Brown of Pa., Burnell of Mass., Butler of Ky., Calhoun of Mass., J. Campbell of S. C., W. B. Campbell of Tenn., T. J. Campbell of Tenn., Caruthers of Tenn., Childs of N. Y., Chittenden of N. Y., J. C. Clark of N. Y., S. N. Clark of N. Y., Cowen of O., Cranston of R. I., Cravens of Ind., Cushing of Mass., Garret Davis of Ky., W. C. Dawson of Ga., Deberry of N. C., John Edwards of Pa., Everett of Vt., Fessenden of Me., Fillmore of N. Y., Foster of N. Y., T. F. Foster of Ga., Gamble of Ga., Gentry of Tenn., Giddings of O., Gilmer of Va., Goggin of Va., P. G. Goode of O., Graham of N. C., Green of Ky., Graig of N. Y., Habersham of Ga., Hall of Vt., Halstead of N. C., W. S. Hastings of Mass., Henry of Pa., Howard of Miss., Hudson of Mass., Hunt of N. Y., James Irvin of Pa., W. W. Irwin of Pa., James of Pa., W. C. Johnson of Md., Jones of Md., Kennedy of Md., King of Ga., Lane of Ind., Lawrence of Pa., Linn of N. Y., Mallery of Va., Marshall of Ky., Mason of O., Mathiot of O., Mattocks of Vt., Maxwell of N. J., Maynard of N. Y., Merrewether of Ga., Moore of La., Morgan of N. Y., Morris of O., Morrow of O., Nisbet of Ga., Osborne of Conn., Owsley of Ky., Pearce of Md., Peudleton of O., Pope of Ky., Powell of Va., Proffit of Ind., Ramsey of Pa., B. Randall of Me., Randolph of N. J., Rayner of N. C., Rencher of N. C., Ridgway of O., Rodney of Del., Russell of O., Saltonstall of Mass., Sergeant of Pa., Shepperd of N. C., Simonton of Pa., Slade of Vt., Smith of Conn., Stanley of N. C., Stokely of O., Stratton of N. J., Stuart of Va., Summers of Va., Taliaferro of Va., Thompson of Ky., Thompson of Ind., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Triplett of N. Y., Trumbull of Conn., Underwood of Ky., Van Rensselaer of N. Y., Wallace of Ind., Warren of Ga., Washington of N. C., White of La., White of Ky., Williams of Conn., Williams of N. C., C. H. Williams of Tenn., J. S. Williams of Tenn., Yorke of N. J., Young of Vt., Young of N. Y.—134.

NAYS.—Messrs. Arrington of N. C., Atherton of N. H., Banks of Va., Beeson of Pa., Bidlack of Pa., Bowne of N. Y., Boyd of Ky., A. V. Brown of Tenn., C. Brown of Pa., Burke of N. H., S. H. Butler of S. C., W. O. Butler of S. C., Caldwell of N. C., Caldwell of S. C., Cary of Va., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va., Cross of Ark., Daniel of N. C., Davis of N. Y., Dawson of La., Dean of O., Doan of O., Doig of N. Y., Edwards of Mo., Egbert of N. Y., Ferris of N. Y., J. G. Floyd of N. Y., C. A. Floyd of N. Y., Fornance of Pa., W. O. Goode of Va., Gordon of N. Y., Gustin of Pa., Harris of Va., John Hastings of O., Hays of Va., Holmes of S. C., Hopkins of Va., Herick of N. Y., Houston of Ala., Hubard of Va., Hunter of Va., Ingersoll of Pa., Jack of Pa., C. Johnson of Tenn., J. W. Jones of Va., Keim of Pa., Kennedy of Md., Lewis of Ala., Littlefield of Me., Lowell of Me., McClellan of Tenn., McClellan of N. Y., McKay of N. C., Marchand of Pa., Marshall of Me., Mason of Md., Matthews of O., Medill of O., Miller of Mo., Oliver of N. Y., Parmenter of Mass., Patridge of N. Y., Payne of Ala., Pickens of S. C., Plumer of Pa., Reding of N. H., Riggs of N. Y., Rogers of S. C., Rosevelt of N. Y., Saunders of N. C., Shaw of N. H., Shields of Ala., Snyder of Pa., Sprigg of Ky., Steenrod of Va., Turney of Tenn., Van Buren of N. Y., Ward of N. Y., Watterson of Tenn., Weller of O., Westbrook of Pa., Williams of Md., Wood of N. Y.—87.

The bill, as it was passed by the House, was amended by that body. The Senate, however, concurred in the amendments, and the bill, as a law, was approved of by Mr. Tyler.

The Independent Treasury Law now in existence, passed the House on the 2d of April, 1846, by yeas and nays as follows:—

YEAS.—Messrs. Adams of Miss., Anderson of N. Y., Atkinson of Va., Bayly of Va., Bedinger of Va., Benton of N. Y., Biggs of N. C., Black of Pa., Black of S. C., Bowlin of Mo., Boyd of Ky., Brinkerhoff of O., Brockenbrough of Fla., Brodhead of Pa., Brown of Va., Burt of S. C., Cathcart of Ind., Chapman of Ala., Chase of Tenn., Chipman of Mich., Clarke of N. C., Cobb of Geo., Collin of N. Y., Constable of Md., Cullom of Tenn., Cummins of O., Cunningham of O., Daniel of N. C., Dargan of Ala., Davis of Miss., De Mott of N. Y., Dillingham of Vt., Dobbin of N. C., Douglas of Ill., Dromgoole of Va., Dunlap of Me., Ellsworth of N. Y., Faran of O., Ficklin of Ill., Foster of Pa., Fries of O., Garrin of Pa., Giles of Md., Goodyear of N. Y., Gordon of N. Y., Grover of N. Y., Hamlin of Me., Haralson of Geo., Harmanson of La., Henley of Ind., Hoge of Ill., Holmes of S. C., Hopkins of Va., Hough of N. Y., Houston of Ala., Hungerford of N. Y., James B. Hunt of Mich., Hunter of Va., Ingersoll of Pa., Jenkins of N. Y., James H. Johnson of N. H., Joseph Johnson of Va., Andrew Johnson of Tenn., George W. Jones of Tenn., Seaborn Jones of Geo., Preston King of N. Y., Leake of Va., Leib of Pa., La Sere of La., Ligon of Md., Lumpkin of Geo., Maclay of N. Y., McClean of Pa., McClelland of Mich., McClernand of Ill., McConnell of Ala., McCrate of Me., McDowell of O., McKay of N. C., Martin of Ky., Martin of Tenn., Morse of La., Moulten of N. H., Niven of N. Y., Owen of Ind., Parrish of O., Payne of Ala., Pettit of Ind., Phelps of Miss., Price of Mo., Rathbun of N. Y., Reid of N. C., Rhett of S. C., Roberts of Miss., Sawtelle of Me., Sawyer of O., Scammon of Me., Seddon of Va., Sims of S. C., Sims of Mo., Simpson of S. C., Smith of Ind., Smith of Ill., Stanton of Tenn., Starkweather of O., St. John of O., Sykes of N. J., James Thompson of Pa., Thurman of O., Tibbatts of Ky., Tredway of Va., Wentworth of Ill., Wheaton of N. Y., Wick of Ind., Williams of Me., Wilmot of Pa., Wood of N. Y., Woodruff of N. Y., Woodward of S. C., Woodworth of N. Y., Yancey of Ala., and Yell of Ark.—122.

NAYS.—Messrs. Abbott of Mass., John Q. Adams of Mass., Arnold of R. I., Ashmun of Mass., Barringer of N. C., Bell of Tenn., Blanchard of Pa., Milton Brown of Tenn., Buffington of Pa., William W. Campbell of Tenn., Carroll of N. Y., John G. Chapman of Md., Cocke of Tenn., Collamer of Vt., Cranston of R. I., Crozier of Tenn., Culver of N. Y., Garrett Davis of Ky., Dixon of Conn., Dockery of N. C., Ewing of Tenn., Ewing of Ind., Foot of Vt., Gentry of Tenn., Giddings of O., Graham of N. C., Grider of Ky., Harper of O., Herrick of N. Y., Hilliard of Ala., John W. Houston of Del., Hubbard of Conn., Hudson of Mass., Hunt of N. Y., Joseph R. Ingersoll of Pa., King of Mass., King of Ga., Lewis of N. Y., Long of Md., McGaughey of Ind., McIlenry of Ky., McIlvaine of Pa., Marsh of Vt., Miller of N. Y., Moseley of N. Y., Pendleton of Va., Pollock of Pa., Ramsey of Pa., Rockwell of Mass., Rockwell of Conn., Runk of N. J., Schenck of O., Severance of Me., Smith of Conn., Smith of N. Y. Stewart of Pa., Thibodeaux of La., Thomasson of Ky.,

Thompson of Mass., Tilden of O., Trumbo of Ky., Vinton of O., White of N. Y., Winthrop of Mass., Wright of N. J., and Young of Ky.—66.

It passed the Senate on the 1st of August, 1846, by yeas and nays as follows:—

YEAS.—Messrs. Allen of Ohio, Ashley of Arks., Atchison of Mo., Atherton of N. H., Bagby of Ala., Benton of Mo., Breese of Ill., Bright of Ind., Calhoun of S. C., Cameron of Pa., Cass of Mich., Chalmers of Miss., Dickerson and Dix of New York, Fairfield of Me., Hannegan of Ind., Houston of Tex., Lewis of Ala., Niles of Conn., Pennybacker of Va., Rusk of Tex., Semple of Ill., Sevier of Ark., Speight of Miss., Sturgeon of Pa., Turney of Tenn., Westcott and Yulee of Fla.—28.

NAYS.—Messrs. Archer of Va., Barrow of La., Berrien of Ga., Cilley of N. H., John M. Clayton of Del., Thos. Clayton of Del., Corwin of O., Crittenden of Ky., Davis of Mass., Dayton of N. J., Evans of Me., Greene of R. I., Huntington of Conn., Jarnagin of Tenn., Johnson of La., Johnson of Md., Mangum of N. C., Miller of N. J., Morehead of Ky., Pearce of Md., Phelps of Vt., Simmons of R. I., Upham of Vt., Webster of Mass., and Woodbury of Mich.—25.

The amendments made to the bill by the Senate were concurred in by the House, and it became a law on the 6th of August.

At the last session the following amendments to the Sub Treasury Bill became a law:—

"That each and every disbursing officer or agent of the United States, having any money of the United States intrusted to him for disbursement, shall be, and he is hereby required to deposit the same with the treasurer of the United States, or with some one of the assistant treasurers or public depositaries, and draw for the same only in favor of the persons to whom payment is to be made in pursuance of law and instruction; except when payments are to be made in sums under twenty dollars, in which cases such disbursing agent may check in his own name, stating that it is to pay small claims.

"Sec. 2. And be it further enacted, that the treasurer of the United States, assistant treasurers, and public depositaries, shall safely keep all moneys deposited by any disbursing officer or disbursing agent of the United States, as well as any moneys deposited by any receiver, collector, or other person, which shall be the moneys of, or due, or owing to the United States, and for a failure so to do shall be held guilty of the crime of embezzlement of said moneys, and subject to the punishment provided for embezzlements in the act to which this is an amendment.

"Sec. 3. And be it further enacted, That it shall be the duty of each and every person who shall have moneys of the United States in his hands or possession, to pay the same to the treasurer, the assistant treasurer, or public depositary of the United States, and take his receipt for the same, in duplicate, and forward one of them forthwith to the Secretary of the Treasury, and for a failure to make such deposit when required by the Secretary of the Treasury, or any other department, or the accounting officers of the treasury, the person so failing shall be held guilty of the crime of embezzlement, and subject to the punishment for that offence provided in the act to which this is an amendment."

Indiana.

On the 31st of March, 1800, the House, in pursuance of the prayer of the people thereof, passed a bill to divide the Northwestern Territory into two separate governments, constituting the western portion thereof "Indiana Territory."

The Senate passed the bill with amendments, to which the House disagreed. The disagreements were reconciled, and the bill became a law by the approval of the President on the 7th of May, 1800.

On the 3d of March, 1816, a bill reported in the House in pursuance of the memorial in the territorial legislature of Indiana, authorizing her people to form a constitution and state government, and providing for her admission into the Union, passed the House, Messrs. Goldsborough of Md. and Lewis and Randolph of Va. alone voting against it.

It passed the Senate on the 13th of April, 1816, with amendments, which were concurred in by the House, and the bill became a law by the approval of the President on 19th of April, 1816.

On the 2d of December, 1816, a committee was appointed to inquire whether any further legislation was necessary to admit Indiana into the Union. The committee reported a resolution declaring her to be one of the United States, which passed the Senate on the 6th of December, 1816, the House on 9th of December, 1816, and was approved by the President on the 11th of December, 1816. Before this last resolution consummating her admission passed, her representative, Mr. Hendricks, was admitted to his seat on the floor of the House, and voted on all questions which came before the body.

In the Presidential election of 1816, Indiana chose Presidential electors, who formally cast their votes and sent them to Washington.

In counting the votes during the second session of the 14th Congress, before the House of Representatives, the vote of Indiana was about to be counted, when—

Mr. Taylor, one of the representatives from the state of New York, objected to the same being received.

Upon this objection being made, the Senate withdrew.

Mr. Sharp, whilst the Senate was absent, offered a resolution that the votes of Indiana were properly and legally given, and ought to be counted.

Mr. Taylor moved an amendment that they ought not to be received and counted.

Debate ensuing, Mr. Ingham moved an indefinite postponement of the subject, which was carried.

The Senate then returned, and the president thereof opened the votes of Indiana, and it was counted by the tellers.

She was thus regarded as a state previous to the passage of the last resolution.

DESIRE OF, TO HAVE SLAVERY THEREIN.

In the House of Representatives, on the 8th of February, 1803, Mr. William Henry Harrison, President of a Convention of the territory of Indiana, communicated to the body through the speaker, the memorial of said Convention, praying the suspension of the sixth article of compact between the United States and the people of that territory, so as to admit slavery for a time therein, together with a petition of the inhabitants of the said territory to the same effect.

Read and referred to a committee consisting of Messrs. John Randolph of Virginia, Griswold of Conn., Williams of N. C., Morris of Vt., and Hoge of Pa.

March 2, 1803.—Mr. Randolph, from the

committee to which were referred a letter from William Henry Harrison, President of the Convention at Vincennes, declaring the consent of the people of Indiana to the suspension of the sixth article of compact between the United States and the people of that territory, and also a memorial and petition of the inhabitants of the said territory, made the following report:—

That the rapid population of the state of Ohio sufficiently evinces, in the opinion of your committee, that the labor of slaves is not necessary to promote the growth and settlement of the colonies in that region; that this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to that quarter of the United States; that the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the Northwestern country, and to give strength and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants of Indiana will, at no very distant day, find ample remuneration for a temporary privation of labor and of emigration.

From such a consideration as they have been enabled to bestow on the subject at this late period of the session, and under the pressure of accumulating business, they recommend the following resolution, which is respectfully submitted to the judgment of the House:—

"1. Resolved, That it is inexpedient to suspend for a limited time, the operation of the sixth article of compact between the original states and the states west of the Ohio."

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At the first session of the 8th Congress, another memorial to the same effect was presented and referred in the House to a select committee.

Mr. Rodney of Del., on the 17th of Feb., 1804, made a report favoring the prayer of the petition, accompanied by the following resolution:—

"Resolved, That the 6th article of the ordinance of 1787, which prohibited slavery within the said territory, be suspended in a qualified manner for ten years, so as to permit the introduction of slaves born within the United States from any of the individual states. *Provided*, that such individual state does not permit the importation of slaves from foreign countries. *And provided further*, that the descendants of all such slaves shall, if males, be free at the age of 25 years, and if females, at the age of 21 years."

This resolution was not acted on.

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On the 18th of Dec., 1805, another memorial on the subject, emanating from the Legislative Council of Indiana territory, was read and referred to a committee consisting of Messrs. Garnett of Va., Morrow of Ohio, Parke of Ind., Hamilton of Pa., Smith of S. C., Walton of Ky., and Van Cortland of N. Y.

On the 14th of Feb., 1806, Mr. Garnett from the said committee submitted the following report:—

"That having attentively considered the facts stated in the said petitions and memorials, they are of opinion that a qualified suspension, for a limited time, of the sixth article of compact between the original states and the people and states west of the river Ohio, would be beneficial to the people of the Indiana territory. The suspension of this article is an object almost universally desired in that territory. It appears to your committee to be a question entirely different from that between slavery and freedom, inasmuch as it would merely occasion the removal of persons, already slaves, from one part of the country to another. The good effects of this suspension, in the present instance, would be to accelerate the population of that territory, hitherto retarded by the operation of that article of compact, as slaveholders emigrating into the Western country, might then indulge any preference which they might feel for a settlement in Indiana territory, instead of seeking, as they are now compelled to do, settlements in other states or countries, permitting the introduction of slaves. The condition of the slaves themselves would be much ameliorated by it, as it is evident, from experience, that the more they are separated and diffused, the more care and attention are bestowed on them by their masters, each proprietor having it in his power to increase their comforts and conveniences in proportion to the smallness of their numbers.

"The dangers too, if any are to be apprehended from too large a black population existing in any one section of country, would certainly be very much diminished if not entirely removed. But whether dangers are to be feared from this source or not, it is certainly an obvious dictate of sound policy to guard against them as far as possible. If this danger does exist, or there is any cause to apprehend it, and our Western brethren are not only willing but desirous to aid us in taking precautions against it, would it not be wise to accept their assistance? We should benefit ourselves without injuring them, as their population must always so far exceed any black population which can ever exist in that country as to render the idea of danger from that source chimerical."

The committee recommended the adoption of the following resolution:—

"Resolved, That the sixth article of the ordinance of 1787, which prohibits slavery within the Indiana territory, be suspended for ten years, so as to permit the introduction of slaves born within the United States from any of the individual states."

On the 20th of January, 1807, the following resolutions were laid before and read in the House of Representatives:—

Resolved unanimously, by the Legislative Council and House of Representatives of the

Indiana Territory, that a suspension of the sixth article of compact between the United States and the territories and states northwest of the river Ohio, passed the 13th day of July, 1787, for the term of ten years, would be highly advantageous to the said territory, and meet the approbation of at least nine-tenths of the good citizens of the same.

Resolved unanimously, That the abstract question of liberty and slavery is not considered as involved in a supension of the said article, inasmuch as the number of slaves in the United States would not be augmented by the measure.

Resolved unanimously, That the suspension of the said article would be equally advantageous to the territory, to the states from whence the negroes would be brought, and to the negroes themselves.

To the territory, because of its situation with regard to the other states; it must be settled by emigrants from those in which slavery is tolerated, or for many years remain in its present situation, its citizens deprived of the greater part of their political rights, and, indeed, of all those which distinguish the American from the citizens and subjects of other governments.

The states which are overburdened with negroes, would be benefited by their citizens having an opportunity of disposing of the negroes which they cannot comfortably support, or removing with them to a country abounding with all the necessaries of life; and the negro himself would exchange a scanty pittance of the coarsest food, for a plentiful and nourishing diet, and a situation which admits not the most distant prospect of emancipation, for one which presents no considerable obstacle to his wishes.

Resolved unanimously, That the citizens of this part of the former Northwestern Territory, consider themselves as having claims upon the indulgence of Congress, in regard to a suspension of the said article, because at the time of the adoption of the ordinance of 1787, slavery was tolerated, and slaves generally possessed by the citizens then inhabiting the country, amounting to at least one-half the present population of Indiana, and because the said ordinance was passed in Congress when the said citizens were not represented in that body, without their being consulted, and without their knowledge and approbation.

Resolved unanimously, That the situation, soil, and climate, and productions of the territory, it is not believed that the number of slaves would ever bear such proportion to the white population, as to endanger the internal peace and prosperity of the country.

Resolved unanimously, That copies of these resolutions be delivered to the governor of this territory, to be by him forwarded to the President of the Senate, and to the Speaker of the House of Representatives of the United States, with a request that they will lay the same before the Senate and House of Representatives, over which they respectively preside.

Resolved unanimously, That a copy of these resolutions be delivered to the delegate to Congress from this territory, and that he be, and he hereby is, instructed to use his best endeavors to obtain a suspension of the said article.

Referred to a committee, consisting of Messrs. Parke of Indiana, Masters of N. Y., Rhea of Tenn., Sanford of Ky., Alston of N. C., Morrow of Ohio, and Trigg of Va.

On the 12th of February, 1807, Mr. Parke, from said committee, submitted the following report. That the resolutions of the legislative council and house of representatives of the Indiana territory, relate to a suspension, for the term of ten years, of the sixth article of compact between the United States and the territories northwest of the river Ohio, passed the 13th day of July, 1787. That article declares "there shall be neither slavery nor involuntary servitude in the said territory."

The suspension of the said article would operate an immediate and essential benefit to the territory, as emigration to it will be inconsiderable for many years, except from those states where slavery is tolerated; and although it is not considered expedient to force the population of the territory, yet it is desirable to connect its scattered settlements, and, in regard to political rights, to place it on an equal footing with the different states. From the interior situation of the territory, it is not believed that slaves would ever become so numerous as to endanger the internal peace, or future prosperity of the country.

The current of emigration flowing to the western country, the territories ought all to be opened to their introduction. The abstract question of liberty and slavery is not involved in the proposed measure, as slavery now exists to a considerable extent in different parts of the Union; it would not augment the number of slaves, but merely authorize the removal to Indiana of such as are held in bondage in the United States. If slavery is an evil, means ought to be devised to render it least dangerous to the community, and by which the hopeless situation of the slaves would be most ameliorated; and to accomplish these objects, no measure would be so effectual as the one proposed. The committee, therefore, respectfully submit to the House the following resolution:—

Resolved: That it is expedient to suspend, from and after the 1st day of January, 1808, the sixth article of compact between the United States and the territories and states northwest of the river Ohio, passed the 13th day of July, 1787, for the term of ten years.

Iowa.

The bill creating the territory of Iowa by a division of the territory of Wisconsin, passed the Senate on the 1st of June, 1838.

The bill passed the House on the 6th of June, 1838, by a vote of yeas 118, nays 51.

For proceedings on its admission as a state, see Florida.

Jackson, Andrew.

Remission of Fine imposed upon.

On the 15th of December, 1814, General Jackson placed the city of New Orleans under martial law. Mr. Louaillier, a member of the legislature of Louisiana, a Frenchman by birth, published some seditious appeals to his countrymen, stimulating them to disobey the commanding general. General Jackson caused him to be arrested on the 5th of March. Judge Hall, of the United States District Court, upon application, issued a writ of habeas corpus for the purpose of bringing Louaillier out; but, before it was served, General Jackson caused the judge to be arrested, had him conducted beyond the limits of the camp, and then released him, with orders that he should not return until peace was proclaimed.

On the 23d of March, 1815, General Jackson appeared in the United States Court to show cause why an attachment should not issue against him for contempt of court. The court would not permit him to read a written defence, verified by his oath. On the 31st of March, 1815, written interrogatories were propounded to him by the court, which he declined to answer, when he was fined $1000 for contempt, which he immediately paid.

The bill, which became a law, refunding the fine with interest, was introduced by Mr. C. J. Ingersoll of Pa., and passed the House on the 29th of December, 1843, by yeas and nays as follows:—

Yeas.—Messrs. *Anderson* of N. Y., Ashe of Tenn., Barringer of N. C., *Beardsley* of N. Y., *Belser* of Ala., *Benton* of N. Y., *Bidlack* of Pa., *Edward J. Black* of Ga., *James Black* of Pa., *James A. Black* of S. C., *Blackwell* of Tenn., *Bossier* of La., *Bower* of Mo., *Bowlin* of Mo., *Boyd* of Ky., *Jacob Brinkerhoff* of O., *Brodhead* of Pa., *Aaron V. Brown* of Tenn., Milton Brown of Tenn., *Wm. J. Brown* of Ind., Buffington of Pa., *Burke* of N. H., *Burt* of S. C., *Caldwell* of Ky., *Campbell* of S. C., *Cary* of Me., *Catlin* of Conn., *Reuben Chapman* of Ala., *Augustus A. Chapman* of Va., Chilton of Va., Clingman of N. C., *Clinton* of N. Y., *Cobb* of Ga., *Coles* of Va., *Cross* of Ark., *Cullom* of Tenn., *Dana* of N. Y., *Daniel* of N. C., *Richard D. Davis* of N. Y., *John W. Davis* of Ind., *Dawson* of La., *Dean* of O., Deberry of N. C., Dellet of Ala., Dickey of Pa., Dickinson of Tenn., *Dillingham* of Vt., *Douglas* of Ill., *Duncan* of O., *Dunlap* of Me., *Ellis* of N. Y., *Elmer* of N. J., *Farlee* of N. J., *Ficklin* of Ill., Florence of O., *Foster* of Pa., *French* of Ky., Frick of Pa., *Gilmer* of Va., Green of Ky., *Green* of N. Y., *Hale* of N. H., *Hamlin* of Me., *Hammett* of Miss., *Haraldson* of Ga., Hardin of Ill., *Hays* of Pa., *Henley* of Ind., *Herrick* of Me., *Holmes* of S. C., Hodge of Ill., *Houston* of Ala., *Hubard* of Va., *Hubbell* of N. Y., *Hughes* of Mo., *Hungerford* of N. Y., *Hunt* of Mich., *Chas. J. Ingersoll* of Pa., Irvin of Pa., *Jameson* of Mo., *Cave Johnson* of Tenn., Johnson of O., *Andrew Johnson* of Tenn., *Jones* of Tenn., *Kennedy* of Ind., *King* of N. Y., *Kirkpatrick* of N. J., *Labranche* of La., *Leonard* of N. Y., *Lewis* of Ala., *Lucas* of Va., *Lumpkin* of Ga., *Lyon* of Mich., *McCauslen* of O., *Maclay* of N. Y., *McClelland* of Mich., *McClernand* of Ill., *McConnell* of Ala., *McDowell* of O., *McKay* of N. C., *Mathews* of O., Morris of Pa., *Morris* of O., *Murphy* of N. Y., Nes of Pa., Newton of Va., *Norris* of N. H., *Owen* of Ind., *Parmenter* of Mass., Patterson of N. Y., *Payne* of Ala., Peyton of Tenn., Potter of R. I., *Potter* of O., *Pratt* of N. Y., Ramsey of Pa., *Rathbun* of N. Y., *A. H. Read* of Pa., Charles M. Read of Pa., Reid of N. C., *Reding* of N. H., *Relfe* of O., *Ritter* of Pa., Rogers of N. Y., *Russell* of N. Y., St. John of O., Sample of Ind., *Saunders* of N. C., Senter of Tenn., *Seymour* of Conn., *Seymour* of N. Y., *Simons* of Conn., *Simpson* of S. C., *Slidell* of La., *Smith* of Pa., Thomas Smith of Ind., *Smith* of Ill., *Steenrod* of Va., *Stetson* of N. Y., Stewart of Pa., *Stewart* of Conn., *Stiles* of Ga., *Stone* of Ky., *Strong* of N. Y., *Sykes* of N. J., *Taylor* of Va., Thomasson of Ky., *Thompson* of Miss., *Tibbatts* of Ky., *Weller* of O., *Wentworth* of Ill., *Wheaton* of N. Y., White of Ky., *Williams* of Mass., *Wilkins* of Pa., *Woodward* of S. C., *Wright* of Ind., *Yost* of Pa.—158.

Nays.—Adams of Mass., Barnard of N. Y., Jeremiah Brown, of Pa., Carroll of N. Y., Chappell of Ga., Cranston of R. I. Garret Davis of Ky., Fish of N. Y., Foot of Vt., Giddings of O., Grider of Ky., Hudson of Mass., J. R. Ingersoll of Pa., Jenks of Pa., Daniel P. King of Mass., McIlvaine of Pa., Morse of Me., Moseley of N. Y., Phœnix of N. Y., Rodney of Del., Schenck of O., Severance of Me., Tilden of O., Tyler of N. Y., Vance of O., Vanmeter of O., Vinton of O., Winthrop of Mass.—28.

The bill passed the Senate on the 14th of February, 1844, by yeas and nays as follows:—

Yeas.—Messrs. *Allen* of O., *Atchinson* of Mo., *Atherton* of N. H., *Bagby* of Ala., Barrow of La., *Benton* of Mo., *Breese* of Ill., *Buchanan* of Pa., *Colquitt* of Ga., *Fairfield* of Me., Foster of Tenn., Francis of R. I., *Fulton* of Ark., *Hannegan* of Ind., Haywood of N. C., Henderson of Miss., *Huger* of S. C., Jarnigan of Tenn., *King* of Ala., *McDuffie* of S. C., Mangum of N. C., *Rives* of Va., *Semple* of Ill., *Sevier* of Ark., *Sturgeon* of Pa., Tallmadge of N. Y., *Tappan* of O., *Walker* of Miss., *Woodbury* of N. H., *Wright* of N. Y.—30.

Nays.—Messrs. Archer of Va., Bates of Mass., Bayard of Del., Berrien of Ga., Choate of Mass., Clayton of Del., Dayton of N. J., Evans of Me., Huntington of Conn., Merrick of Md., Miller of N. J., Pearce of Md., Phelps of Vt., Simmons of R. I., Upham of Vt., Woodbridge of Mich.—16.

Democrats in *italics;* Whigs in roman.

The bill became a law, by the approval of President Tyler, on the 16th of February, 1844.

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President Jackson's Proclamation against the Nullification Ordinance of South Carolina. (Dec. 11, 1832.)

Whereas, a convention, assembled in the state of South Carolina, have passed an ordinance, by which they declare, "That the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially," two acts for the same purposes, passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law," nor binding on the citizens of that state, or its officers: and by the said ordinance, it is further declared to be unlawful for any of the constituted authorities of the state, or of the United States, to enforce the payment of the duties imposed by the said acts within the same state, and that it is the duty of the legislature to pass such laws as may be necessary to give full effect to the said ordinance:

And whereas by the said ordinance, it is further ordained, that, in no case of law or equity, decided in the courts of said state, wherein shall be drawn in question the validity of the said ordinance, or of the acts of the legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal shall be punished as for a contempt of court:

And finally, the said ordinance declares, that the people of South Carolina will main-

tain the said ordinance at every hazard; and that they will consider the passage of any act by Congress abolishing or closing the ports of the said state, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the federal government to coerce the state, shut up her ports, destroy or harass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of the said state will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other states, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent states may of right do:

And whereas the said ordinance prescribes to the people of South Carolina a course of conduct, in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its Constitution, and having for its object the destruction of the Union—that Union which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations: To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the Constitution and laws applicable to the measures adopted by the Convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be invested, for preserving the peace of the Union and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with state authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that anything will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify, a full exposition, to South Carolina and the nation, of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured; but on the strange position that any one state may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the Constitution; that the true construction of that instrument permits a state to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add that, to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident, that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For, as by the theory, there is no appeal, the reasons alleged by the state, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint in this last case, which makes the assumed power of a state more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the states. There is no appeal from the state decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous when our social compact in express terms declares, that the laws of the United States, its Constitution and treaties made under it, are the supreme law of the land—and for greater caution adds, "that the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." And it may be asserted, without fear of refutation, that no federative government could exist without a similar provision. Look for a moment to the consequences. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected anywhere; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the state itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, has been shown, there is no appeal.

If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Penn-

sylvania, the embargo and non-intercourse law in the Eastern states, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those states discovered that they had the right now claimed by South Carolina. The war into which we were forced, to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace, instead of victory and honor, if the states who supposed it a ruinous and unconstitutional measure, had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our Constitution was reserved for the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that state will unfortunately fall the evils of reducing it to practice.

If the doctrine of a state veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our government.

In our colonial state, although dependent on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and before the Declaration of Independence, we were known, in our aggregate character, as the United Colonies of America. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts, and when the terms of our confederation were reduced to form, it was in that of a solemn league of several states, by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that Union is found an article which declares that "every state shall abide by the determination of Congress, on all questions which by that confederation shall be submitted to them."

Under the Confederation then, no state could legally annul a decision of the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The government could not operate on individuals. They had no judiciary, no means of collecting revenue.

But the defects of the Confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home nor consideration abroad. This state of things could not be endured, and our present happy Constitution was formed, but formed in vain, if this fatal doctrine prevails. It was formed for important objects that are announced in the preamble, made in the name and by the authority of the people of the United States, whose delegates framed, and whose conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is "to form a more perfect Union." Now, is it possible that even if there were no express provisions giving supremacy to the Constitution and laws of the United States over those of the states—can it be conceived that an instrument made for the purpose of "forming a more perfect Union" than that of the Confederation, could be so constructed by the assembled wisdom of our country as to substitute for that Confederation a form of government dependent for its existence on the local interest, the party spirit of a state, or of a prevailing faction in a state? Every man of plain unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

I consider, then, the power to annul a law of the United States, assumed by one state, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.

After this general view of the leading principle, we must examine the particular application of it which is made in the ordinance.

The preamble rests its justification on these grounds; it assumes as a fact, that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the operation of these laws is unequal; that the amount raised by them is greater than is required by the wants of the government; and, finally, that the proceeds are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country, and a threat of seceding from the Union, if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly given by the Constitution, to lay and collect imposts; but its constitutionality is drawn in question from the motives of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than to admit the position that an unconstitutional purpose, entertained by the members who assent to a law enacted under a constitutional power, shall make that law void; for how is that purpose to be ascertained? Who is to make the scrutiny? How often may bad purposes be falsely imputed? in how many cases are they concealed by false

professions? in how many is no declaration of motive made? Admit this doctrine, and you give to the states an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted, that a state may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is, that the laws in question operate unequally. This objection may be made with truth to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any state for that cause, then indeed is the Federal Constitution unworthy of the slightest effort for its preservation. We have hitherto relied on it as the perpetual bond of our Union. We have received it as the work of the assembled wisdom of the nation. We have trusted to it as to the sheet-anchor of our safety in the stormy times of conflict with a foreign or domestic foe. We have looked on it with sacred awe as the palladium of our liberties, and with all the solemnities of religion have pledged to each other our lives and fortunes here, and our hopes of happiness hereafter, in its defence and support. Were we mistaken, my countrymen, in attaching this importance to the Constitution of our country? Was our devotion paid to the wretched, inefficient, clumsy contrivance which this new doctrine would make it? Did we pledge ourselves to the support of an airy nothing, a bubble that must be blown away by the first breath of disaffection? Was this self-destroying, visionary theory, the work of the profound statesmen, the exalted patriots, to whom the task of constitutional reform was intrusted? Did the name of Washington sanction, did the states deliberately ratify, such an anomaly in the history of fundamental legislation? No. We were not mistaken. The letter of this great instrument is free from this radical fault; its language directly contradicts the imputation; its spirit —its evident intent contradicts it. No, we do not err! Our Constitution does not contain the absurdity of giving power to make laws, and another power to resist them. The sages whose memory will always be reverenced have given us a practical, and, as they hoped, a permanent constitutional compact. The father of his country did not affix his revered name to so palpable an absurdity. Nor did the states, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them, or that they could exercise it by implication. Search the debates in all their conventions—examine the speeches of the most zealous opposers of federal authority—look at the amendments that were proposed; they are all silent—not a syllable uttered, not a vote given, not a motion made to correct the explicit supremacy given to the laws of the Union over those of the states, or to show that implication, as is now contended, could defeat it. No, we have not erred! The Constitution is still the object of our reverence, the bond of our Union, our defence in danger, the source of our prosperity in peace. It shall descend, as we have received it, uncorrupted by sophistical construction, to our posterity; and the sacrifices of local interest, of state prejudices, of personal animosities, that were made to bring it into existence, will again be patriotically offered for its support.

The two remaining objections made by the ordinance to these laws are, that the sums intended to be raised by them are greater than are required, and that the proceeds will be unconstitutionally employed.

The Constitution has given expressly to Congress the right of raising revenue and of determining the sum the public exigencies will require. The states have no control over the exercise of this right, other than that which results from the power of changing the representatives who abuse it, and thus procure redress. Congress may undoubtedly abuse this discretionary power, but the same may be said of others with which they are vested. Yet the discretion must exist somewhere. The Constitution has given it to the representatives of all the people, checked by the representatives of the states and by the executive power. The South Carolina construction gives it to the legislature or the convention of a single state, where neither the people of the different states, nor the states in their separate capacity, nor the chief magistrate elected by the people, have any representation. Which is the most discreet disposition of the power? I do not ask you, fellow-citizens, which is the constitutional disposition—that instrument speaks a language not to be misunderstood. But if you were assembled in general convention, which would you think the safest depository of this discretionary power in the last resort? Would you add a clause giving it to each of the states, or would you sanction the wise provisions already made by your Constitution? If this should be the result of your deliberations, when providing for the future, are you—can you—be ready to risk all that we hold dear, to establish, for a temporary and local purpose, that which you must acknowledge to be destructive, and even absurd, as a general provision? Carry out the consequences of this right vested in the different states, and you must perceive that the crisis your conduct presents at this day would recur whenever any law of the United States displeased any of the states, and that we should soon cease to be a nation.

The ordinance, with the same knowledge of the future that characterizes a former objection, tells you that the proceeds of the tax will be unconstitutionally applied. If this could be ascertained with certainty, the objection would, with more propriety, be reserved for the laws so applying the proceeds,

but surely cannot be urged against the laws levying the duty.

These are the allegations contained in the ordinance. Examine them seriously, my fellow-citizens—judge for yourselves. I appeal to you to determine whether they are so clear, so convincing, as to leave no doubt of their correctness: and even if you should come to this conclusion, how far they justify the reckless, destructive course which you are directed to pursue. Review these objections, and the conclusions drawn from them once more. What are they? Every law, then, for raising revenue, according to the South Carolina Ordinance, may be rightfully annulled, unless it be so framed as no law ever will or can be framed. Congress have a right to pass laws for raising revenue, and each state has a right to oppose their execution—two rights directly opposed to each other; and yet is this absurdity supposed to be contained in an instrument drawn for the express purpose of avoiding collisions between the states and the general government, by an assembly of the most enlightened statesmen and purest patriots ever imbodied for a similar purpose.

In vain have these sages declared that Congress shall have power to lay and collect taxes, duties, imposts, and excises—in vain have they provided that they shall have power to pass laws which shall be necessary and proper to carry those powers into execution; that those laws and that Constitution shall be the "supreme law of the land; and that the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." In vain have the people of the several states solemnly sanctioned these provisions, made them their paramount law, and individually sworn to support them whenever they were called on to execute any office. Vain provisions! ineffectual restrictions! vile profanation of oaths! miserable mockery of legislation! if a bare majority of the voters in any one state may, on a real or supposed knowledge of the intent with which a law has been passed, declare themselves free from its operation—say here it gives too little, there too much, and operates unequally—here it suffers articles to be free that ought to be taxed, there it taxes those that ought to be free—in this case the proceeds are intended to be applied to purposes which we do not approve; in that the amount raised is more than is wanted. Congress, it is true, are invested by the Constitution with the right of deciding these questions according to their sound discretion. Congress is composed of the representatives of all the states; and of all the people of all the states; but WE, part of the people of one state, to whom the Constitution has given no power on the subject, from whom it has expressly taken it away—*we*, who have solemnly agreed that this Constitution shall be our law—*we*, most of whom have sworn to support it—*we* now abrogate this law, and swear, and force others to swear, that it shall not be obeyed—and we do this, not because Congress have no right to pass such laws; this we do not allege; but because they have passed them with improper views. They are unconstitutional from the motives of those who passed them, which we can never with certainty know, from their unequal operation; although it is impossible from the nature of things that they should be equal—and from the disposition which we presume may be made of their proceeds, although that disposition has not been declared. This is the plain meaning of the ordinance in relation to laws which it abrogates for alleged unconstitutionality. But it does not stop there. It repeals, in express terms, an important part of the Constitution itself, and of laws passed to give it effect, which have never been alleged to be unconstitutional. The Constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the Constitution, and treaties shall be paramount to the state constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States, by appeal, when a state tribunal shall decide against this provision of the Constitution. The ordinance declares there shall be no appeal; makes the state law paramount to the Constitution and laws of the United States: forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that state, to enforce the payment of duties imposed by the revenue laws within its limits.

Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single state. Here is a provision of the Constitution which is solemnly abrogated by the same authority.

On such expositions and reasonings, the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union, if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign states, who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because they made the compact, they can break it when, in their opinion, it has been departed from by the other states. Fallacious as this course of reasoning is, it enlists state pride, and finds advocates in the honest prejudices of those who have not studied the nature of our government sufficiently to see the radical error on which it rests.

The people of the United States formed the Constitution, acting through the state legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions;

but the terms used in its construction, show it to be a government in which the people of all the states collectively are represented. We are *one people* in the choice of the President and Vice President. Here the states have no other agency than to direct the mode in which the votes shall be given. The candidates having the majority of all the votes, are chosen. The electors of a majority of the states may have given their votes for one candidate, and yet another may be chosen. The people then, and not the states, are represented in the executive branch.

In the House of Representatives there is this difference, that the people of one state do not, as in the case of President and Vice President, all vote for the same officers. The people of all the states do not vote for all the members, each state electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular state from which they come. They are paid by the United States, not by the state; nor are they accountable to it for any act done in the performance of their legislative functions; and, however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

The Constitution of the United States, then, forms a *government*, not a league; and whether it be formed by compact between the states, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the states: they retained all the power they did not grant. But each state having expressly parted with so many powers as to constitute jointly with the other states a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation, and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any state may at pleasure secede from the Union, is to say that the United States are not a nation: because it would be a solecism to contend that any part of a nation might dissolve its connexion with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

Because the Union was formed by compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it; but it is precisely because it is a compact that they cannot. A compact is an agreement or binding obligation. It may, by its terms, have a sanction or penalty for its breach, or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt: if it have a sanction, then the breach incurs the designated or implied penalty. A league between independent nations, generally, has no sanction other than a moral one; or, if it should contain a penalty, as there is no common superior, it cannot be enforced. A government, on the contrary, always has a sanction, express or implied; and, in our case, it is both necessarily implied and expressly given. An attempt by force of arms to destroy a government, is an offence, by whatever means the constitutional compact may have been formed; and such government has the right, by the law of self-defence, to pass acts for punishing the offender, unless that right is modified, restrained, or resumed, by the constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and under this grant provision has been made for punishing acts which obstruct the due administration of the laws.

It would seem superfluous to add anything to show the nature of that union which connects us; but as erroneous opinions on this subject are the foundation of doctrines the most destructive to our peace, I must give some further development to my views on this subject. No one, fellow-citizens, has a higher reverence for the reserved rights of the states, than the magistrate who now addresses you. No one would make greater personal sacrifices, or official exertions, to defend them from violation; but equal care must be taken to prevent on their part an improper interference with, or resumption of, the rights they have vested in the nation. The line has not been so distinctly drawn as to avoid doubts in some cases of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It rests, as we have seen, on the alleged undivided sovereignty of the states, and on their having formed in this sovereign capacity a compact which is called the Constitution, from which, because they made it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The states severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties—declare war—levy taxes—ex-

ercise exclusive judicial and legislative powers—were all of them functions of sovereign power. The states, then, for all these important purposes, were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the government of the United States—they became American citizens, and owed obedience to the Constitution of the United States, and to laws made in conformity with the powers it vested in Congress. This last position has not been, and cannot be denied. How then can that state be said to be sovereign and independent, whose citizens owe obedience to laws not made by it, and whose magistrates are sworn to disregard those laws when they come in conflict with those passed by another? What shows conclusively that the states cannot be said to have reserved an undivided sovereignty, is, that they expressly ceded the right to punish treason—not treason against their separate power—but treason against the United States. Treason is an offence against *sovereignty*, and sovereignty must reside with the power to punish it. But the reserved rights of the states are not less sacred, because they have for their common interest made the general government the depository of these powers.

The unity of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal government we had no separate character—our opposition to its oppressions began as UNITED COLONIES. We were the UNITED STATES under the Confederation, and the name was perpetuated, and the Union rendered more perfect, by the Federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defence. How, then, with all these proofs that, under all changes of our position, we had, for designated purposes and with defined powers, created national governments—how is it, that the most perfect of those several modes of union should now be considered as a mere league, that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution was only a league, but, it is labored to prove it a compact (which in one sense it is), and then to argue that as a league is a compact, every compact between nations must of course be a league, and that from such an engagement every sovereign power has a right to recede. But it has been shown, that in this sense the states are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one state to exonerate itself from its obligations.

So obvious are the reasons which forbid this secession, that it is necessary only to allude to them. The Union was formed for the benefit of all. It was produced by mutual sacrifices of interests and opinions. Can those sacrifices be recalled? Can the states who magnanimously surrendered their title to the territories of the West, recall the grant? Will the inhabitants of the inland states agree to pay the duties that may be imposed without their assent by those on the Atlantic or the Gulf, for their own benefit? Shall there be a free port in one state, and onerous duties in another? No one believes that any right exists in a single state to involve all the others in these and countless other evils, contrary to engagements solemnly made. Every one must see that the other states, in self-defence, must oppose it at all hazards.

These are the alternatives that are presented by the convention: a repeal of all the acts for raising revenue, leaving the government without the means of support, or an acquiescence in the dissolution of our Union by the secession of one of its members. When the first was proposed, it was known that it could not be listened to for a moment. It was known, if force was applied to oppose the execution of the laws, that it must be repelled by force—that Congress could not, without involving itself in disgrace, and the country in ruin, accede to the proposition; and yet, if this is not done in a given day, or if any attempt is made to execute the laws, the state is, by the ordinance, declared to be out of the Union. The majority of a convention assembled for the purpose, have dictated these terms, or rather this rejection of all terms, in the name of the people of South Carolina. It is true, that the governor of the state speaks of the submission of their grievances to a convention of all the states; which, he says, they "sincerely and anxiously seek and desire." Yet this obvious and constitutional mode of obtaining the sense of the other states, on the construction of the federal compact, and amending it, if necessary, has never been attempted by those who have urged the state on to this destructive measure. The state might have proposed the call for a general convention, to the other states, and Congress, if a sufficient number of them concurred, must have called it. But the first magistrate of South Carolina, when he expressed a hope that, "on a review by Congress and the functionaries of the general government of the merits of the controversy," such a convention will be accorded to them, must have known that neither Congress nor any functionary of the general government has authority to call such a convention, unless it be demanded by two-thirds of the states. This suggestion, then, is another instance of the reckless inattention to the provisions of the Constitution with which this crisis has been madly hurried on; or of the attempt to persuade the people that a constitutional remedy had been sought and refused. If the legislature of South Carolina "anxiously desire" a general convention to consider their complaints, why have they not made application for it in the way the Constitution points out? The assertion

that they "earnestly seek" it, is completely negatived by the omission.

This, then, is the position in which we stand. A small majority of the citizens of one state in the Union have elected delegates to a state convention: that convention has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The governor of that state has recommended to the legislature the raising of an army to carry the secession into effect, and that he may be empowered to give clearances to vessels in the name of the state. No act of violent opposition to the laws has yet been committed, but such a state of things is hourly apprehended, and it is the intent of this instrument to PROCLAIM not only that the duty imposed on me by the Constitution "to take care that the laws be faithfully executed," shall be performed to the extent of the powers already vested in me by law, or of such others as the wisdom of Congress shall devise and intrust to me for that purpose, but to warn the citizens of South Carolina, who have been deluded into an opposition to the laws, of the danger they will incur by obedience to the illegal and disorganizing ordinance of the convention,—to exhort those who have refused to support it to persevere in their determination to uphold the Constitution and the laws of their country, and to point out to all the perilous situation into which the good people of that state have been led,—and that the course they are urged to pursue is one of ruin and disgrace to the very state whose rights they affect to support.

Fellow-citizens of my native state!—let me not only admonish you, as the first magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason, on which you stand! First, a diminution of the value of your staple commodity, lowered by over production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws. The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burdens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassalage, and that resistance to them was equal, in patriotic merit, to the opposition our fathers offered to the oppressive laws of Great Britain. You were told that this opposition might be peaceably—might be constitutionally made—that you might enjoy all the advantages of the Union and bear none of its burdens.

Eloquent appeals to your passions, to your state pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask which concealed the hideous features of disunion should be taken off. It fell, and you were made to look with complacency on objects which, not long since, you would have regarded with horror. Look back at the arts which have brought you to this state—look forward to the consequences to which it must inevitably lead. Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you, that you had the revolutionary right of resisting all laws that were palpably unconstitutional, and intolerably oppressive—it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it, made you receive with too much confidence the assertions that were made of the unconstitutionality of the law, and its oppressive effects. Mark, my fellow-citizens, that, by the admission of your leaders, the unconstitutionality must be palpable, or it will not justify either resistance or nullification! What is the meaning of the word *palpable*, in the sense in which it is here used?—that which is apparent to every one; that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description? Let those among your leaders who once approved and advocated the principle of protective duties, answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence, and endeavoring to mislead you now.

In either case, they are unsafe guides in the perilous path they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty, emulating the fame of our revolutionary fathers; nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage.

You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally passed, but that inequality must necessarily be removed. At the very moment when you were madly urged on the unfortunate course you have begun, a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that too on some articles of general consumption in your state. The importance of this change was understood, and you were authoritatively told that no further alleviation of your burdens was to be expected, at the very time when the condition of the country imperiously

demanded such a modification of the duties as should reduce them to a just and equitable scale. But, as if apprehensive of the effect of this change, in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

I have urged you to look back to the means that were used to hurry you on to the position you have now assumed, and forward to the consequences it will produce. Something more is necessary. Contemplate the condition of that country of which you still form an important part!—consider its government uniting in one bond of common interest and general protection so many different states—giving to all their inhabitants the proud title of American citizens—protecting their commerce—securing their literature and their arts—facilitating their intercommunication—defending their frontiers—and making their names respected in the remotest parts of the earth! Consider the extent of its territory, its increasing and happy population, its advance in arts, which render life agreeable, and the sciences which elevate the mind! See education spreading the lights of religion, humanity, and general information, into every cottage in this wide extent of our territories and states! Behold it as the asylum where the wretched and the oppressed find a refuge and support! Look on this picture of happiness and honor, and say, We, too, are citizens of America—Carolina is one of these proud states; her arms have defended—her best blood has cemented this happy Union! And then add, if you can, without horror and remorse, This happy Union we will dissolve—this picture of peace and prosperity we will deface—this free intercourse we will interrupt—these fertile fields we will deluge with blood—the protection of that glorious flag we renounce—the very name of Americans we discard. And for what, mistaken men! for what do you throw away these inestimable blessings—for what would you exchange your share in the advantages and honor of the Union? For the dream of a separate independence—a dream interrupted by bloody conflicts with your neighbors, and a vile dependence on foreign power. If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home—are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring republics, every day suffering some new revolution or contending with some new insurrection—do they excite your envy? But the dictates of a high duty oblige me solemnly to announce that you cannot succeed. The laws of the United States must be executed. I have no discretionary power on the subject—my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution, deceived you—they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion: but be not deceived by names: disunion, by armed force, is treason. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences—on their heads be the dishonor, but on yours may fall the punishment—on your unhappy state will inevitably fall all the evils of the conflict you force upon the government of your country. It cannot accede to the mad project of disunion, of which you would be the first victims—its first magistrate cannot, if he would, avoid the performance of his duty—the consequence must be fearful for you, distressing to your fellow citizens here, and to the friends of good government throughout the world. Its enemies have beheld our prosperity with a vexation they could not conceal—it was a standing refutation of their slavish doctrines, and they will point to our discord with the triumph of malignant joy. It is yet in your power to disappoint them. There is yet time to show that the descendants of the Pinckneys, the Sumpters, the Rutledges, and of the thousand other names which adorn the pages of your revolutionary history, will not abandon that Union, to support which so many of them fought and bled and died. I adjure you, as you honor their memory—as you love the cause of freedom, to which they dedicated their lives—as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your state the disorganizing edict of its convention—bid its members to reassemble and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity, and honor—tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all—declare that you will never take the field unless the star-spangled banner of your country shall float over you—that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country! Its destroyers you cannot be. You may disturb its peace—you may interrupt the course of its prosperity—you may cloud its reputation for stability—but its tranquillity will be restored, its prosperity will return, and the stain upon its national character will be transferred and remain an eternal blot on the memory of those who caused the disorder.

Fellow-citizens of the United States! The threat of unhallowed disunion, the names of those (once respected) by whom it was uttered, the array of military force to support it, denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and as the claim was asserted of a right by a state to annul the

laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions, in relation to the origin and form of our government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties which has been expressed, I rely with equal confidence on your undivided support in my determination to execute the laws—to preserve the Union by all constitutional means—to arrest, if possible, by moderate, but firm measures, the necessity of a recourse to force: and if it be the will of Heaven, that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

Fellow citizens! the momentous case is before you. On your undivided support of your government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessing it secures to us as one people shall be perpetuated. No one can doubt, that the unanimity with which that decision will be expressed will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage, which it will bring to their defence, will transmit them unimpaired and invigorated to our children.

May the great Ruler of nations grant, that the signal blessings with which he has favored ours may not, by the madness of party, or personal ambition, be disregarded and lost: and may his wise providence bring those who have produced this crisis to see the folly, before they feel the misery of civil strife: and inspire a returning veneration for that Union which, if we may dare to penetrate his designs, he has chosen as the only means of attaining the high destinies to which we may reasonably aspire.

Jackson, Joseph W., of Georgia.

Resolution of.

On the 5th of April, 1852, the following resolution, offered by Mr. Jackson of Georgia, came up:—

Resolved, That we recognise the binding efficacy of the compromises of the Constitution; and believe it to be the intention of the people generally, as we hereby declare it to be ours, individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves, and *the act of the last Congress for that purpose included*—and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress, known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous.

Mr. Hillyer of Georgia moved the following amendment:—

Resolved, That the series of acts passed during the first session of the 31st Congress, known as the compromise, are regarded as a final adjustment and permanent settlement of the questions therein embraced, and should be maintained and executed as such.

Mr. Hillyer's amendment was adopted, by yeas and nays as follows:—

Yeas.—Messrs. *Willis Allen* of Ill., Appleton of Mass., *Thos. H. Bayly* of Va., *Beale* of Va., Bowie of Md., *Breckenridge* of Ky., Briggs of N. Y., Brooks of N. Y., Geo. H. Brown of N. J., *Busby* of O., Cabell of Fla., Chandler of Pa., *Clark* of Io., *Cobb* of Ala., Cullom of Tenn., *Curtis* of Pa., *Davis* of Ind., *Dawson* of Pa., Dockery of N. C., *Dunham* of Ind., *Edmundson* of Va., *Ewing* of Tenn., Faulkner of Va., *Ficklin* of Ill., *Fitch* of Ind., *Florence* of Pa., *Freeman* of Miss., Fuller of Pa., *Fuller* of Me., *Gamble* of Pa., Gentry of Tenn., *Gorman* of Ind., Grey of Ky., *Hall* of Mo., *Hamilton* of Md., *Hammond* of Md., *Hart* of N. Y., Hawes of N. Y., Haven of N. Y., *Hendricks* of Ind., *Henn* of Io., *Hibbard* of N. H., *Hillyer* of Ga., *Houston* of Ala., *Howard* of Tex., *Ingersoll* of Conn., *Jackson* of Ga., *Johnson* of Tenn., Johnson of Ga., *Jones* of Tenn., Kuhns of Pa., *Kurtz* of Pa., Landry of Pa., *Letcher* of Va., *Lockhart* of Ind., *Mace* of Ind., *E. C. Marshall* of Cal., Marshall of Ky., Martin of N. Y., *Mason* of Ky., *McCorkle* of Cal., *McDonald* of Me., *McLanahan* of Pa., *McMullin* of Va., Miller of Mo., John Moore of La., Morehead of N. C., *Murray* of N. Y., *Nabers* of Miss., Outlaw of N. C., S. W. Parker of Ind., *Peaslee* of N. H., *Penn* of La., *Polk* of Tenn., Porter of Mo., *Price* of N. J., *Richardson* of Ill., *Riddle* of Del., *Robbins* of Pa., *Robinson* of Ind., *Ross* of Pa., *Savage* of Tenn., Schermerhorn of N. Y., *Scurry* of Tex., *Seymour* of N. Y., *Seymour* of Conn., *Smith* of Ala., Stanly of N. C., *Stanton* of Tenn., *Stanton* of Ky., *Stone* of Ky., *St. Martin* of La., Strother of Va., *Stuart* of Mich., *Sutherland* of N. Y., *Thompson* of Va., Walsh of Md., Ward of Ky., Watkins of Tenn., White of Ky., White of Ala., *Wilcox* of Miss., Williams of Tenn.—103.

Nays.—Messrs. *Aiken* of S. C., Allison of Pa., *Ashe* of N. C., *Averett* of Va., Babcock of N. Y., *Bailey* of Ga., Barrere of O., *Bartlett* of Vt., *Bocock* of Va., *Bragg* of Ala., Brenton of Ind., *Brown* of Miss., *Buell* of N. Y., *Cable* of O., Campbell of O., *Campbell* of Ill., *Caskie* of Va., Chapman of Conn., Clingman of N. C., Conger of Mich., *Daniel* of N. C., *Doty* of Wis., Durkee of Wis., *Eastman* of Wis., *Edgerton* of O., *Floyd* of N. Y., Fowler of Mass., *Gaylord* of O., Goodenow of Me., Goodrich of Mass., *Grow* of Pa., Harper of O., *Holladay* of Va., Horsford of N. Y., John W. Howe of Pa., Thos. M. Howe of Pa., Hunter of O., *Ives* of N. Y., *Jenkins* of N. Y., *Johnson* of O., *Johnson* of Ark., *Jones* of N. Y., *Preston King* of N. Y., Mann of Mass., *McQueen* of S. C., Meacham of Vt., *Meade* of Va., *Millson* of Va., *Molony* of Ill., Newton of O., *Olds* of O., *Orr* of S. C., Penniman of Mich., Perkins of N. H., *Powell* of Va., *Rantoul* of Mass., *Russell* of N. Y., Sackett of N. Y., Schoolcraft of N. Y., Scudder of Mass., *Smart* of Me., Stanton of O., Stevens of N. Y., *Stratton* of N. J., *Sweetser* of O., Thompson of Mass., Tuck of N. H., *Venable* of N. C., Walbridge of N. Y., *Wallace* of S. C. Washburn of Me., Wells of N. Y., *Woodward* of S. C., Yates of Ill.—74.

The question recurring upon Mr. Jackson's resolution as amended.

A division of the same was called for.

The first branch, being Mr. Jackson's original resolution, was adopted, by yeas and nays as follows:—

Yeas.—Messrs. *Willis Allen*, Wm. Appleton, *Thos. H. Bayly, Bocock, Bowie, Bragg, Breckenridge, Brooks, Albert G. Brown, Busby*, E. Carrington, Cabell, *Caskie, Clark, Cobb, Curtis, Daniel, Jno. G. Davis, Dawson*, Dockery, *Dunham, Edmundson, Ewing*, Faulkner, *Ficklin, Fitch, Florence, Freeman, Thos. J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson*, Jas. Johnson, *Geo. W. Jones, Kurtz*, Landry, *Letcher, Lockhart, E. C. Marshall*, Humphrey Marshall, Martin, *Mason, McCorkle, McDonald, McMullin, Meade, Miller*, Jno. Moore, Morehead, *Murray, Nabers*, Outlaw, Sam'l W. Parker, *Peaslee, Penn. Phelps, Polk, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage*, Schermerhorn, *Scurry, David L. Seymour, Origen S. Seymour, Smith, Frederick P. Stanton. Richard H. Stanton*, Abraham P. Stevens, *Stone, St. Martin*, Strother, *Stuart, Sutherland, Geo. W. Thompson, Venable*, Walsh, Ward, Watkins, Addison White, Alex. White, *Wilcox*, Williams.—101.

Nays.—Messrs. *Aiken*, Allison, *Ashe, Averett, D. J. Bailey*,

Barrere, *Bartlett*, Brenton, G. H. Brown, *Buell, J. Cable*, Lewis D. Campbell, *Thompson Campbell*, Chapman, Clingman, Conger, *Dean, Doty*, DURKEE, *Eastman, Edgerton, Floyd*, Fowler, *Gaylord*, Goodenow, Goodrich, *Grow*, Harper. *Holladay*, Horsford, Thos. M. Howe, *Ives, Jenkins, Jno. Johnson, Daniel T. Jones, Preston King*, Kuhns, Mann, *McQueen*, Meacham, *Millson, Miner, Molony, Newton, Orr*, Penniman, Perkins, *Powell, Rantoul*, Sackett, Schoolcraft, Scudder, *Smart*, Benjamin Stanton. *Stratton, Sweetser*, Benj. Thompson, Tuck, Walbridge, *Wallace*, Washburn, Wells, *Woodward*, Yates.—64.

Whigs in roman; Democrats in *italics;* Free Soilers in SMALL CAPS.

The second branch, being Mr. Hillyer's amendment, was then again adopted by a vote of yeas 100, nays 65.

Messrs. Dean and Stephens of N. Y. voted for the second branch. They did not vote on it in the shape of Hillyer's amendment.

Messrs. Beale of Va., and Isham G. Harris of Tenn., stated, if they had been in the House when the vote was taken, they would have voted for both the resolution and the amendment. The former had, however, in the early stage of the proceedings, moved to lay Mr. Jackson's resolution on the table.

The resolution of Mr. Jackson, leaving out the part italicized, was identical with one offered by Mr. Fitch of Ind., on the 1st of March, 1852, which he did not obtain a suspension of the rules to introduce.

Jones, James C.

REASONS OF, FOR SUPPORTING THE DEMOCRATIC TICKET.

EXTRACT from the speech of the Hon. James C. Jones, of Tennessee, delivered in the Senate, August 9, 1856:—

"I have another reason why I am going to vote this Democratic ticket; and it is a hard thing for me to say. I regard the present Democratic party as affording the only and last hope of security to the South. Gentlemen may say, 'this is sectional.' Be it so; I do not care whether you call it sectional or not. It is a fact, and I mean to establish it from the records. I say that, in my judgment, the Democratic party affords the best, if not last, hope of safety and security to the South. Why do I say so? We have had a Democratic party, and we have had a Whig party. We have had contest after contest. What has become of the Whig party of the North? The northern wing of the Whig party has gone off—where? They have become thoroughly abolitionized. And the American party, rising upon the ruins of the Whig party, did it upon the hope and assurance, as I believe, that they would be able to establish a national party. They did establish a national party; and how long did it last? It lasted until they had the first national convention, when they broke asunder—the North going to itself, and the South standing by itself, with a few exceptions in the North. I maintain there is but one party that is national, and that is maintaining the rights of the South. I do not pretend to say that the South Americans are not as conservative, national, and true to the constitutional rights of the South as any party—I know they are; but I know, at the same time, they have no such support at the North as to give them power to carry out their purposes. Then where are we to look?

"I ask you to go to the record, and begin as far back as 1845, and let us see how it stands. In 1845 Florida proposed to be admitted into the Union as a slave state. How stood the vote on that question? In the House, northern Democrats voted—yeas 58, nays 4; all others from the North, nays 37. In the Senate, northern Democrats—12 yeas, nays none; all other northern men—yeas none, nays 9. Therefore Florida would not have been admitted, and never could have been admitted, but for the votes of the northern Democrats.

"Again: when Texas sought to be annexed, how stood the vote? I was opposed to the acquisition of Texas, and therefore I make every allowance. I opposed it upon the grounds of opposition to all territorial aggrandizement; but when the question came here, how did the vote stand? Northern Democrats in the House—yeas 37, nays 3; all others from the North—yeas none, nays 46. Then it got not a single northern vote except Democratic ones. Now I ask southern gentlemen if that is not significant? If that does not teach something? If it does not point to something? Here is a southern state asking for admission. We are not strong enough to admit her, and we have to look to the North for her admission. Who comes to our assistance! Northern Democrats, and northern Democrats alone.

"Again: when the fugitive slave law was passed, how did the vote stand? Northern Democrats—yeas 28, nays 14; all others from the North—yeas 3, nays 62. Then the fugitive slave law never could have been passed but by northern Democratic votes. It only received three northern votes outside of the Democratic party, and I believe they were Whigs, and therefore it never could have been passed but for the Democratic party.

"But I come down to later times, when the Kansas-Nebraska bill was here. Gentlemen say that was not a northern and southern question. I will not pretend to argue that. All that I know is what I find on the record. How did the vote stand? Northern Democrats in the House—yeas 45, nays 38; all other representatives of the North—not one yea, nays 54. Then the Kansas-Nebraska bill, which I regard as a southern measure, did not receive a single northern Whig vote in the House of Representatives. How did it stand in the Senate? Northern Democrats—yeas 14, nays 4. How many northern Whigs voted for it? Not one.

"Upon each and every one of these measures we have had to rely on the northern Democrats to carry and to sustain them, and without them they would have been lost. I will state another fact in regard to the Kansas bill. If there had not been a southern Senator in the world—if the last one of us had been engulfed before the vote was taken, the north-

ern Democrats would have passed it over all opposition. It received northern Democratic votes enough to pass it without the vote of a single southern Senator; and not one northern Whig would stand by us to vote for it. It may be said there is nothing in that; but is it not a strange coincidence, that in each of these measures the Democrats sustained what are supposed to be the rights and interests of the South, and all others from the North voted against them?—none except Democrats standing with us, except three, on the fugitive slave bill.

"Now, sir, when you come to the election of Mr. Speaker Banks, how does the record stand? After ten weeks of toil and labor, how does it stand? In the final vote Mr. Banks received one hundred and three votes, and Mr. Aiken one hundred. How many northern votes did Mr. Aiken get, and who were they? Mr. Aiken did not receive a single northern vote which was not a Democratic vote. Where were the North Americans then, who mean to do us justice—who mean to stand by us in the preservation of our rights? Did a single one of them vote for Mr. Aiken? Not one. Every northern vote for him was a Democratic vote, and every other northern vote was cast against him. He received every southern vote, American and all, except one or two; but not one northern vote except from the Democratic party. How was it upon the Topeka convention bill in the other House a few days ago? The very same thing substantially in regard to that. Now, I ask southern men—and I wish my voice could reach to every man in the South—how do you think, with these facts before you, your rights are to be preserved? You tell me I ought not to vote for the Democratic party. Where shall I flee for safety and protection for myself, for my wife, for my children, and the graves of my ancestors? Whom shall I trust at the North? Here and there is a man whom you may trust; but what organized party there may you trust, when the rights of the South are in danger? If there were no other question in the world, and there was that isolated fact staring me in the face, I should feel bound now, as a man consulting the interests of the country, to cast the vote which I have suggested.

"There is another consideration. Are we not bound by an obligation, as high, as solemn as honor itself, to stand by those who have succored us in our hours of trial? What interest have these gentlemen of the North to stand by us? If they were but consulting the prejudices, and passions, and fanaticism of their people, they would go on with the great tide, swimming, gloriously and quietly. Yet when the question comes here, they stand by the Constitution; they stand by its compromises; they stand by the country. For that they receive anathemas at the North, and, be it said to our shame, too often anathemas at the South. To the South I would say in solemn condemnation, 'Go on in your work of ingratitude, if you choose to peril all: treat these men with the ingratitude and injustice with which you are treating some of them; and when the dark hour comes, you know that you are in a hopeless minority, you know that that minority is becoming weaker every day; and when another storm shall come, whom will you call upon to succor you? You banish those men who have stood by you; you denounce them as enemies to the country; you have treated them with ingratitude and injustice; and when the hour of trial and danger comes, where will you find your support—where? This solemn warning comes up as an echo, and answers, Where? I appeal to this record; if you find them not there, you will find them not at all. If you find them not at all, what will you do? Men of the South, what can you do? No allies at the North; no support there; no succor there. Your venerable men are taken away from the public councils, swallowed up in fanaticism, and what will you do? You have but one last refuge, and that is your own right arm to defend yourself. Then the end has come, and then all our cherished devotion to the Constitution and the Union will avail us nothing; we of the South shall be left to defend ourselves, our own firesides, our own household gods, our wives, and our daughters—we shall be left single and alone to stem the fearful tide. Fearful as this may be, we will stand by them and die by them."

Kennett, L. M., of Missouri.

DEFINITION OF AMERICANISM IN MISSOURI.

I AM sorry I cannot suit the gentleman in my reply. He says the Democratic party are a unit—that they everywhere fully endorse the principles of the Kansas-Nebraska Bill. I say they nevertheless claim and exercise the largest liberty in putting their own construction upon that bill; and that construction is notoriously different, not only in different sections of the Union, but amongst brethren of the same locality. Now the American party also needed a platform for the Presidential canvass, and that of February last was put forth to answer that purpose. If it was not perfect, it was the best we could get, and we had to take it, those of us that it did not precisely suit—with the mercantile reservation—errors excepted. But I will tell the gentleman what I do believe in—namely, the principles of my party as generally understood in my own state, and openly published to the world. All secrecy is there discarded, and religious tests ignored. Whatever may have been the case in the early organization of our party either in Missouri or elsewhere, its principles and objects are now what I represent them to be, patent to all the world, and I would add, in my humble judgment, patriotic, and worthy to succeed—though, perhaps, yet requiring some modifications to make them acceptable to a majority of our people. As a matter personal to myself, I would further say, that from my first connexion with the American

party I have insisted on its present principles, those now adopted in my own state, as the only ones under which, as a party, we could hope for success, or with which, in fact, we ought to succeed.

But the gentleman says we outrage and disgust foreign citizens by refusing to endow them with our franchises, and make them guardians of liberty, as soon as they land upon our shores. Whom do we disgust? Not those already here, for we will take nothing from them in providing prospectively for a longer residence preparatory to the admission as citizens of those who are yet to arrive. We think they should become Americans in feeling before they are made so in fact, and we claim the unquestioned right to prescribe the terms upon which they shall share our privileges. Have we not reason to desire that Americans shall rule their own country, and that a majority of those born upon the soil, or who at any rate have lived upon it long enough to become, to some extent at least, "native, and to the manner born," shall make the laws, and elect our Presidents?

I know it is said in reply to this, that Americans do already rule America, and that this cry is a mere party catchword. But I deny that this is so. For the last five and twenty years, parties in this country have generally been so evenly divided that the vote of citizens of foreign birth, but recently arrived, and not in all cases legally qualified, has usually controlled the result of our elections, and perpetuated the power of the Democratic party. Was your President, the present occupant of the White House, at the other end of the avenue, elected by the voice of a majority of American born citizens? On the contrary, without the foreign vote which was cast for him almost universally, he never would have been elevated to the distinguished position he has filled, and not without honor to himself, for the last four years.

Kentucky.

On the 8th of December, 1790, President Washington, in his opening address to Congress, informed it, that he had received communications by which it appeared that the district of Kentucky, then a part of Virginia, had concurred in certain propositions contained in a law of that state, in consequence of which the district was to become a distinct member of the Union, in case the requisite sanction of Congress be added.

On the 9th of December the President transmitted to Congress the communications to which he had referred. It consisted of certain resolutions of the district of Kentucky, giving its assent to the terms and conditions of the act of Virginia of the 18th of December, 1789, entitled "An act concerning the erection of the district of Kentucky into an independent state."

The resolutions were accompanied by a memorial of the convention of Kentucky, setting forth the inconveniences resulting from the local situation of their district as a part of Virginia. The memorial went on to say: "here your memorialists would acknowledge with peculiar pleasure the benevolence of Virginia in permitting them to remove the evils arising from that source, by assuming upon themselves a state of independence.

"This they have thought it expedient to do on the terms and conditions stipulated in the above recited act, and fixed on the 1st day of June, 1792, as the period when the said independence shall commence.

"It now remains with the President and Congress of the United States to sanction these proceedings by an act of their honorable legislature, prior to the 1st day of November, 1791, for the purpose of receiving into the Federal Union the people of Kentucky, by the name of the state of Kentucky.

"Should this determination of your memorialists meet the approbation of the general government, they have to call a convention to form a constitution subsequent to the act of Congress and prior to the day fixed for the independence of this country."

On the 3d of January, 1791, Mr. Schuyler of N. Y., from the committee to whom the subject was referred, made a report in favor of the admission of Kentucky as an independent state.

On the 12th of January, 1791, a bill passed the Senate entitled "An act declaring the consent of Congress that a new state be formed within the jurisdiction of the commonwealth of Virginia, and admitted into the Union by the name of the state of Kentucky."

This bill passed the House on the 28th of January, 1791, and became a law by the approval of the President on the 4th of February, 1791.

Act approved February 25th, 1791, entitled Kentucky to two representatives in Congress.

The constitution of Kentucky was never submitted to Congress, nor was any act subsequent to its formation passed by Congress recognising her admission in the Union. Her Senators, Messrs. Brown and Edwards, took their seats in the Senate without any inquiry as to what character of constitution Kentucky had formed, or anything else.

Resolutions of 1798 and 1799.

(The original draught prepared by Thomas Jefferson.)

The following resolutions passed the House of Representatives of Kentucky, Nov. 10, 1798. On the passage of the first resolution, one dissentient; 2d, 3d, 4th, 5th, 6th, 7th, 8th, two dissentients; 9th, three dissentients.

1. Resolved, That the several states composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general

government for special purposes, delegated to that government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self-government; and, that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each state acceded as a state, and is an integral party; that this government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but, that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

2. Resolved, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever; and it being true, as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people," therefore also the same act of Congress, passed on the 14th day of July, 1798, and entitled "An act in addition to the act entitled An act for the punishment of certain crimes against the United States;" as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States," (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution), are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective states, each within its own territory.

3. Resolved, That it is true, as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the states, all lawful powers respecting the same did of right remain, and were reserved to the states or to the people; that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgment by the United States, of the freedom of religious principles and exercises, and retained to themselves the right of protecting the same, as this, stated by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: and that, in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch that whatever violates either, throws down the sanctuary which covers the others; and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognisance of federal tribunals. That therefore the act of the Congress of the United States, passed on the 14th of July, 1798, entitled "An act in addition to the act entitled An act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no force.

4. Resolved, that alien friends are under the jurisdiction and protection of the laws of the state wherein they are: that no power over them has been delegated to the United States, nor prohibited to the individual states distinct from their power over citizens; and it being true, as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited to the states, are reserved to the states respectively, or to the people," the act of the Congress of the United States, passed the 22d day of June, 1798, entitled, "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

5. Resolved, That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inferred in the Constitution, from abundant caution has declared, "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is, therefore, contrary to the said provision of the Constitution, and void.

6. Resolved, That the imprisonment of a person under the protection of the laws of this commonwealth on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act, entitled, "An act concerning aliens," is contrary to the Constitution, one amendment in which has provided, that "no person shall be deprived of liberty without due process of law," and, that another having provided, "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed as to the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel for his defence," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore not law, but utterly void and of no force.

That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides, that "the judicial power of the United States shall be vested in the courts, the judges of which shall hold their office during good behavior," and that the said act is void for that reason also; and it is further to be noted that this transfer of judiciary power is to that magistrate of the general government who already possesses all the executive, and a qualified negative in all the legislative powers.

7. Resolved, That the construction applied by the general government (as is evident by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress power to lay and collect taxes, duties, imposts, excises; to pay the debts, and provide for the common defence and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution: That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument: That the proceedings of the general government under color of those articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. Resolved, That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this commonwealth, who are enjoined to present the same to their respective Houses, and to use their best endeavors to procure at the next session of Congress a repeal of the aforesaid unconstitutional and obnoxious acts.

9. Resolved lastly, That the governor of this commonwealth be, and is hereby authorized and requested to communicate the preceding resolutions to the legislatures of the several states, to assure them that this commonwealth considers union for special national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the states—that, faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation; that it does also believe, that to take from the states all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these states; and that, therefore, this commonwealth is determined, as it doubts not its co-states are, to submit to undelegated and consequently unlimited powers in no man, or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution as cognisable by them; that they may transfer its cognisance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these states, being by this precedent reduced as outlaws to the absolute dominion of one man and the barriers of the Constitution thus swept from us all, no rampart now remains against the passions and the power of a majority of Congress, to protect from a like exportation or other grievous punishment the minority of the same body, the legislatures, judges, governors, and counsellors of the states, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the states and people, or who, for other causes, good or bad, may be obnoxious to the view or marked by the suspicions of the President, or to be thought dangerous to his or their elections or other interests, public or personal; that the friendless alien has been selected as the safest subject of a first ex-

periment; but the citizen will soon follow, or rather has already followed; for, already has a sedition act marked him as a prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these states into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron; that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is everywhere the parent of despotism; free government is found in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no farther, our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits? Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution. That this Commonwealth does therefore call on its co-states for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes hereinbefore specified, plainly declaring whether these acts are or are not authorized by the federal compact. And it doubts not that their sense will be so announced as to prove their attachment to limited government, whether general or particular, and that the rights and liberties of their co-states will be exposed to no dangers by remaining embarked on a common bottom with their own: but they will concur with this commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the general government, but that it will proceed in the exercise over these states of all powers whatsoever. That they will view this as seizing the rights of the states and consolidating them in the hands of the general government, with a power assumed to bind the states (not merely in cases made federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent; that this would be to surrender the form of government we have chosen, and live under one deriving its powers from its own will, and not from our authority; and that the co-states recurring to their natural rights in cases not made federal, will concur in declaring these void and of no force, and will each unite with this Commonwealth in requesting their repeal at the next session of Congress. EDMUND BULLOCK, S. H. R.
JOHN CAMPBELL, S. P. T.

Passed the House of Representatives, Nov. 10, 1798.

Attest, THOS. TODD, C. H. R.

In Senate, Nov. 13, 1798.—Unanimously concurred in.

Attest, B. THURSTON, C. S.

Approved, Nov. 19, 1798.

JAS. GARRARD, Gov. of Ky.

By the Governor,

HARRY TOULMIN, Sec. of State.

House of Representatives, Thursday, Nov. 14, 1799.

The House, according to the standing order of the day, resolved itself into a committee of the whole House, on the state of the commonwealth, Mr. Desha in the chair; and after some time spent therein, the speaker resumed the chair, and Mr. Desha reported that the committee had taken under consideration sundry resolutions passed by several state legislatures, on the subject of the alien and sedition laws, and had come to a resolution thereupon, which he delivered in at the clerk's table, where it was read and *unanimously* agreed to by the House, as follows:—

The representatives of the good people of this commonwealth, in General Assembly convened, having maturely considered the answers of sundry states in the Union, to their resolutions passed the last session, respecting certain unconstitutional laws of Congress, commonly called the alien and sedition laws, would be faithless, indeed, to themselves and to those they represent, were they silently to acquiesce in the principles and doctrines attempted to be maintained in all those answers, that of Virginia only excepted. To again enter the field of argument, and attempt more fully or forcibly to expose the unconstitutionality of those obnoxious laws, would, it is apprehended, be as unnecessary as unavailing. We cannot, however, but lament that, in the discussion of those interesting subjects by sundry of the legislatures of our sister states, unfounded suggestions and uncandid insinuations, derogatory to the true character and principles of this commonwealth, have been substituted in place of fair reasoning and sound argument. Our opinions of these alarming measures of the general government, together with our reasons for those opinions, were detailed with decency and with temper, and submitted to the discussion and judgment of our fellow-citizens throughout the Union. Whether the like decency and temper have been observed in the answers of most of those states who have

denied or attempted to obviate the great truths contained in those resolutions, we have now only to submit to a candid world. Faithful to the true principles of the Federal Union, unconscious of any designs to disturb the harmony of that Union, and anxious only to escape the fangs of despotism, the good people of this commonwealth are regardless of censure or calumniation. Least, however, the silence of this commonwealth should be construed into an acquiescence in the doctrines and principles advanced and attempted to be maintained by the said answers, or least those of our fellow-citizens throughout the Union who so widely differ from us on those important subjects, should be deluded by the expectation, that we shall be deterred from what we conceive our duty, or shrink from the principles contained in those resolutions—therefore,

Resolved, That this commonwealth considers the Federal Union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several states: That it does now unequivocally declare its attachment to the Union, and to that compact, agreeably to its obvious and real intention, and will be among the last to seek its dissolution: That if those who administer the general government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, an annihilation of the state governments, and the creation upon their ruins of a general consolidated government, will be the inevitable consequence: That the principle and construction contended for by sundry of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism—since the discretion of those who administer the government, and not the Constitution, would be the measure of their powers: That the several states who formed that instrument being sovereign and independent, have the unquestionable right to judge of the infraction; and that a nullification by those sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy: That this commonwealth does, under the most deliberate reconsideration, declare that the said alien and sedition laws are, in their opinion, palpable violations of the said Constitution; and, however cheerfully it may be disposed to surrender its opinion to a majority of its sister states, in matters of ordinary or doubtful policy, yet, in momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this commonwealth, as a party to the federal compact, will bow to the laws of the Union, yet it does, at the same time, declare that it will not now, or ever hereafter, cease to oppose in a constitutional manner every attempt, at what quarter soever offered, to violate that compact. And, finally, in order that no pretext or arguments may be drawn from a supposed acquiescence on the part of this commonwealth in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the federal compact—this commonwealth does now enter against them its solemn protest.

Extract, &c. Attest, T. Todd, C. H. R.

In Senate, Nov. 22, 1799—Read and concurred in.

Attest, B. Thurston, C. S.

Louisiana.

The Act of March 26, 1804, divided all that country ceded by France to the United States under the name of Louisiana, into two territories, constituting the southern portion thereof the territory of Orleans.

The tenth section of the bill contained the following provision:—

"It shall not be lawful for any person or persons to import or bring into the said territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves, which shall have been imported since the first day of May, one thousand seven hundred and ninety-eight, into any port or place within the limits of the United States, or which may be so imported, from any port or place without the limits of the United States; and every person so offending, and being thereof convicted before any court within said territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported or brought, the sum of three hundred dollars, one moiety for the use of the United States, and the other to the use of the person or persons who shall sue for the same; and no slave or slaves shall, directly or indirectly, be introduced into said territory, except by a citizen of the United States, removing into said territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves; and every slave imported or brought into the said territory, contrary to the provisions of this act, shall thereupon be entitled to and receive his or her freedom."

The bill authorizing the people of Orleans territory to form a constitution and state government, reported in the House by Mr. Macon, of North Carolina, from a committee to whom had been referred the memorial of the legislature of that territory, was brought to a vote in the House on the 15th of January, 1811.

The opposition to the bill in the House grew out of the want of power contended for by those who opposed the bill to admit new states created out of territory not originally within the limits of the United States. To use the language of Mr. Quincy, of Massachusetts, who spoke against the bill—

"The creation of new states or political sovereignties, without the original limits of the United States, is a usurpation of power not warranted by a sound construction of the Constitution."

The vote on the passage of the bill in the House was yeas 77, nays 36.

The negative vote was as follows:—

Messrs. Bigelow of Mass., Blaidsell of N. H., Chamberlain of N. H., Chamberlin of Vt., Chittenden of Vt., Davenport of Conn., Ely of Mass., Emott of N. Y., Goldsborough of Md., Gold of N. Y., Hale of N. H., Heister of Pa., Hubbard of Vt., Huntington of Conn., Jackson of R. I., Jenkins of Pa., Key of Md., Lewis of Va., R. L. R. Livingston of N. Y., McBride of N. C., Milnor of Pa., Moseley of Conn., Pearson of N. C., Pitkin of Conn., Potter of R. I., Quincy of Mass., Stanley of N. C., Sturges of Conn., Swoope of Va., Taggart of Mass., Talmadge of Conn., Van Dyke of Del., Van Horn of Md., Van Rensselaer of N. Y., Wheaton of Mass., Wilson of N. H.

In the Senate, January 30, 1811, on motion of Mr. Dana to amend by inserting the following proviso,

Provided, That this act shall not be understood to admit such state into the Union as aforesaid, unless each of the states shall consent to the same,—

It was negatived as follows:—

YEAS.—Messrs. Bradley of Vt., Champlin of R. I., Dana of Conn., German of N. Y., Gilman of N. H., Goodrich of Conn., Horsey of Del., Lloyd of Mass., Pickering of Mass., Reed of Md.—10.

NAYS.—Messrs. Campbell of O., Clay of Ky., Condit of N. J., Franklin of N. C., Gaillard of S. C., Gregg of Pa., Lambert of N. J., Leib of Pa., Matthewson of R. I., Pope of Ky., Robinson of Vt., Smith of Md., Smith of N. Y., Tait of Ga., Taylor of S. C., Turner of N. C., Whiteside of Tenn., Worthington of O.—18.

On motion of Mr. Dana, further to amend, Provided, That this act shall not be understood to admit such state into the Union as aforesaid, unless there shall be a constitutional amendment empowering the Congress to admit into the Union new states formed beyond the boundaries of the United States, as known and understood at the time of establishing the Constitution of the United States.

It was determined in the negative, yeas 8, nays 17.

The vote was the same as in the previous amendment, with the exception that Messrs. Bradley, Horsey, and Robinson did not vote at all on this.

The bill passed the Senate on the 7th of February, 1811, by a vote of yeas 22, nays 10.

YEAS.—Messrs. Anderson of Tenn., Brent of Va., Campbell, Clay, Condit, Crawford, Cutts, Franklin, Gaillard, Gregg, Lambert, Leib, Matthewson, Pope, Robinson, Smith of Md., Smith of N. Y., Tait, Taylor, Turner, Whiteside, Worthington.

NAYS.—Messrs. Bayard of Del., Champlin, Dana, German, Gilman, Goodrich, Horsey, Lloyd, Pickering, Reed.

The House and Senate disagreed upon some amendments, which agreements were finally reconciled, and the bill became a law by the approval of the President on the 20th of February, 1811.

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The territory of Orleans, in pursuance of the act, formed a state constitution under the name and title of the State of Louisiana. This constitution was communicated to Congress on the 3d of March, 1812, by President Madison.

The bill for the admission of Louisiana, reported by Mr. Dawson in the House, from a committee appointed on the message of the President relative thereto, passed the House on the 20th of March, 1812, by a vote of yeas 79, nays 23.

The negative vote was as follows:—

Messrs. Bleecker of N. Y., Champion of Conn., Chittenden of Vt., Ely of Mass., Emott of N. Y., Fitch of N. Y., Jackson of R. I., Law of Conn., Lewis of Va., Livingston of N. Y., Milnor of Pa., Mosely of Conn., Pearson of N. C., Pitkin of Conn., Quincy of Mass., Reed of Mass., Sammons of N. Y., Seybert of Pa., Stuart of Md., Sturges of Conn., Tallmadge of Conn., Wheaton of Mass., White of Mass.

The bill passed the Senate on the 31st of March, 1812, with some amendments, which were concurred in by the House, and it became a law by the approval of the President, on the 8th of April, 1812.

Thus Louisiana was admitted as a state.

20

AMERICAN PARTY OF.

From speech of Mr. George Eustis, of La., in House of Representatives, January 7, 1856:—

We hold, sir, in Louisiana, and we hold it as a cardinal maxim—and I hope to God that it will be so held in every state of this Union—that religious faith is a question between each individual and his God; and we consider that any attempt to abridge or circumscribe religious freedom is unworthy of our great country, and must be repudiated by every party in this country. We consider that it is in violation of the organic laws of the land; and in that spirit the American party in Louisiana repudiated the eighth article of the Philadelphia platform; and, sir, I now repudiate it in toto. I care not, sir, what construction gentlemen, in perfect good faith, may be pleased to put upon it. I know that gentlemen have addressed this House, and told us that they meant nothing by the eighth article of the Philadelphia platform; that is to say, that the construction which they place upon it could not be considered as offensive as against American Catholics, and therefore as inoperative and innocent as against that class of our citizens. But, Mr. Clerk, as I said before, I care not what construction they put upon it. I listened with pleasure to the remarks of the eloquent gentleman from the Louisville district [Mr. Humphrey Marshall], and I am satisfied that that gentleman agrees with me entirely. I am satisfied that the honorable gentleman from the Louisville district does not intend to proscribe American Catholics. I am satisfied that, when he says that he is in favor of the broadest religious liberty, what he says comes from the bottom of his heart, and that he stands with me, where every American must stand, upon the broad basis of religious liberty. [Applause in the galleries.]

But, as I said before, I care not what construction is put upon it. The words are there in white and black, and they are offensive and insulting to the American Catholics of America. Let us look at what took place in the state of Virginia during the last state election. What was the construction which the American candidate for governor of that state placed upon the eighth article of the Philadelphia platform? We all know that, in the early part of his canvass, that candidate published a letter in which he said he never would vote for a Catholic. Thank God, that gentleman was defeated, and, sir, he ought to have been defeated. There was enough in that letter to defeat ten thousand candidates for governor; and I trust that every man who holds such odious and monstrous doctrines, will ever meet with as deep a political grave as the honorable gentleman, the American candidate for governor of Virginia, has met with.

I agree with the honorable gentleman from Mississippi [Mr. Bennett] when he says, if the eighth article of the Philadelphia platform does not mean to proscribe Catholics, it means

nothing. And, sir, what can it mean? I believe it means nothing. It is a mere abstraction—a mere idle concession to the prejudices of one class of religionists—and has no place in a national platform. And I undertake to show to this House, if they will take the declaration of the members of the National American party upon this floor, and if they will examine the eighth article of the Philadelphia platform, that they will find that it means nothing; because the cardinal principle—the great principle, according to my understanding—of the American platform, is this; that none but native-born Americans should be elevated to office; therefore, if none but native-born Americans are to be elevated to office, all foreigners are excluded—foreign Catholics are excluded, foreign Protestants are excluded, and foreign Jews are excluded. And they are not excluded on account of their religion, but on account of their birth; therefore, if foreign Catholics are excluded on account of their birth, and not on account of their religion, the only Catholics who remain to be dealt with, and the only Catholics who can come up and be considered as candidates by the American party, are the American Catholics. They are the only Catholics who can be considered as candidates by the American party, because all foreigners are excluded; and, as I said before, foreign Catholics are excluded by coming within that designation.

Mr. Valk. I suggest to the gentleman from Louisiana, with great courtesy and kindness to him, that, at this particular stage of the proceedings in the call of the roll, he should be kind enough to suspend his remarks for the present. [Laughter, and cries of "Go on!"]

Mr. Eustis. I would accept of the gentleman's suggestion, but I beg to inform him that I have but little more to say. The gentlemen whom I am addressing now are not the Democratic party of this House. The gentlemen whom I am now addressing belong to the National American party, and I want them to understand distinctly where I stand. I am no Catholic, and I have been but seldom within the walls of a Catholic church—and that, however, is nothing in my favor. I say I desire that they should understand exactly where I stand; and I tell them that by that eighth article of the Philadelphia platform, according to the view I take of it, they either exclude or intend to proscribe American Catholics, or they mean nothing, because gentlemen have stated upon this floor that they did not intend to proscribe American Catholics. Then, gentlemen, if you mean nothing by that article of the platform, in the name of God strike it out, for it is a blot upon the history of our country. Every one knows, who has given any thoughts to the prospects of this American party, that that article has driven thousands from our ranks who coincided with us in other respects. The American people are generous, and you have excited that generosity. They will not agree with you in this crusade against Catholicism; and I would rather that this right arm should wither than be connected with any party whose purpose it is to persecute the Catholics of this great country.

Gentlemen talk about the Papal power. The honorable gentleman from North Carolina [Mr. Reade] the other day asked the honorable gentleman from Georgia, [Mr. Stephens], whether he would vote for a Catholic whose religious opinions he suspected of being hostile to the general interests of this country. What right has that gentleman to challenge the nationality of his peer, his equal, and require him to purge his conscience, before he can hold communion with him on the footing of an American citizen? What right have you to denounce him as a traitor to his country, and compel him to stand before your bar as a criminal—as an individual hostile to the institutions of your country?

I tell you, gentlemen, you have just as much right to put your hands in another man's pocket, to see if the money he has belongs to him, as to take that position towards the American Catholic—as to dare to presume to ask him whether he entertains opinions hostile to the institutions of this country.

Gentlemen ought to recollect that here, in this Congress, there is not a single Catholic priest. And, for my part, I am opposed to all religious interference with our political affairs. I am in favor of maintaining and keeping up the divorce between Church and State which has been established by our great fathers. But, sir, that very same reason which makes me a deadly enemy of Catholic interference with our institutions, makes me blush for my countrymen when I see the Protestant Church soiling its robes by draggling them in the mire of politics. Your legislatures are filled with gentlemen who wear white cravats and black coats. Your Congress has a large proportion of these clerical gentlemen. And I ask you, with all due respect and all due courtesy to gentlemen of the cloth, to show me a Catholic priest or an accredited agent of the Church of Rome in this hall. Gentlemen who talk about the Pope of Rome ought to recollect that that poor old man, who is an object of such terror to them, is now in the custody of a guard of French soldiers.

But, Mr. Clerk, I have consumed more time than I desired to have done. I will simply close my remarks by asking the gentleman from North Carolina [Mr. Reade] where he gets the authority for thus blackballing his peers, his equals, the Catholics?—where he gets the authority for stamping them as the mere tools of the Pope of Rome?—where he gets the authority for considering them as unworthy of participating in the great councils of this country? Does the gentleman find his authority, or will he find it, in the Constition of the United States? Will the gentleman find it in the treaty between France and the United States, by which the territory of Louisiana was ceded to this country, and by which the religious rights of its inhabitants

were guarantied to them? Will the gentleman find it in the Farewell Address of the great Father of our Country—in that address which is so often quoted by the orators of the American party? Will the gentleman find it in that great book, the Bible, on which so much veneration has been wasted so unprofitably in the Philadelphia platform? I will tell the gentleman where he will find it. He will find it in the teachings and in the inspiration of that dark spirit of fanaticism which is the curse of the Anglo-Saxon race. The gentleman will find it in that spirit by which Protestants were driven from New England by their fellow Protestants in our colonial days. He will find it in that spirit which made the Episcopalians of Virginia drive away their Puritan brethren from that state. And where did these persecuted Puritans and Protestants in general go? What spot did they choose as an asylum in order to be protected from their Protestant persecutors? I will tell the gentleman where they went in those colonial times. They went to the colony of Maryland—to that colony whose inhabitants were under the influence of "the aggressive policy of the Church of Rome and its corrupting tendencies." Yes, these Puritans sought a refuge in that colony which first in the United States established the law protecting every man from religious persecution.

Mr. Clerk, the American party of Louisiana has a right to be heard; I regret exceedingly that the only exponent of its views is myself. I regret exceedingly that the pretensions of that party are not in abler hands. But, sir, I will state this much, that in every Native American organization, or in every Native American party, the American party of Louisiana has a right to be heard; for, if I am not mistaken, the legislature of Louisiana was the first legislature which passed resoutions demanding a change in the naturalization laws of this country.

I thank the House for the indulgence which it has extended to me on this occasion. I vote for Mr. Fuller.

Madison Letters.

Defence of the American Party.

The contents under this caption contain the material portions of eleven or twelve letters, written over the signature of "Madison," in vindication of the American party. The editor has examined carefully all the defences of the American organization, and considering this the most able of them all, written, it is said, by a distinguished citizen of Virginia, he yields it a space in his work.

No. 1.

The vital principle of the American party is *Americanism*—developing itself in a deep-rooted attachment to our own country—its Constitution, its Union, and its laws—to American men, and American measures, and American interests—or, in other words, a fervent patriotism—which, rejecting the transcendental philanthropy of abolitionists, and that kindred batch of wild enthusiasts, who would seek to embroil us with foreign countries, in righting the wrongs of Ireland, or Hungary, or Cuba—would guard with vestal vigilance American institutions and American interests against the baneful effects of foreign influence.

No. 2.

I closed my first number by stating what I conceived to be the vital principle of the American party—the principle which, like the main spring of a watch, imparts activity to its whole machinery.

Let us now consider what are the measures and policy which these Americans propose to adopt, to give practical efficiency to this great principle.—There is, doubtless, among the members of that party, as among the members of all other parties, much difference of opinion in regard to matters of detail; and mutual forbearance and concession must and will be practised in giving shape to their measures. No one can, therefore, tell with certainty what form they may ultimately assume.

For the present, I will refer to the action of the National Council as the most authentic exposition of the opinions of the party. Its creed, as expressed by that body, is embraced in the following propositions:—

2d. The perpetuation of the Federal Union, as the palladium of our civil and religious liberties, and the only sure bulwark of American independence.

3d. Americans must rule America, and to this end, native-born citizens should be selected for all state, federal, and municipal offices or government employment, in preference to all others; nevertheless,

4th. Persons born of American parents residing temporarily abroad, should be entitled to all the rights of native-born citizens; but,

5th. No person should be selected for political station (whether of native or foreign birth), who recognises any allegiance or obligation, of any description, to any foreign prince, potentate, or power, or who refuses to recognise the federal and state constitutions (each within its sphere) as paramount to all other laws, as rules of political action.

6th. The unqualified recognition and maintenance of the reserved rights of the several states, and the cultivation of harmony and fraternal good will, between the citizens of the several states, and to this end, non-interference by Congress with questions appertaining solely to the individual states, and non-intervention by each state with the affairs of any other state.

7th. The recognition of the right of the native-born and naturalized citizens of the United States, permanently residing in any territory thereof, to frame their constitution and laws, and to regulate their domestic and social affairs in their own mode, subject only

to the provisions of the Federal Constitution, with the privilege of admission into the Union, whenever they have the requisite population for one representative in Congress.—Provided always, that none but those who are citizens of the United States, under the Constitution and laws thereof, and who have a fixed residence in any such territory, ought to participate in the formation of the Constitution, or in the enactment of laws for said territory or state.

8th. An enforcement of the principle that no state or territory ought to admit others than citizens of the United States to the right of suffrage, or of holding political office.

9th. A change in the laws of naturalization, making a continued residence of twenty-one years, of all not hereinbefore provided for, an indispensable requisite for citizenship hereafter, and excluding all paupers, and persons convicted of crime, from landing upon our shores; but no interference with the vested rights of foreigners.

10th. Opposition to any union between Church and State; no interference with religious faith, or worship, and no test oaths for office.

11th. Free and thorough investigation into any and all alleged abuses of public functionaries, and a strict economy in public expenditures.

12th. The maintenance and enforcement of all laws constitutionally enacted, until said laws shall be repealed, or shall be declared null and void by competent judicial authority.

These propositions may be classed, for greater perspicuity, under three heads.

I. Those that relate to reforms in the naturalization laws which require legislation.

II. Those that relate to the appointment and election of officers, which are purely ministerial.

III. Those that refer to the general policy of the party in the management of the government, which appeal both to the legislative and executive departments.

I intend to discuss these subjects in the order in which they are stated.

It is proposed to modify the naturalization laws in four particulars:—

1. To make them prescribe uniform rules of naturalization throughout all the states and territories.

2. To exclude convicts and paupers from the country.

3. To extend the period of residence of the applicant for naturalization, so that he may have time to understand our language and become acquainted with our laws and institutions, before he is intrusted with the right to participate in their administration.

4. To guard against fraudulent abuses of the right of naturalization.

I am aware that there is a very prevailing idea that Congress has no constitutional power to provide by law, that the rules of naturalization shall be the same in all the states; and I have heard this difficulty suggested as being fatal to the objects of the American party. But the objection is wholly without foundation. The Constitution of the United States provides in terms "that Congress shall have power to establish an uniform rule of naturalization." Article I. Section VII. clause 4.

This provision has repeatedly been the subject of judicial consideration and interpretation, and although the opinion was at one time expressed by the Circuit Court of the United States for the District of Pennsylvania, that the power was concurrent in the state and federal governments, that opinion has long been overruled, and it is now held by Judge Iredell, in U. S. *v.* Fellato, 2 Dallas, 370; Judge Washington in Gordon *v.* Prince, 3 Wash. C. C. R. 313; by Judge Marshall, in Chirac *v.* Chirac, 2 Wheaton, 269; by Judge Story, in Houston *v.* Moore, 5 Wheaton, 40; by Chancellor Kent, 1 Comm. 423; and by Judge Taney, in Norris *v.* Boston and Smith *v.* Turner Howard, that the exclusive power is in Congress. The remarks of C. J. Taney are so clear, not only in regard to the power, but also as to the policy of exercising it, that I readily adopt his argument, as far more satisfactory than any I could offer. He says:—

"It cannot be necessary to say anything upon the article of the Constitution which gives to Congress the power to establish an uniform rule of naturalization. The motive and object of this provision are too plain to be misunderstood. Under the Constitution of the United States, citizens of each state are entitled to the privileges and immunities of citizens in the several states, and no state would be willing that another should determine for it, what foreigner should become one of its citizens, and be entitled to hold lands and vote at its elections. For without this provision, any one state could have given the right of citizenship in every other state; and as every citizen of a state is also a citizen of the United States, a single state, without this provision, might have given to any number of foreigners it pleased, the right to all the privileges of citizenship in commerce, trade, and navigation, although they did not even reside among us.

"The nature of our institutions under the federal government, made it a matter of absolute necessity that this power should be confided to the government of the Union, where all the states were represented, and where all had a voice; a necessity so obvious, that no statesman could have overlooked it. The article has nothing to do with the admission or rejection of aliens, nor with immigration, but with the rights of citizenship. Its sole object was to prevent one state from forcing upon all the others, and upon the general government, persons as citizens, whom they were unwilling to admit as such."

Another subject of kindred character, if not indeed falling under the same head, will also doubtless engage the attention of the party,

with a view to see if the Constitution does not supply the means of redressing an evil which is of the most flagrant character. I allude to the want of uniformity in the state constitutions in regard to the right of suffrage by foreigners. By the constitution of Virginia, none but citizens of the United States can vote, and as no one can legally become a citizen of the United States unless he has been a resident of the country for five years, it follows that no one can be a voter in Virginia, who has not been a resident of the United States for five years. But by the constitution of Illinois, it is provided (Art. 2, s. 27), "that in all elections, all white male inhabitants above the age of 21 years, having resided in the state six months next preceding the election, shall enjoy the right of an elector."

Now as the vote of every man cast in Illinois for members of the legislature which elects U. S. Senators, for members of Congress, and for Presidential electors, has a direct bearing on the interests of Virginia, it is well worthy of inquiry whether Virginia is, under the Constitution, to be governed by the votes of aliens. It is a new and a grave question. There is certainly a difference in form between the question of elective franchise and the question of naturalization. But is not this system of allowing aliens to vote before they are naturalized an abuse, if not an evasion of the Constitution? A sensible writer on the subject has well remarked, "if individual states can admit to the elective franchise those who are not citizens, thereby neutralizing the votes of citizens, not only the federal power over naturalization becomes a nullity, but a minority of actual citizens, by the aid of aliens, may control the government of the states, and, through the states, that of the Union."

Who will deny that this is a crying abuse, and that all the constitutional powers of the government ought to be brought into requisition to correct it?

2. It is proposed to exclude by state and federal authority, convicts and paupers from landing on our shores, to corrupt the morals of citizens, to plunder our property, to fill our penitentiaries and alms-houses, and to burden our people with taxation for their support. This is no new policy, and it will at once commend itself to the favorable regard of all reflecting men. It is an evil which attracted the attention of the founders of the republic at an early day, and has from time to time been pressed upon the attention of the government, but thus far no adequate measures of prevention have been adopted.

On the 16th of September, 1788, the Continental Congress, then about to close its labors, adopted the following resolution: "Resolved, that it be, and it hereby is recommended to the several states to pass proper laws to prevent the transportation of convicted malefactors from foreign countries into the U. S."—Journal, page 867.

On the 13th November, 1788, Virginia did pass such a law imposing a penalty of £50 on masters of vessels who should land convicts in this state.

In 1836, the matter was brought to the attention of Congress by Mr. Davis of Massachusetts, who made a long and able speech to the Senate, on presenting certain resolutions of the legislature of Massachusetts on the subject.

In 1838, Mr. Van Buren, in reply to a call of the House, sent a message to Congress, accompanied by many documents. A bill was reported to correct the evil, but amidst the press of business it was overslaughed.—See Congressional Globe 1837–'38, page 489, and 1838–'39, page 168.

In 1845, Mr. Berrien made an elaborate report on the subject, accompanied by a great mass of testimony establishing in the most conclusive manner the certainty and magnitude of the evil.—See Sen. Doc. 173, 28th Cong. No final action, however, was taken.

In 1847, Mr. Buchanan, as Secretary of State, adopted measures to obtain information on the subject, and a report was made by Mr. A. D. Mann, on the 13th September, 1847.

On 1st January, 1855, Mayor Wood, of New York, addressed a strong letter to President Pierce, invoking his aid. He says: "It has long been the practice of many governments on the continent of Europe to get rid of paupers and convicts by sending them to this country, and most generally to this port, (N. Y.) The increase of crime here can be traced to this cause, rather than to defect in criminal laws or their administration. An examination of the criminal and pauper records, shows conclusively that it is but a small proportion of these unfortunates who are natives of this country. One of the very heaviest burdens that we bear, is the support of these people, even when considering the direct cost, but when estimating the evil influence on society, and the contaminating effect upon all who come within the range of their depraved minds, it becomes a matter exceedingly serious and demanding immediate and complete eradication."* Mayor Wood being a Democrat and in no way attached to the American party, I presume he will be regarded as good authority, and I will here rest this branch of the subject, and I hope I may console myself with the reflection, that as far as we have

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* In confirmation of Major Wood's statement, I refer to the following facts, derived from the census tables of 1850:

The whole number of criminals in the United States during the preceding year was 26,679—of these 12,988 were natives and 13,691 were foreigners.

The following is a table showing the ratio in four of the Northern states—

Massachusetts.		New Jersey.	
Native criminals	3,366	Native criminals	346
Foreign do.	3,884	Foreign do.	257
New York.		**Pennsylvania.**	
Native criminals	3,962	Native criminals	564
Foreign do.	6,317	Foreign do.	293

In the free states there were 10,822 native criminals and 12,988 foreign.

In the slave states there were 2,166 native criminals and 1,902 foreign.

progressed in the examination of the propositions of the American party, nothing has yet been discovered in conflict with "the cause of civil and religious freedom."

No. 3.

The boon of citizenship is one of the highest privileges which any country can bestow on the subjects or citizens of another. It carries with it rights and duties of the gravest character. It imposes on the person naturalized the obligation of obedience to the laws, and it confers on him the right to protection, in his person and property, by the whole power of the government. It is a privilege which, in most countries, both ancient and modern, was and is conferred with great caution. Among the Romans it was a mark of great distinction, prized as of the highest value; and the simple announcement by an individual, "I am a Roman citizen!" was a passport to respect throughout the world. In our country this privilege has been granted more freely than in any other, and I think there is a growing conviction in the public mind that it has been rendered too cheap. I have had neither the time nor means to make a complete investigation of the subject of naturalization by the colonies and states, before the adoption of the Federal Constitution. But I will furnish a few striking incidents.

The 42d section of the constitution of New York, adopted in 1777, conferred power on the legislature of that state to naturalize foreigners, but with the following restriction:

"Provided, all such persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of this state, shall take an oath of allegiance to this state, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and state, in all matters ecclesiastical as well as civil." See Kent Com. v. 2, p. 73.

From this clause it will be seen that New York, at that early day, went a bow-shot beyond the American party—she requiring a renunciation of ecclesiastical and civil allegiance, whilst the Americans demand only a renunciation of civil or temporal allegiance.

By act of 1779, Maryland required the applicant for naturalization to subscribe a declaration of his belief in the Christian religion, and to take, repeat, and subscribe an oath of fidelity, and that "I do not hold myself bound to yield allegiance or obedience to any king or prince, or any state or government."

The first law of the United States on this subject of naturalization, was approved 26th March, 1790. The bill was without any opposition in either House of Congress, but a number of members availed themselves of the opportunity to express sentiments which are almost identical with those of the American party of the present day.

James Jackson of Ga. said:—

"He conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to this country, made him extremely anxious to preserve its good fame from injury. He hoped to see the title of a citizen of America as highly venerated and respected as a citizen of old Rome. I am clearly of opinion that rather than have the common class of vagrants, paupers, and outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from S. C. should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, sir, the terms required by the bill on the table are, in my mind, too easy. I think before a man is admitted to enjoy the high and inestimable privilege of a citizen of America, that something more than a mere residence among us is necessary. I think he ought to pass some time in a state of probation, and at the end of the time be able to bring testimonials of a proper and decent behavior. No man, who would be a credit to the community, would think such terms difficult or indelicate; if bad men should be dissatisfied on this account, and should decline to immigrate, the regulation will have a beneficial effect, for we had better keep such out of the country than admit them into it."

Theodore Sedgwick of Mass. in the same debate said:—

"He was against the indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure the society from being overrun by the offcasts of Europe; besides, the policy of settling the vacant territory by immigration is of a doubtful nature. * * * The citizens of America preferred this country, because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there were at least some grounds to fear the contrary; their sensations, impregnated with prejudices of education, acquired under monarchical and aristocratical governments, may deprive them of that wish for pure republicanism, which is necessary, in order to taste its beneficence with that magnitude which we feel on the occasion. Some kind of probation, as it is termed, is absolutely necessary to enable them to feel and be sensible of the blessing—without that probation, we should be sorry to see them exercise a right which we have so gloriously struggled to attain."

Michael J. Stone of Md. said:—

"A foreigner, who comes here, is not desirous of interfering immediately with our politics, nor is it proper that he should. His immigration is governed by a different principle: he is desirous of obtaining and holding property. I should have no objection to his doing this from the first moment he sets his foot on the shore in America; but it appears

to me that we ought to be cautious how we admit foreigners to the other privileges of citizenship, and that for a reason not yet mentioned; perhaps it may allude to the next generation more than to this; the present inhabitants were most of them here when we were engaged in a long and hazardous war. They have been active in rearing up the present government, and feel, perhaps, a laudable vanity in having effected what its most sanguine friends hardly dared to contemplate. There is no danger of these people losing what they so greatly esteem; but the admission of foreigners to all places of government may tincture the system with the dregs of their former habits, and corrupt what we believe the most pure of human institutions."

Here we have the principle of the American party, on this subject, clearly expounded by patriots of the earlier and better days of the republic. The act of 1790 was very short and simple in its provisions. The substance of it is embraced in the clause which enacts,

"That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record in any one of the states wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court that he is a person of good character, and taking the oath or affirmation prescribed by law to support the Constitution of the United States, which oath or affirmation such court shall administer."

This act was passed at a time when the population of the United States was but little more than three millions, scattered mainly along the sea coasts, when we had boundless wastes of unsettled territory comparatively unexplored, and when along our whole western frontier we were exposed to the incursions of savage enemies, who required a strong force to keep them in check. There was then every motive to extend inducements to foreigners to emigrate to this country, to strengthen us against foreign and domestic enemies, and to subdue and bring into cultivation our wild and unsettled domain. It is not a matter of surprise, therefore, that the law was so loosely drawn as not even to require a renunciation by the applicant of his allegiance to his native sovereign.

A very few years, however, sufficed to show the mistake that had been committed. In 1793, citizen Genet, the representative of French Democracy, came to this country, and commenced a series of intrigues and proceedings, in violation of our obligations of neutrality, and intended to involve us in a war with England. By his artifices he raised up a strong French party in the country, and when Gen. Washington and Mr. Jefferson interfered to arrest his unlawful proceedings, he boldly denounced them both, and threatened to "appeal from the President to the people." Much excitement ensued, for foreign influence had been brought to bear with fearful power on the minds of the people, and nothing but the firmness of Washington and the veneration which was felt for his character, could have stayed the angry storm. This seems to have opened the eyes of Congress.

In 1795, a much more stringent naturalization law was passed, which required the applicant to make, 1st. A declaration, three years before his admission, that it was his purpose to become a citizen—and to renounce for ever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, whereof such alien may at that time be a citizen or subject. 2d. He was required, when admitted, to take an oath "that he has resided within the United States five years at least," and one year within the state or territory in which he applied—and the court was to be satisfied of the truth of this declaration —and he was required further to swear "to support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatsoever, and particularly by name the prince, potentate, state, or sovereignty, whereof he was before a citizen or subject."

In the progress of the discussion of this bill, many sound American sentiments were expressed, which precisely accord with the sentiments of the American party of the present day.

Samuel Dexter, jun., of Mass. led off in the debate, expressed himself opposed "to the facility with which, under the existing laws, aliens may acquire citizenship." He moved to strike out two years, as provided in the law of 1790.

John Page of Va., although in general very friendly to naturalization, said: "He approved the design of the mover, because he thought nothing more desirable than to see good order, public virtue, and true morality constituting the character of citizens of the United States, for without morality, and indeed a general sense of religion, a republican government cannot flourish, nay, cannot long exist, since, without them, disorders will arise which the strong arm of powerful governments can alone correct or retrieve."

Mr. Dexter said:—

"America, if her political institutions should on experience be found to be wisely adjusted, and she shall improve her national advantages, had opened to her view a more rich and glorious prospect than ever was presented to man. She had chosen for herself a government which left to the citizens as great a portion of freedom as was consistent with a social compact. All believed the preservation of this government in its purity indispensable to the continuance of our happiness. The foundation on which it rested was general intelligence and public virtue; in other words, wisdom to discern, and patriotism to pursue the general good. He had pride, and he gloried in it, in believing his

countrymen more wise and virtuous than any other people on earth; hence he believed them better qualified to administer and support a republican government. This character of Americans was the result of early education, aided indeed by the discipline of the revolution."

* * * * *

"Much information [he said] might be obtained by the experience of others, if, in despite of it, we were not determined to be guided only by a visionary theory. The ancient republics of Greece and Rome [said he], see with what jealousy they guarded the rights of citizenship against adulteration by foreign mixture. The Swiss nation [he said], in modern times, had not been less jealous on the same subject. Indeed, no example could be found, in the history of man, to authorize the experiment which had been made by the United States. It seemed to have been adopted by universal practice as a maxim, that the republican character was in no way to be formed but by early education. In some instances, to form this character, those propensities which are generally considered as almost irresistible, were appeased and subdued. And shall we [he asked] alone adopt the rash theory, that the subjects of all governments, despotic, monarchical, and aristocratical, are, as soon as they set foot on American ground, qualified to participate in administering the sovereignty of our country? Shall we hold the benefits of American citizenship so cheap as to invite, nay, to almost bribe, the discontented, the ambitious, and the avaricious of every country, to accept them?"

Mr. Wm. Vans Murray of Maryland, declared:—

"He was quite indifferent if not fifty emigrants came into this country in a year's time. It would be unjust to hinder them, but impolitic to encourage them. He was afraid that coming from a quarter of the world so full of disorder and corruption, they might contaminate the purity and simplicity of the American character."

Mr. Ezekiel Gilbert of New York said:—

"The terms of residence, before admitting aliens, ought to be very much longer than that mentioned in the bill."

Mr. Theodore Sedgwick of Massachusetts said:—

"He agreed to the idea of Mr. Gilbert. He wished that a method could be found of permitting aliens to possess and transmit property, without at the same time giving them a right to vote."

No. 4.

My last number was devoted to the consideration of the naturalization laws of 1790 and 1795, and the opinions expressed by distinguished statesmen whilst those bills were under consideration. I come now to the law of 1798.

Between 1793 and 1798 our country had been the scene of great excitement. The people seemed to lose sight of their own affairs in their anxiety about the questions which agitated Europe to its centre. There were two great parties in the public councils, and amongst the people; one of which was partial to England, and the other to France. Foreigners flocked to our shores and openly attempted to control the politics of the country.

Under circumstances like these, the law of 1795 was found to be inefficient, and it was deemed necessary to frame one better adapted to the exigencies of the times,—extending the term of residence before naturalization to fourteen years, and requiring the applicant at the time of making his declaration to enter on the record a description of his person, age, occupation, nativity, &c., so as to establish his identity, and to prevent imposition by a fraudulent use of his papers. This certificate was to be filed in the office of the Secretary of State.

This bill was fully discussed by many distinguished men, but having devoted so much space already to this branch of the subject, I cannot extract largely from that debate. There is one speech, however, which contains so able an exposition of the principles of the American party, that I cannot forbear from giving a paragraph or two from it. I allude to the speech of Robert Goodloe Harper. He said:—

"He believed that it was high time we should recover from the mistake which the country fell into, when it first began to form its constitutions, of admitting foreigners to citizenship. This mistake, he believed, had been productive of very great evils to this country, and unless corrected, he was apprehensive these evils would greatly increase. He believed the time was now come when it would be proper to declare that nothing but birth should entitle a man to citizenship in this country. He thought this was a proper season for making a declaration. He believed the United States had experience enough to cure them of the folly of believing that the strength and happiness of the country would be promoted by admitting to the rights of citizenship all the congregations of people who resort to these shores from every part of the world. Under these impressions, which, as he supposed they would have the same force upon others as upon himself, he should not detain the committee by dilating upon,—he proposed to amend the resolution by adding to it the following words, viz.: 'that provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States, except by birth.' Mr. Harper said he was for giving foreigners every facility of acquiring property, of holding property, of raising their families, and of transferring their property to their families. He was willing they should form citizens for us; but as to the rights of citizenship, he was not willing they should be enjoyed, except by persons born in this country. He did not think even this was desirable by the persons themselves. Why, he asked, did foreigners seek a

residence in this country? He supposed it was either to better their condition or to live under a government better and more free than the one they had left. But was it necessary these persons should at once become entitled to take a part in the concerns of the government? He believed it was by no means necessary, either to their happiness or prosperity, and he was sure it would not tend to the happiness of this country. If the native citizens are not indeed adequate to the performance of the duties of government, it might be expedient to invite legislators or voters from other countries to do that business for which they themselves are not qualified. But if the people of the country, who owe their birth to it, are adequate to all the duties of the government, he could not see for what reason strangers should be admitted; strangers, who, however acceptable they may be in other respects, could not have the same views and attachments with native citizens. Under this view of the subject, he was convinced it was an essential policy, which lay at the bottom of civil society, that no foreigner should be permitted to take a part in the government. There might have been, Mr. H. acknowledged, individual exceptions, and there might be again, to this rule, but it was necessary to make regulations general, and he believed the danger arising from admitting foreigners, generally, to citizenship, would be greater than the inconveniences arising from debarring from citizenship the most deserving foreigners. He believed it would have been well for this country, if the principle contained in this amendment had been adopted sooner; he hoped it would now be adopted."

It will be perceived that Mr. Harper went further than the American party now propose to go, and that too, at a time when the practical evil was not of one-tenth the magnitude it has now attained. Yet who questions his patriotism? Who dreamed that he was arrayed against the "cause of civil and religious freedom?"

In the same debate Wm. Craik, of Maryland, said:—

"He was disposed to go much further than is proposed in the bill, in restricting aliens from becoming citizens of this country. He should have no objection to say that no foreigner coming in this country after this time shall ever become a citizen."

James A. Bayard, of Delaware, said:—

"Aliens cannot be considered as members of the society of the United States. Our laws are passed on the ground of our policy, and whatever is granted to aliens is a mere matter of favor, and if it is taken away they have no right to complain."

Upon the general principle of discouraging excessive immigration, I will, on this branch of the question, quote but one other authority, and that is from the writings of Thomas Jefferson.

Candor compels me to admit that, when Mr. Jefferson became a candidate for the Presidency, he relaxed his opposition to foreigners to a very considerable extent, and that after his election he recommended a change in the law of 1798, which had been passed under the administration of his great rival and political antagonist, John Adams, so as to reduce the term of residence to five years.

But it will be seen that Mr. Jefferson's calm judgment in 1781, when he wrote his Notes on Virginia, and his practice whilst President, as I shall hereafter have occasion to show, conformed to the doctrines of the American party. In his Notes on Virginia, he says:—

"Every species of government has its specific principle. Ours are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English constitution, with others derived from natural right and natural reason. To these nothing can be more opposed than the maxims of absolute monarchy—yet from such we are to expect the greatest number of immigrants. They will bring with them the principles of the government they imbibed in their early youth; or if able to throw them off, it will be in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to another. It would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers, they will share with us the legislation. They will infuse into it, warp and bias its direction, and render it a heterogeneous, incoherent, and distracted mass. I may appeal to experience during the present contest for a verification of these conjectures. But if they be not certain in event, are they not probable? Is it not safer to wait with patience twenty-seven years and three months longer for the attainment of any degree of population desired or expected? May not our government be more homogeneous, more peaceful, more durable? Suppose twenty millions of republican Americans thrown all of a sudden into France, what would be the condition of that kingdom? If it would be more turbulent, less happy, less strong, we may believe that the addition of half a million of foreigners to our present numbers would produce a similar effect here."

In 1797, Mr. Jefferson was quite as emphatic and much more practical in his opposition to foreigners. In a petition to the legislature of Virginia, which he prepared in that year, he said: "And your petitioners further submit to the two Houses of Assembly, whether the safety of the citizens of this commonwealth, in their persons, their property, their laws and government, does not require that the capacity to act in the important office of a juror, grand or petty, civil or criminal, should be restrained in future to native citizens of the United States, or such as were citizens at the date of the treaty of peace which closed our revolutionary war, and whether the ignorance of our laws, and natural partiality to the countries of their birth, are not reasonable

causes for declaring this to be one of the rights incommunicable in future to adopted citizens." —Jefferson's Writings, v. 9, p. 453.

How does this sound in the ears of Democracy?

What would Mr. J. have thought if he could have seen the day arrive when, instead of an aggregate of half a million of foreign population, there would be an annual influx of that number, of the worst classes of Europe?

Then, indeed, would he have uttered, with increased earnestness, the sentiment which we find in one of his letters:—

"I hope we may find some means in future of shielding ourselves from foreign influence—political, commercial, or in whatever form attempted. I can scarcely withhold myself from joining in the wish of Silas Dean, that there were an ocean of fire between this and the old world!"

How it must horrify the Anti-Americans of the present day to find that the first and most eloquent teachers of the doctrines of the American party were the sages of the Revolution and the framers of our Constitution!

The naturalization laws were changed in many particulars by the acts of 1802, 1813, and 1816. The last-named act guarded with peculiar care against abuses, by introducing new provisions, which made the identification of the applicant more certain, and required the proof to be matter of record. This was a most valuable feature in the law. It required that the applicant should, when he made his declaration, file a description of himself so minute as to clearly establish his identity, and when he obtained his certificate of naturalization this description was incorporated into it and constituted part of it. The law also provided that the date of the recorded declaration should be the evidence of the commencement of residence of five years. The effect of this was to exclude parol evidence on this point, and thereby to prevent fraud and perjury.

In May, 1828, this law was altered so as to strike out the provisions requiring the application to be entered of record five years before naturalization. The object was to dispense with record evidence, and to substitute the parol testimony of witnesses to prove residence. This change in the law was made a few months before an exciting Presidential election. One of those who urged the change was Mr. Buchanan, who had, on a private occasion, admonished his countrymen against the dangers of foreign influence. That change was doubtless made to conciliate the foreign vote, and in all probability had that effect. As might have been anticipated, it threw open a wide door for fraud, and it has brought upon the country a train of evils the magnitude of which it would be difficult to conceive.

The American party now propose to guard against these frauds, not only by an extension of the time of residence, but by restoring the provision of the acts of 1798 and 1816, requiring record instead of parol proof of actual residence for the time prescribed by law.

No man at all familiar with the proceedings of courts of justice, can have failed to be impressed with the facility with which such proof is now obtained, and to be shocked with the perjury in such cases which is hardly disguised. Gangs of men come to the witness-box and swear for each other, with as much readiness as they would go through any other mere matter of form.

But we are not left to conjecture in regard to the existence of fraud of this character. We all remember the celebrated case of the Plaquemine frauds, when 1044 votes were cast in a district which contained but 400 voters. We also remember the other frauds of 1844, which became the subject of investigation before the Senate of Louisiana on an impeachment of Benj. C. Elliott, judge of the City Court of the city of Lafayette. Upon the trial it was discovered that the judge had fraudulently issued 1748 false certificates of naturalization, and, being duly convicted, he was removed from office.

Similar frauds have been practised to a very great extent in Baltimore, Philadelphia, and New York.

In 1844 the subject was brought to the attention of Congress, and on the 27th January, 1845, Mr. Berrien, from the committee on the Judiciary, made an elaborate report accompanied by voluminous testimony taken at different points, to establish the frauds. This report will be found in Sen. Doc. 173, 2d session of 28th Congress. Five thousand extra copies of the report were ordered to be printed, and it is a singular circumstance that the printing of the extra copies of the report was ordered by a strictly party vote—every Democrat in the Senate voting against it!

The commissioners who were appointed to take the testimony reported that they had summoned indiscriminately witnesses of both political parties, but they add, "they regret that those thus subpœnaed belonging to the Democratic party have generally omitted or refused to attend!"

This, to say the least of it, is a significant fact.

With developments like these before us, and when there is reason to believe that the elections in 1844, both in Louisiana and New York, were carried by fraudulent votes, and that the issue of the Presidential election was thereby changed, is it to be wondered at, that the citizens of the United States should be aroused to a sense of the danger and degradation to which they are subjected, by leaving the "whole policy of the country regulated and controlled by the fraudulent conduct of aliens?"

What good man, whether he be a native or adopted citizen, will withhold his aid in correcting abuses like these? It is quite as important to the conservative, law-loving naturalized citizens, as to the natives of the country, and I am persuaded that it is only necessary

to bring the facts to their knowledge, to secure their cordial co-operation in the patriotic effort now on foot, to guard against similar mischiefs in future.

My next number will be devoted to the consideration of the propriety of giving a preference to native citizens, in the exercise of the power of appointment and election to public offices.

No. 5.

Having presented the views of the American party on the question of naturalization, I proceed now to consider the line of policy which they propose to adopt in regard to elections and appointments to office.

Their general proposition is, to give a preference to native citizens over foreigners, for all places of public trust. They do not propose an absolute and entire exclusion of all foreigners, but a mere preference for natives, as the general rule. This is obvious from the language of the 3d article of the platform adopted at Philadelphia. But if doubt remained on the mind of any one as to the true interpretation of that article, it must be removed by a reference to the 5th article, which, in terms, recognises the selection of officers of "foreign birth."

The announcement of this preference of Americans for their own countrymen has been met by the most bitter denunciations by the courters of the foreign vote. It has been declared to be unjust, proscriptive, and contrary to the principles of the Constitution; and the whole vocabulary of vulgar abuse has been exhausted, by demagogues of every grade, in giving expression to their sentiments in regard to it. Without being in the slightest degree ruffled by such outpourings of vituperation, let us now inquire :—

1. Is there any wrong, as a question of principle, in this preference for natives over foreigners, for public stations?

2. Is there anything in it contrary to the letter or spirit of the Constitution?

3. What was the opinion of the fathers of the republic on the subject?

1. Is it wrong in principle? Here let it be remembered that it is not proposed to legislate on this subject. No one has yet suggested the idea of enacting a law to exclude foreigners from office. All that is contemplated is, to awaken and to organize the American sentiment of the country,—to create a wholesome public opinion, which will operate, alike on the people and the government, to induce them, in the exercise of the elective franchise and the power of appointment, to give a preference to Americans for public stations.

What will be the effect in practice? Every man will be left free to exercise his constitutional right to vote as he may deem right. There will be no legal restraint upon him. His own discretion and sense of duty will be his only guides.—Well, if, in the exercise of my discretion, I do not choose to vote for a foreigner, has any one a right to complain? Do I wrong anybody by voting according to the dictates of my own conscience and judgment? Certainly not. It is of the very essence of freedom that I shall vote according to my own sense of right and duty, without dictation from any man. And if I have the right, has not my neighbor, or any number of my neighbors, the same right? And may we not legitimately compare opinions—talk the matter over together, and agree to vote in the same way? Is not such every day's practice? Is it not the very basis of all party organization—that men who think alike should vote together? Do not Whigs and Democrats consult together in their respective primary meetings, caucuses, and conventions, and agree to vote together, so as to accomplish their common objects by concert of action? Do not Whigs agree to vote against Democrats, and Democrats against Whigs, without incurring the censure of any one? And why may not Americans agree to vote against foreigners? Is it not as legitimate to vote together against foreigners, as against our own countrymen of the opposite political party?—Was it not as legitimate for our fathers to fight against the Hessians as against the Tories, when they joined in a common warfare on our liberty and independence? And may not Americans of the present day, lawfully and rightfully, unite their votes against foreigners, as well as against the Democrats, who use them to oppress us and deprive us of our constitutional rights?

Oh! but this is proscription! Proscription!—It would cause a smile—if it did not provoke a graver feeling—to hear such a word from Democratic lips! Verily, our adversaries should take the beam out of their own eye before they seek to remove the mote from their brother's eye! They talk of proscription! Was it no proscription in them to banish every Whig from the public service, and to put Democrats in their places? Was it no proscription to deny to 73,000 voters, representing near half a million of Virginians, a single member of Congress—in violation of the Constitution, and of the official oaths of the legislators who gerrymandered the districts? It is true we now have one representative, but that is not through their justice, but in defiance of the efforts of the Democracy in the legislature and at the polls to prevent it! Have not the Democratic organs denounced fierce and unrelenting warfare on the American party? Have they not proclaimed that not even a county officer of the American party is to be spared? All, without regard to qualification or public service, are to be doomed to official decapitation! Has Governor Wise ever appointed, or will he ever appoint, one of the 73,300 American voters, to any office of trust, honor, or profit? And yet, with facts like these staring them in the face, men professing to be Democrats—the guardians of popular rights—have the hardihood to cry out "proscription" against Americans, because they love and trust their own country-

men more than they love and trust the men of other countries!

What is patriotism but the love of our own country? Not merely the love of its broad plains, its beautiful rivers, its lofty mountains and green hills and fertile valleys, but the love of our countrymen—of the gallant men and lovely women, who constitute the chief element of the country which we are taught in infancy it is our highest duty to love, and serve, and, if necessary, to die for! And shall we forget all these lessons of our childhood, shall we obliterate from our minds all the early lessons of patriotism, and at the bidding of demagogues—who are courting foreign votes, to aid in the advancement of their selfish purposes—adopt the notion that patriotism is a crime, and that it is a duty to love foreigners as well, or better, than the sons of those who achieved our independence, and established our liberties? Long may it be before such sentiments find a response in the hearts of Virginians!

But let us now proceed to inquire whether the American party are seeking to inaugurate a new principle, unknown to our fundamental laws and at war with their spirit?

The principle of preference of natives is em bodied in our constitutions, both federal and state; and in the latter by the aid of the vote of Mr. Wise himself.

No foreigner can, by the organic laws of the United States, and of our commonwealth, be President or Vice President of the United States, or Governor or Lieutenant Governor of Virginia!

This great American principle is to be found in both these instruments.

Now if the principle be wrong, it should be stricken out of both. If injustice has been done to our adopted citizens—if the "cause of civil and religious freedom" has been invaded by those prohibitions, then they ought to be expunged from our fundamental laws!

But who will venture to make the proposition? Not Governor Wise, certainly, for he helped, by his vote, to engraft them on the constitution of Virginia!

It is apparent therefore that the principle is not wrong, and the complaint must be not against the principle, but against the extent to which it is proposed to carry it in practice. Every friend of the Constitution as it stands, must concede that it is proper to prefer natives for the highest executive offices. The only dispute is whether this preference shall be extended to inferior officers. Or in other words the question sinks from one of principle into one of expediency. And it therefore necessarily follows, that even Mr. Wise and his party are Americans in principle—and the only difference between them and the American party is one not of principle, but of degree. They are not quite so intensely American as we are—that is all. They stop at the halfway house, while we go to the end of our journey!

The same remark applies with equal force to the subject of naturalization. I presume no member of the Democratic party desires a total repeal of the restrictions imposed by the naturalization laws. No one asks that foreigners, immediately on their arrival in this country, may be admitted to all the rights of citizenship without some probation. I have yet to meet the man, of any party, who contends for that proposition. There are few, if any, who think that the present probation of five years is too long.

Bearing this in mind, let us pursue the subject further.

The argument against the American party proceeds on the assumption that they propose to do injustice to foreigners. Now if injustice is to be done, it must be by infringing some right that foreigners possess. This leads us to inquire if they have any right whatever to become naturalized, unless we choose to confer it on them by law? No jurist will contend that they have. But if they have such a right, would not that right be as effectually invaded by a restriction of five years as by one of fifteen or twenty-one years? The difference would only be one of degree. The imposition of an illegal tax of five cents on my property is as much a violation of my rights, as one of five dollars would be. And so a restriction on my natural rights for five years, is as palpably unjust as one of twenty-one years. The one may be more burdensome than the other, but it is no more a violation of abstract right. If then the Democracy contend that the rights of foreigners are to be violated by the proposed policy of the American party, they are inevitably driven, by their own argument, to contend for a repeal of all restrictions. But they will assume no such position, for they know that naturalization is a mere matter of favor, which any government may rightfully grant or withhold at its pleasure, and may repeal or modify as circumstances may render expedient.

Thus it is clear that upon this point, too, Mr. Wise and his party do not differ in principle from the American party. They will admit the right to impose restrictions on foreigners, and the expediency of doing so. They are content with a residence of five years as a pre-requisite to citizenship; we think that too short a time, and contend some for ten, some for fifteen, and some for twenty-one years.

Thus the whole question revolves itself into one of time, and not of principle. The question is not as to the propriety of a probation, but as to the length of that probation!

It is consoling to the American party thus, by a logical analysis of the matters really in issue between them and the Democracy, to find the latter sanctioning our principles, and giving us the weight of their great names, on our side of the question! We are happy to find them recognising the cardinal doctrines of the American party, and we confidently anticipate, that after the next Presidential election shall have revealed the fact, that their foreign allies, whom they have so assiduously courted,

have deserted them, and gone over to the Black Republicans, they will unite with us not only in endorsing our principles, but also in advocating our policy!

I think we may therefore safely assume that there is nothing wrong in the abstract in this great principle of Americanism—this idea of preferring our country and our own countrymen to foreign countries and foreign men—this feeling of nationality and patriotism which prompts the wish that "Americans shall rule America!" We may also set it down as an admitted fact, that it is not opposed to the principles or spirit of our fundamental laws, because we find it incorporated in both the federal and state constitutions—and in regard to the highest offices known to our federal and state governments.

No. 6.

When differences of opinion arise in regard to any matter of principle or policy connected with the administration of the government, it is a safe rule to refer to the opinions and practice of those who were its founders, for instruction and guidance; for, however much our country may have progressed in the arts and sciences, since the days of the Revolution, I doubt whether we have made any material advance within that time in patriotism or knowledge of the true principles of the Constitution.

Acting on this idea, I now ask your attention to what the fathers of the republic thought of that doctrine of the American party which declares a preference for natives of the country over foreigners, for all places of public trust.

The first evidence to which I will refer on this point is a resolution reported to the Continental Congress in 1777, by a committee, of which Thomas Jefferson was chairman, and Mr. Sherman, Mr. Gerry, Mr. Read, and Mr. Williams were members. It is in these words:—

"Resolved, That it is inconsistent with the interests of the United States to appoint any person not a natural born citizen thereof to the office of minister, chargé d'affaires, consul, or vice-consul, or to any other civil department in a foreign country; and that a copy of this resolve be sent to Messrs. Adams, Franklin and Jay, ministers of the said States in Europe."

But what did George Washington think on this question? The evidence on this point is abundant; but I must be satisfied with quoting but a few passages from his writings.

Before doing so, however, I will call attention to some of his general orders whilst at the head of the army. They will be found in American Archives, 4th series, vol. 2, p. 1630.

"You are not to enlist any person who is not an American born, unless such person has a wife and family, and is a settled resident of this country."

"The persons you enlist must be provided with good and complete arms.

"Given at headquarters, at Cambridge, this 10 July, 1775. Horatio Gates, Adj. Gen."

"By His Excellency, George Washington:

"General Orders.

"Parole—Dorchester; Countersign—Exeter.

"The General has great reason and is displeased with the negligence and inattention of those officers who have placed as sentries at the outposts, men with whose characters they are unacquainted. He, therefore, orders that for the future no man shall be appointed to those stations who is not a native of this country; this order is to be considered a standing one, and the officers are to pay obedience to it at their peril.

"Fox, Adj. Gen. of the day."

On 17th of March, 1778, general orders were issued for one hundred men, "to be annexed to the guard of the commander-in-chief, for the purpose of forming a corps to be instructed in the manœuvres necessary to be introduced into the army and serve as models for the execution of them."

In the description of the men to be selected, we find, among the other qualifications required, the following: "They must be Americans born."

In a letter from Gen. Washington to Col. Spotswood, dated in 1777, and to be found in a recent publication entitled "Maxims of Washington," p. 192, the following passage occurs:—

"You will therefore send me none but natives, and men of some property, if you have them. I must insist that in making this choice you give no intimation of my preference for natives, as I do not want to create any invidious distinction between them and foreigners."

The correspondence of Gen. Washington, from the commencement of the Revolution almost to the date of his death, abounds in similar sentiments. I refer to a few of his letters:—

"Morristown, May 7th, 1777.

"Dear Sir: I take the liberty to ask you what Congress expects I am to do with the many foreigners that have at different times been promoted to the rank of field-officers, and by their last resolve two to that of colonels? These men have no attachment for the country further than interest binds them. Our officers think it exceedingly hard, after they have toiled in the service and have sustained many losses, to have strangers put over them, whose merit perhaps is not equal to their own, but whose effrontery will take no denial. It is by the zeal and activity of our own people that the cause must be supported, and not by the few hungry adventurers.

"I am, &c., Geo. Washington.

"To Richard H. Lee."

"To the same: You will, before this reaches you, have seen Monsieur Decoundray; what his real expectations are, I know not; but I fear if his appointment is equal to what I have been told is his expectation, it will be attended

with unhappy consequences, to say nothing of the policy of intrusting a department on the execution of which the salvation of the army depends, to a foreigner, who has no other tie to bind him to the interests of the country than honor. I would beg leave to observe that by putting Mr. D. at the head of the artillery you will lose a very valuable officer in General Knox, who is a man of great military reading, sound judgment, and closer inspections, and who will resign if any one is put over him.

"I am, &c., GEO. WASHINGTON."

"White Plains, July 24th, 1778.

"Dear Sir: The design of this is to touch cursorily upon a subject of very great importance to the well-being of these states, much more so than will appear at first sight—I mean the appointment of so many foreigners to offices of high rank and trust in our service.

"The lavish manner in which rank has hitherto been bestowed on these gentlemen, will certainly be productive of one or the other of these two evils, either to make us despicable in the eyes of Europe, or become a means of pouring them in upon us like a torrent, and adding to our present burden. But it is neither the expense nor the trouble of them I most dread; there is an evil more extensive in its nature and fatal in its consequence to be apprehended, and that is, the driving of all our officers out of the service, and throwing not only our own army, but our military councils, entirely into the hands of foreigners.

"The officers, my dear sir, on whom you must depend for the defence of the cause, distinguished by length of service and military merit, will not submit much, if any, longer to the unnatural promotion of men over them, who have nothing more than a little plausibility, unbounded pride and ambition, and a perseverance in the application to support their pretensions, not to be resisted but by uncommon firmness; men who, in the first instance, say they wish for nothing more than the honor of serving so glorious a cause as volunteers, the next day solicit rank without pay, the day following want money advanced to them; and in the course of a week, want further promotion.

"The expediency and policy of the measure remains to be considered, and whether it is consistent with justice or prudence to promote these military fortune-hunters at the hazard of our army. Baron Steuben, I now find, is also wanting to quit his inspectorship for a command in the line. This will be productive of much discontent. In a word, although I think the Baron an excellent officer, I do most devoutly wish that we had not a single foreigner amongst us, except the Marquis de Lafayette, who acts upon very different principles from those which govern the rest.

"Adieu. I am, most sincerely yours,

"GEORGE WASHINGTON.

"To Gouverneur Morris, Esq."

During his Presidency he wrote thus:—

"Philadelphia, Nov. 17th, 1794.

"Dear Sir: * * * My opinion with respect to immigration is, that, except of useful mechanics, and some particular description of men and professions, there is no use of encouragement. I am, &c.,

"G. WASHINGTON.

"To John Adams, Vice President of U. S."

"Mount Vernon, January 20th, 1790.

"Sir: * * * You know, my good sir, that it is not the policy of this government to employ foreigners when it can well be avoided, either in the civil or military walks of life. * * * There is a species of self-importance in all foreign officers, that cannot be gratified without doing injustice to meritorious characters among our own countrymen, who conceive, and justly, where there is no great preponderance of experience or merit, that they are entitled to all the offices in the gift of their government. I am, &c.,

"G. WASHINGTON.

"To J. Q. Adams, American Minister at Berlin."

About the same time he wrote to a foreigner who applied to him for office:—

"Dear Sir: * * * It does not accord with the policy of this government to bestow offices, civil or military, upon foreigners, to the exclusion of our own citizens.

"Yours, &c. G. WASHINGTON."

To Sir John St. Clair, he wrote thus:—

"I have no intention to invite immigrants, even if there are no restrictive acts against it. I am opposed to it altogether."

No man will have the audacity to question that George Washington was a wise man as well as true patriot. In the passages from his writings above cited, we have the clearest evidences of his concurrence in sentiment with the American party. May we not then assume, from the fact that he sanctioned them, that those sentiments are both wise and patriotic? And yet presumptuous men, who set themselves up as wiser and better than Washington, rail against those very sentiments as illiberal, unjust, and unpatriotic! In whose judgment will the people of Virginia place the most confidence—in that of the partisan politicians of the present day, or in that of the illustrious Father of his Country?

In discussing the subject of naturalization, I have already had occasion to present some passages from the writings of Mr. Jefferson, showing his opinions of the unhappy effects of immigration and foreign influence, and his conviction that no foreigner should be allowed to serve on a jury, grand or petty, in any case, civil or criminal!

In this last proposition he went further than the Americans propose to go—much further than the writer of this article would be willing to go.

But these are not the only expressions of his sentiments on this subject. While minister

to France, in 1788, he wrote to Mr. Jay in the following words:—

"Native citizens, on several valuable accounts, are preferable to aliens or citizens alien born. Native citizens possess our language, know our laws, customs, and commerce, have general acquaintance in the United States, give better satisfaction, and are more to be relied on in point of fidelity. To avail ourselves of native citizens, it appears to me to be advisable to declare by standing law that no person but a native citizen shall be capable of the office of consul."

Again, shortly after his election to the Presidency, he addressed a political letter to Nathaniel Macon, dated Washington, May 14th, 1801, in which he details to Mr. Macon many of his reforms. In this letter we find the following remarkable paragraph: "An early recommendation had been given to the Postmaster General, to employ no printer, foreigner, or revolutionary tory in any of his offices."

We may judge of his distrust of foreigners when we find him classing them with tories!

George Mason—the author of the Bill of Rights, and of the Virginia Constitution of 1776—a man who was pronounced by Mr. Jefferson to be "himself a host," and "a man of the first order of wisdom," also expressed his concurrence in this doctrine of the American party.

In the convention which framed the Federal Constitution, four years' residence had been proposed as a qualification for election to the Senate of the United States. Gouverneur Morris proposed to substitute fourteen years, alleging as a reason, "the danger of admitting strangers into our councils."

A discussion thereupon ensued in which Mr. Pinckney said, "As the Senate is to have the power of making treaties, and managing our foreign affairs, there is peculiar danger and impropriety in opening its doors to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject, who made it death for any stranger to intrude his voice into their legislative proceedings."

"Col. Mason highly approved of the policy of the motion. Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate to natives."

I am happy to be able to add that his distinguished descendant, the Hon. James M. Mason, now honored by his native state with a seat in the Senate of the United States, has, within the last three years, expressed, in his place in the Senate, sentiments which justly entitle him to the thanks of the American party. In the debate on the Kansas bill, the amendment of Mr. Pearce being before the Senate, James M. Mason of Virginia said:—

"I am one of those who regret very much that a majority of the American people—so far as opinion is to be gathered from the vote of their representatives—consider it wise or expedient to grant to any others than citizens a participation in political power. * * * *

"Sir, I repeat it again, although I know but little, because it has not come in my way to know much, of this foreign population that is streaming on our shores, I do know something of human nature, and of the sentiments of enlightened and intelligent men; and I say that the sober sense of that population, when it is brought to reflect upon the subject, ought to satisfy them that, before they become American citizens, they should understand something of American institutions."

In the debate in the Federal Convention on the qualifications of members of the House of Representatives, Mr. Elbridge Gerry said that he wished "that in future the eligibility might be confined to natives. Foreign powers will intermeddle in our affairs, and spare no expense to influence them. Persons having foreign attachments will be insinuated into our councils, in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services."

The strength of the American feeling during the administration of Mr. Madison will be apparent from the fact, that when he nominated Mr. Gallatin, as one of the commissioners to negotiate the treaty of peace with Great Britain, Wm. B. Giles of Va., Samuel Smith of Md., and Mr. Stone of N. C., strongly opposed the nomination on the ground that Mr. G. was a foreigner, and he was rejected in the Senate by a vote of 18 to 17.

Mr. Madison afterwards nominated Mr. Gallatin as Minister to France, and he was confirmed in the absence of the above-named gentlemen. The apology for this violation of the settled policy of the government was, that Mr. Gallatin came to the United States in 1781, being prior to the formation of the Federal Constitution.

Mr. John Randolph was also a strong American in his sentiments. When the bill for chartering the Bank of the United States was before Congress, Mr. R. moved to add the word "Native," in the clause which limited the choice of directors to citizens of the United States.

In the course of his remarks "he inveighed, with much acrimony, against the whole class of naturalized citizens; attributing to them the declaration of war, and almost all other political evils—maintaining, that they ought to be admitted only as denizens, without any participation in the councils of the country, and the benefit only of protection during good behavior."—Niles Reg. 10, 31–47.

But there is another authority which among all professing to be Democrats will, I presume, be regarded as of the most important character. I allude to the Virginia legislature of 1798–'9. That venerable body has received at the hands of the Democracy, a sort of political apotheosis. Its patriotism and wisdom and profound knowledge of the Constitution are the constant themes of praise. The celebrated resolutions passed by it on the 21st of Decem-

ber, 1798, are regarded as of but little less authority than the Constitution itself. No convention of the party, state or federal, closes its sessions without a reverent acknowledgment and reaffirmation of the doctrines of 1798–'99.

Let us then see what that illustrious body of statesmen thought, and officially declared, in regard to the peculiar principles of the American party? By reference to the New Series of Hening's Statutes at Large, vol. 2, p. 194, it will be seen that on the 16th day of January, 1799, the legislature of Virginia, in response to certain resolutions of Massachusetts, passed the following preamble and resolution:—

"The General Assembly, nevertheless, concurring in opinion with the legislature of Massachusetts, that every constitutional barrier should be opposed to the introduction of foreign influence into our National Councils:—

"Resolved, That the Constitution ought to be so amended that no foreigner who shall not have acquired rights under the Constitution and laws, at the time of making this amendment, shall thereafter be eligible to the office of Senator and Representative in the Congress of the United States, nor to any office in the judiciary or executive departments."

What will our Democratic friends say to this? This solemn resolution emanated from the same source, and is recorded in the same journal with the other resolutions of '98–'99, which constitute the basis of their political creed. How can they discriminate between them? How can they claim infallibility for the one set of resolutions, and denounce the other as containing a dangerous political heresy? Truly they are placed in an awkward dilemma!

But it would seem that the Democracy have not always been such devoted friends of foreigners, as they now profess to be. Some twelve or fourteen years ago, Mr. Webster, then Secretary of State, appointed Mr. Reynolds, a foreigner, to a clerkship in that department. This act at once drew down on Mr. Webster the most bitter denunciation of the Democratic press. The New York Evening Post, edited by W. C. Bryant, published an article on the subject (which was copied by the Globe,) from which the following is an extract: "The appointment of a man named Reynolds, an alien, by Mr. Webster, to a place in the department of state, has astonished those who knew him in this city." * * * * *

"The indecency of this appointment of an alien to a post in the department which has charge over our foreign relations, will surprise those who have not, like us, ceased to be surprised at anything done by Mr. Webster."

I will close this article (already too much extended), by a gem from the celebrated oration of Mr. Buchanan, the favorite candidate of the Democracy of Virginia for the Presidency. This oration was delivered at Lancaster, Pa., on 4th of July, 1815.

Mr. B. said, "Again we stand neutral towards all the European powers. What then should be the political conduct of our country in future? Precisely to pursue the political maxims adopted by Washington. We ought to cultivate peace with all nations by adopting a strict neutrality; not only of conduct, but of sentiment. We ought to make our neutrality respected, by placing ourselves in an attitude of defence. We ought for ever to abandon the wild project of a philosophic visionary (Quere—Does he mean Mr. Jefferson?), of letting commerce protect itself. For its protection we ought to increase our navy. (No more gun-boats! I suppose.) We ought never to think of embargoes and non-intercourse laws without abhorrence. (A pretty hard hit at Mr. Jefferson!) We ought to use every honest exertion to turn out of power those weak and wicked men (Mr. Madison was then President), who have abandoned the political path marked out for this country by Washington, and whose wild and visionary theories (the doctrines of the Democratic party) have at length been tested by experience and found wanting. Above all, we ought to drive from our shores foreign influence, and cherish exclusively American feelings. Foreign influence has been, in every age, the curse of republics. Her jaundiced eyes see all things in false colors. The thick atmosphere of prejudice, by which she is ever surrounded, excludes from her sight the light of heaven. Whilst she worships the nation which she favors for this very crime, she curses the enemy of that nation for her very virtues. In every age she has marched before the enemies of her country, proclaiming peace when there was no peace, and lulling its defenders into fatal security while the iron hand of despotism was aiming a death-blow at her liberties. Already our infant republic has felt her withering influences. Already she has involved us in a war, which has nearly cost us our existence. Let us then learn wisdom from experience, and for ever banish this fiend from our society."

No. 7.

The next topic which I propose to discuss is the immigration to this country—its growth, extent, and character—and its relations to crime, pauperism, social and political order, and to Southern institutions:—

If the inquiry were propounded to any candid man, whether, in his opinion, there is any great nation in Europe, at the present time, which is capable of sustaining republican institutions, the answer would necessarily be in the negative. England, the most enlightened and best educated in the principles of liberty of all the countries of the old world, has made the experiment and failed. France, which boasts of its refinement and civilization, and which has outstripped every other country in its progress in the arts and sciences, has twice made the effort, and, after passing through the most appalling scenes of anarchy and blood, has relapsed into despotism. Nei-

ther Russia, Prussia, nor Austria have ever ventured on the hopeless attempt. The spasmodic convulsions in Italy and Hungary have not been marked by a single circumstance tending to indicate that those who incited the people to insurrection had the faintest comprehension of the principles of national freedom. And yet it is from these countries that the immigrants flock to our shores. As a general rule, too, I may add that those who come are not of the better classes—not those who are educated and prosperous in their own country—but the ignorant, the starving, and the depraved, those who "leave their country for their country's good." That there are many exceptions, I am willing to admit, but that the general remark is correct, will not be denied by any who have seen the hordes of foreigners who are crowding to our Northwestern states, or who have visited our lines of internal improvements and the outskirts and alleys of our cities, or who have inspected the criminal calendars of our courts.

Assuming these propositions to be true, the inquiry very naturally suggests itself, if these people—even the best of them—are incapable of maintaining a free government at home, what additional qualifications do they acquire for the fulfilment of the high functions of a citizen of a republic, by being transported across the Atlantic? Can they change their nature,—their habits,—their prejudices, by a change in their geographical position? Do they become wiser and better men by a voyage across the ocean? No one will contend for a proposition so absurd upon its face. How then can we expect immigrants, forthwith to understand the theory and practical operations of our complicated systems of governments, and to be prepared to participate intelligently in their administration? If the whole population was of this character, all will admit that our government could not stand many years. Nay, if one-half or one-third of our people were foreigners, of recent importation, it must be manifest, that the existence of our institutions would be in imminent jeopardy. And if such be the fact, does it not follow that precisely as you augment the proportion of the foreign to the native population, you augment the perils to freedom?

Of all governments on earth ours requires the largest amount of virtue and intelligence to sustain it. Its very foundation is laid in the virtue, intelligence, and patriotism of the people. Let them become corrupt, ignorant, or careless in the discharge their duties, and the government can no longer stand. Ignorance may be tolerated in a subject, because he has no part to perform but to yield obedience. But where the people are the sources of all power—where they perform important functions in the administration of public affairs, if they are deficient either in knowledge of their duties, or in the integrity necessary to a faithful discharge of them, the whole machinery must at once become deranged, and the most disastrous consequences ensue.

Bearing these facts in mind, let us now turn to the statistical tables, and see what has been the extent of immigration to this country since 1790 (the earliest date from which we have any information to be relied on), to the beginning of the year 1855.

From 1790 to 1800 the number of immigrants was			50,000
1800	1810	- - -	70,000
1810	1820	- - -	114,000
1820	1830	- - -	135,986
1830	1840	- - -	579,370
1840	1844	- - -	334,339
1844	1855	- - -	2,523,758

This is the estimate of Mr. De Bow in his census report made to Congress and published by its order.

The following statement will show the average annual immigration in the various periods above stated.

From 1790 to 1800 the average per year was			5,000
1800	1810	- - -	7,000
1810	1820	- - -	11,400
1820	1830	- - -	13,598
1830	1840	- - -	57,937
1840	1844	- - -	83,564
1844	1855	- - -	229,432

This table shows that for the last eleven years the average annual immigration was nearly thirty-fold greater than during the first decade!

But, startling as this fact is, it does not present the case in its strongest light.

Mr. De Bow's tables are compiled from the reports of the collectors of the principal ports, which are very often imperfect, and do not present the whole truth, because captains of vessels being limited by law in regard to the number of their passengers, have a strong interest, when they violate it by bringing more than the number allowed by law, to conceal the fact by false returns.

Other tables made from returns in the office of the Secretary of State, of the number of passengers who arrived in this country from 1843 to 1855, show the following result, in round numbers:—

From 30th Sept.		1843 - - -	84,000
"	"	1844 - - -	119,000
"	"	1845 - - -	158,000
"	"	1846 - - -	232,000
"	"	1847 - - -	220,000
"	"	1848 - - -	309,000
"	"	1849 - - -	66,000
From 31st Dec.		1849 - - -	315,000
"	"	1850 - - -	408,000
"	"	1851 - - -	398,000
"	"	1852 - - -	400,000
"	"	1853 - - -	460,000
Agg'e (including fractions omitted)			3,174,395

But even these tables do not show the whole amount of immigration, because they embrace only those who arrive by sea, and do not include such as come in by land from the British possessions, or any of the other contiguous countries.

It will, I doubt not, be safe to adopt the estimate of many well-informed persons, that for the year 1853, the aggregate immigration of the United States, by land and sea, was not short of half a million of souls!

In this connexion, let us look at some other facts derived from the census tables, and in regard to the accuracy of which there can be no doubt.

In 1850 the white population of

Virginia was	894,800
Maryland	417,943
North Carolina	553,028
South Carolina	274,563
Georgia	521,572
Alabama	426,514
Louisiana	255,491
Florida	47,203

It will be seen that at the rate of immigration in 1853, there arrived in this country, every year, a sufficient number of persons to make a state embracing as large a white population as Maryland or Alabama! and within a fraction enough to make one having as large a white population as North Carolina or Georgia!

Every two years there would be enough to balance the white population of Virginia!

Every six months there would be almost enough to offset South Carolina or Louisiana!

And every five weeks a sufficient number to act as a counterpoise to the entire white population of Florida!! and every year enough to weigh down in the political scale ten such states as Florida!!

Is this a picture to be contemplated with pleasure by the citizens of America?

But there is one other aspect in which I would present the subject to the people of the Southern states.

In 1850 the aggregate white population of all the slave states was 6,547,993.

Assuming the immigration to continue what it was in 1853—making no allowance for its increase, though the tables show it had been progressively and rapidly increasing every year—it will be seen that in thirteen years a foreign population would be poured on our shores equal to the entire white population of the fifteen slave states!

The next inquiry is, where do these foreigners settle?

The census tables enable us to answer that question with accuracy.

In 1850 there were in the free states, of foreigners - - - - - 1,924,011
Do. do. slave states 316,673

Or, in other words, about six out of seven of immigrants settled in the free states.

But this statement is too favorable to the South, for it is well known that a large proportion of the foreigners, reported as residents of the South, were only temporary sojourners, as laborers on railroads, canals, &c., and as soon as their contracts were completed, they would naturally seek a climate and a population more congenial to their constitution and their tastes, in the Northern states.

From these figures, it is easy to see what has been at least one potential cause of the relative decline of the South in representation and influence in the national councils.

But unfortunately for the country it happens, that as the number of immigrants increases, their character for intelligence and virtue, and all the qualities that make good citizens, depreciates.

In the early days of the republic, the immigrants constituted one of the most valuable classes of our population. They were generally men of adventurous spirit—of energy, intelligence, and education—men who were attracted here by commerce, or the arts, or the learned professions. Their education and refinement fitted them for association with the most cultivated society, and they soon assimilated to the circles in which they moved. Such were the Scotch and Irish merchants, who settled in the valleys of the Rappahannock, the Potomac, and the James. Such were the refugees who fled from the horrors of the bloody days of the Goddess of Reason!

But what is the character of the great mass of those who crowd our immigrant ships now? They are the most ignorant of their countrymen—those who fly from starvation in their native land—whose highest aspiration is to satisfy the cravings of nature—who are ignorant of our laws, of our language, and of our institutions—and whose idea of liberty is comprehended in the license to drink all the whiskey they can get, and to indulge in the luxury of riots and the gratification of provincial animosities, without hindrance from the officers of the law.

I appeal to the history of the country, and to the personal observation of every man who has seen large bodies of them assembled, on public works, and in populous cities, for the truth of the picture that I have drawn.

Yet such are the people who are imported to this country at the rate of half a million a year, and by fraudulent devices, in a few weeks or months, invested with all the privileges and franchises of American citizens! Such are the men who are to give tone to our politics and to mould our legislation! Theirs is to be the standard of intelligence, and patriotism, and devotion to liberty, which is to be consulted by aspirants to places of honor and trust, to be conferred by their suffrages! Each one of these is to weigh as much in the political scale as a Washington, a Henry, a Jefferson, or a Madison, of the olden time; or a Rives, or Mason, or Hunter, or Summers, of the present day!

And because our American feeling revolts at this, we are to be taunted with being hostile to the "cause of civil and religious freedom!"

No. 8.

To qualify a people for a republican government, they must not only have intelligence and virtue, but they must undergo a system of training and instruction in the principles of liberty, and in the practical workings of free

institutions. They must learn to reverence the law and to obey it. They must acquire self-respect, and self-confidence, and understand that their well-being is inseparably interwoven with the peace and good order of society. They must comprehend that the restraints of social organization are not the arbitrary impositions of tyrannical power, but the voluntary surrender of a portion of their natural liberty for the more secure enjoyment of the residue.

Without such a training, the efforts of our ancestors to establish our present form of government would have proved an abortion. For more than one hundred years, they were educated in the principles of free government, under the fostering care of the mother country. Widely separated from England, the colonies were necessarily intrusted with the power of legislation, subject of course, to the supervision of the supreme government of Great Britain. This led the colonists to study the principles of freedom, engrafted during a long succession of ages on the British constitution, and to practise them in the regulation of their own affairs. When the crisis, therefore, arrived in their affairs, caused by the attempt of the mother country to violate the rights of the colonies, they were prepared to understand the wrong that was about to be done them, and to assert the true doctrines of liberty in their own behalf.

The protracted struggle of the Revolution, and the dangers and sufferings incident to it, also tended to enlighten the minds of the people, and to fit them for the high responsibilities of their position. Discussion was the order of the day throughout the colonies. The ablest men of the country were busily engaged in explaining to the people, in oral harangues, and published addresses, the nature of the evils with which they were threatened. The whole country was aroused to the highest pitch of excitement. Information was greedily sought for by all classes. The works of Milton, Locke, and Hampden were in every hand; and there never has been a day, when the mind of a nation was so thoroughly aroused, and so well instructed, not only in regard to the particular questions involved, but also in regard to the abstract nature of the rights and duties of the government and the people, as were the colonists at the close of the Revolutionary war.

Thus taught in a seven years' school of trial and adversity, when they came to form a government, they brought to the council chamber an amount of knowledge of the true principles of freedom which, I venture to say, no nation of the present day could equal. But with all these advantages, it was after long trial and tribulation that they were enabled to consolidate their liberties, by the adoption of the admirable system of government under which we live.

Is it a matter of surprise then that Americans—the descendants of those who accomplished this great work, and who have learned, not only from history, but from the lips of their fathers, the dangers and troubles by which the country was surrounded, and the difficulty with which they were surmounted, should look with jealousy on everything which tends to put their priceless heritage in peril? Is it to be wondered at, that, knowing the complexity and delicacy of the great machine intrusted to their charge, they should be unwilling to see it surrendered to ignorant, incompetent, or unfaithful hands?

How is it possible that foreigners can have the same interest in, and attachment to, our country and its institutions as Americans? All their early recollections are associated with a far distant land. Their traditions, sympathies, and affections (if they be good men) are all with the homes of their childhood. As Archbishop Hughes remarked, with equal truth and beauty, "I would not exchange the bright memories of my early boyhood, in another land, and under another sky, for those of any other man living, no matter where he was born."

Who does not concur in the noble sentiments expressed by Henry Clay, in the Senate, on the 7th of February, 1839—"The Searcher of all hearts," said he, "knows that every pulsation of my mind beats high and strong in the cause of civil liberty; wherever it is safe and practicable, I desire to see every portion of the human family in the enjoyment of it. But I prefer the liberty of my own country to that of any other people, and the liberty of my own race to that of any other."

Shall we then jeopard the liberty of "our own country" and "our own race" by intrusting it to the custody of people of foreign countries, and of a race alien to our own?

But let us now turn to the statistics of pauperism, crime, intemperance, and vagrancy, and see what revelations they will make in regard to the virtue and intelligence and capacity for self-government of our foreign population.

The report of the superintendent of the census shows that, in 1850, there was expended in the United States, of public money for the support of paupers, $2,954,806. This was, of course, independent of all private charities.

The number of paupers supported was 134,972, and of these, 68,538, or more than one-half, were foreigners!

New York had, in that year, 40,580 foreign paupers, and only 19,275 natives. In that state, one in every sixteen of her foreign population was a pauper, whilst of the native population, but one of every one hundred and twenty-seven was of that class.

In Pennsylvania, one in fifty-four of the foreign population was a pauper, and one in three hundred and forty-two of the native population.

From other sources, such as the Prison Discipline Journal, American Register, American Almanac, &c., the following facts have been ascertained:—

From 1837 to 1840, there were 8671 persons

relieved and maintained in Massachusetts at public expense, and of this number 6104 were foreigners.

The number received into the Baltimore Almshouse in 1851 was 2150, of which number about 900 were Irish and Germans. In 1854, the whole number received was 2358, of whom 1398 were foreigners; 641 being Germans, and 593 Irish.

In Louisville, the number of inmates of the Almshouse was 164, of whom 135 were foreigners.

In Buffalo, New York, the returns of commitments to the Work-House are as follows:—

	Native.	Foreign.	Total.
1852	254	708	962
1853	318	832	1150
1854	344	854	1198
1855	360	1022	1382
Total, 4 years,	1276	3416	4692

In Chambersburg, Pennsylvania, the Transcript says, that during a period of nine months, 553 paupers were received at the Poor-House of Franklin county, of whom 522 were foreigners.

In New Orleans, the number of commitments to the city Work-House for two weeks ending 3d August, 1855, was 108, of whom 92 were foreigners.

I might extend these details almost indefinitely, but those that I have given must be sufficient to satisfy any reasonable mind of the character of the mass of the immigrants.

Crime.—I have already, in connexion with the letter of Mayor Wood, and to confirm his statements, shown that more than half the criminals of our country are of foreign birth. I will now add a few more specific facts from the different states.

In Massachusetts there were, according to the tables of 1850, 7250 convicts, of whom more than half were foreigners—and throughout all New England the proportion was about the same.

In Missouri there were 908 convicts, of whom 666 were foreigners.

In Connecticut the whole number was 850, of whom 305 were foreigners.

In Illinois the whole number was 316, of whom 189 were foreigners.

In Maine the whole number was 744, of whom 460 were foreigners.

But without going more at large into the subject, I will state the general fact, that according to the census of 1850, the convictions among the native population were but one in every fifteen hundred and eighty—those in the foreign population were one in every one hundred and sixty-five.

In the four cities of New York, Brooklyn, Albany, and Buffalo, the number of convictions in 1852 was 3733, of whom 2802 were foreigners.

Of three hundred and one arrested in New York for drunkenness, in the first week in August, 1855, two hundred and fifty-two were foreigners.

But I pass from these disgusting details, to consider the indirect effects of this population on social and political order.

No argument can be necessary to show that such elements as those described in the statistics above cited, must necessarily create disorder, riots, and violations of law in any community into which they may be thrown. The tables themselves show that fact. But such persons bring other and indirect evils on the country which, if possible, are more fatal to its security than those to which I have referred. When they become invested with the right of suffrage, candidates for office will seek their votes, and, in order to get them, will pander to their prejudices, consult their pleasure, and adopt every means to win their favor. To do this, the office-hunter must sink to their level. He must promise to do what accords with their wishes and tastes. He must associate with them, drink with them, flatter them, and, if need be, bribe them! In this way the candidates become prostitutes, and the representatives become corrupt. After election, being anxious to retain their places, their eyes are constantly fixed on the voters, and their legislative action is shaped, not by a regard to the principles of the Constitution and the welfare of the country, but by a desire to conciliate the favor of this potential element in elections. And having made large sacrifices to secure their seats, they think it but fair to seize the earliest opportunity to reimburse themselves by plundering the treasury, under the guise of some contract or claim on the government. Have we not even beheld the humiliating spectacle of candidates for the Presidency courting the foreign vote in the most open and undisguised manner? And what are all the homestead laws, and pre-emption laws, and land distribution laws at nominal prices, but palpable, and I had almost said corrupt bids, by political aspirants, for the foreign vote? The dignity and independence of the officer is destroyed by practices like these, and he soon becomes a supple tool in the hands of an unscrupulous constituency.

The next step is from indirect to direct bribery. Instead of honeyed words, which do not satisfy hunger, or homesteads for men who would be too lazy to work them if they had them—money, ready money, will be demanded—yea, has been, and is now in some states too often demanded, as the price of votes! Thus money is made an element in political contests, and we already begin to see in our republic the germ of that corruption which enabled the foreign Pretorian bands to put up the imperial crown of Rome at auction! Continue to import hordes of ignorant and depraved foreigners, and clothe them with the elective franchise, and the day is not far distant when the party that can command the most money will control the elections; and men of property will justify themselves with the idea that they are buying their peace because the alternative left them is corruption or agrarianism.

But this is not the only form in which the evil of foreign influence on political affairs developes itself. Many of the educated foreigners bring with them the most distorted views of the ends and views of social organization. Many of them are infidels, atheists, socialists, and agrarians, and by their wild and demoralizing ideas corrupt the very fountains of liberty. Mormonism is a striking illustration of this species of foreign importation. In it we behold the most disgusting exhibition that the civilized world has ever witnessed of imposture, irreligion, and beastly licentiousness, introduced into the heart of our country, and sustained by the aid and influence of foreigners.

The political and religious—or rather anti-religious—theories of many of the Germans, are quite as shocking to the moral sense of the mass of our people, as the practices of the Mormons are revolting to their ideas of decency and propriety.

It is well known, that some years ago an association was formed, under the title of "Free Germans," having its head quarters in Louisville, with branches in all the principal cities of the Union, which entertained and sought to give efficiency to the most dangerous and anarchical doctrines. In March, 1854, the branch in Richmond published a platform of its principles, and the measures designed to carry them into practice. This platform is now before me, and I would gladly incorporate it into this article, did not its length forbid. But I hope that during the canvass it will be republished at large, so that every Virginian may see and reflect upon it.

It denounces slavery as a "political and moral cancer"—protests against the extension of slavery into any new territory—demands a repeal of the fugitive slave law, as demoralizing and degrading, and as contrary to human rights and to the Constitution—and insists "that in national affairs the principle of liberty shall be strictly maintained, and even in the several states it be more and more realized, by gradual extermination of slavery." It further affirms that "in free states the color of the skin cannot justify a difference in legal rights."

This platform also holds that "Sabbath laws, Thanksgiving days, prayers in Congress, and legislative oaths upon the Bible, the introduction of the Bible into free schools," &c., shall be abolished "as an open violation of human rights."

It also demands a free cession of lands to all settlers, and that citizenship must be early acquired, and that new settlers shall be aided with "national means."

All elections to be by the people, and the people to have the power to recall their representative at pleasure.

Neutrality in our foreign relations to be abandoned. Women to have the same political rights and privileges as men; and the death penalty to be abolished in all cases.

This is a summary of their avowed principles; but as this is a picture of their doctrines in "the green tree," let us see how they exhibit themselves when more fully developed.

With this view, I submit the following extract from a German paper published in St. Louis:—

"The first and most principal mark whereby we distinguish ourselves from religious people is, that in a belief on a God, and that which connects itself with this belief, we recognise a destructive cancer, which for thousands of years has been gnawing at humanity and preventing it from attaining to its destiny. No individual can live as a human being; in no family can true happiness flourish; the whole human race is hastening on ways of error so long as the most abominable hobgoblins God, future existence, eternal retribution, are permitted to maintain their ghostly existence. It is therefore the greatest task of every genuine revolutionist to put forth his best powers for the destruction of flagitious non-trio, viz.: the hobgoblins, God, future existence, and future rewards and punishments. No revolution is more than half executed unless the *vi et nerve* of the great arch-monarch beyond the stars is cut asunder; every attempted revolution is vain if the ministers of this monarch are not exterminated, as we are wont to exterminate ruinous vermin."

Can horrid blasphemy like this need a word of comment in a Christian community! And yet we find men denouncing the American party as "hostile to the cause of civil and religious liberty," because they are unwilling to see wretches who hold doctrine like these elevated to places of power, and trust, and dignity, in this land of religion and liberty!

I had proposed, in this number, to present some views of the bearing of foreign immigration on Southern institutions; but as I find I have already transcended my accustomed limit, I will reserve what I have to say on that subject, until a more convenient season.

My next number will be devoted to a consideration of the true relations of the American party to the members of the Romish church; and to a vindication of it from the slanderous charges of intolerance, religious persecution, and a disposition to violate the rights of conscience.

No. 9.

There is no subject on which the American party has been more misunderstood and misrepresented than in regard to its relations to the members of the Roman Catholic Church. It has been charged by its enemies, with being hostile to religious freedom, and as making war on the Catholics on account of their peculiar modes of faith and worship. The motive which prompts these accusations is obvious. The purpose is, to fasten the odium of intolerance, and of a disposition to deny to individuals the right to worship God according to the dictates of their own consciences, on the American party. But I affirm that all these charges are untrue. The American party

seeks to interfere with the religion of no man. It cheerfully acknowledges that that is a matter which rests—and should continue to rest—between each individual and his Creator. It recognises the freedom of religious opinion, and of religious worship, in the broadest sense of the terms. It is as tolerant of the religious sentiments of Catholics as of Protestants. It proposes to interfere no more with the religious faith and worship of the one than of the other. Individual members of the order may be disposed to go further, but I challenge the production of evidence to show that the American organization, as a party, asserts any such doctrines. Turn to the authentic exposition of the principles of the party, announced at Philadelphia, and see if it gives countenance to any such idea. The only provisions in the Philadelphia platform which bear on the subject of Catholicism in any form, are the following, viz., (the 5th).

No person should be selected for political station (whether of native or foreign birth), who recognises any allegiance or obligation of any description to any foreign prince, potentate, or power, or who refuses to recognise the federal and state constitutions (each within its sphere) as paramount to all other laws, as rules of political action.

And the 10th, which is in these words:—Opposition to any union between church and state; no interference with religious faith or worship, and no test oaths for office.

It cannot be pretended that either of these, indicate any disposition to interfere with the freedom of conscience, or to persecute Catholics on account of their faith or worship. On the contrary, the doctrine emphatically proclaimed in the 10th section above quoted, "no interference with religious faith," "no union between church and state," and "no test oaths for office."

And yet, in the face of these solemn declarations of the creed of the party, our enemies persist in charging us with intolerance and persecution for opinion's sake.

This leads us to inquire why, and in what respects, there is any antagonism between the American party and the Roman Catholics?

That there is a controversy between the Americans and the ultramontane branch of the Roman church, will not be denied. But that controversy is not of a religious character, but purely political. It has nothing to do with the faith or worship of the members of that division of the church, but relates entirely to certain political opinions, avowed by them, in regard to questions, not of an ecclesiastical character, but, affecting the policy of the state. With the Gallican branch of the Roman church, which professes the same religious faith, and practises the same forms of worship, with the ultramontane branch—but which repudiates the obnoxious political opinions—the American party have no controversy whatever. They can cordially extend to them the embrace of brotherhood, and sustain them, without any sacrifice of principle, for political office.

The Roman church is now, and has been for near three hundred years, divided into two great parties. One of these is known as the Gallican, or French branch, and the other as the ultramontane or Italian branch.

The latter maintain that the power of the Pope is supreme in temporal as well as spiritual things. They hold that he is lord over all kings, and potentates, and governments of the earth; that the subjects and citizens of all governments owe to him a higher allegiance than to their immediate sovereign; and that the Pope has the power to subvert republics, to nullify laws, and to absolve both subjects and citizens from their allegiance to any sovereign or republic which may incur his displeasure.

The Gallican branch of the church recognise the supremacy of the Pope in all ecclesiastical matters, but utterly repudiate it in all temporal or political affairs.

Great misconception has arisen in the minds of men, from not understanding the difference between the two branches of the Roman church. And our adversaries, with a cunning worthy of Jesuits, have studiously endeavored to keep this important division in the back ground; whenever an American endeavors to show the danger of the ultramontane doctrine, and its irreconcilable antagonism to the principles of our Constitution, they deny that the Roman church entertains any such doctrines, and quote largely from members of the Gallican branch to prove their proposition!

Begging my readers not to lose sight of this marked distinction between the two branches of the church, I will now endeavor to exhibit, from the highest authority, the present position of parties on this most important question.

Politicians are not generally very well informed on questions of an ecclesiastical character, and they may, therefore, be very naturally led into error, by not understanding matters of detail.

A striking illustration of this fact was exhibited, but a little more than a year ago, in the Congress of the United States. In the course of a debate in that body, some allusion was made to the claims of the Pope to supremacy in temporal affairs. This at once drew from Mr. Chandler, himself a member of the Gallican branch of the church, an eloquent reply, in which he utterly disclaimed and denied any such assumption on the part of the Pope. The members of Congress not being profoundly versed in Catholic lore, were at once silenced, and the speech went to the country as a conclusive answer to the unjust charge against the church. But unfortunately for Mr. Chandler, neither Protestants nor the members of the ultramontane branch of his church were disposed to rest quietly under his exposition of the doctrines of the church. The press, both in this country and Europe,

teemed with articles denunciatory of the speech of Mr. Chandler as insincere, or founded in ignorance or cowardice.

Professor McClintock was among the first to correct the error. He said, "if Mr. Chandler had been well informed on the subject, he would have told his auditors there are two parties in the Catholic church on this question: one (the ultramontane party) affirming, and the other (the Gallican party) denying that the Pope, by reason of the spiritual power, has also a supreme power, at least indirectly, in temporal matters."

He then proceeds to state the relative strength of the two powers, and shows that the ultramontane is largely in the ascendancy, and that the Gallican party is a mere faction, which is rather tolerated than cherished by the church. Indeed, Gallicanism is stigmatized as the "half-way house to Protestantism."

Professor McClintock then says:

* * * * * *

"It remains for me briefly to set forth the present state of Roman Catholic opinion. The ultramontane doctrine is held, 1st, by the Pope; 2, by all the cardinals, without exception; 3, by all, or nearly all, the Italian bishops; 4, by a majority of the bishops of Germany, Spain, and Portugal; 5, by about two-thirds of the French bishops. Among the religious orders it is held,—1, by the Jesuits without exception, as no man can be admitted to the order who denies it; 2, by a majority of the members of the other (sixty or more) religious orders, which vie with each other in devotion to the Pope, each of them having a general at Rome. As for the Catholic journals,—1, the Civito Catolica at Rome was established for the very purpose of maintaining this theory, and does maintain it most effectually; 2, the Historisch Politische Blatter, the most eminent Papal journal in Germany, is strongly ultramontane; 3, the Univers, of Paris, is more ultramontane than Bellarmine; 4, the Belgian papers, I think, without exception, are on that side; and 5, Brownson's Review, in this country, is what I have shown you above. * * *

"I have now done all that I promised to do in the beginning. May I not hope that, after reading this letter, you will rise in your place in Congress, at the first convenient opportunity, and restate your theory of the church? Does not your reputation as a scholar and a gentleman need such a vindication as you can only make by 'defining your position' anew? If you do not do this, my confidence in your candor and ingenuousness will have been sadly misplaced. If you do, I beg you to read in the course of your speech, the following truthful passage from the coryphæus of Roman Catholic editors in America:—

" 'There is, in our judgment, but one valid defence of the Popes, in their exercise of temporal authority in the middle ages over sovereigns, and that is, that they possess it by divine right, or that the Pope holds that authority by virtue of his commission from Jesus Christ, as the successor of Peter, the prince of the apostles, and visible head of the church. Any defence of them on a lower ground must, in our judgment, fail to meet the real points in the case, and is rather an evasion than a fair, honest, direct, and satisfactory reply. To defend their power as an extraordinary power, or as an accident in church history, growing out of the peculiar circumstances, civil constitution, and laws of the times, now passed away, perhaps for ever, may be regarded as less likely to displease non-Catholics, and to offend the sensibilities of power, than to defend it on the ground of divine right, and as inherent in the divine constitution of the church; but even on the low ground of policy, we do not think it the wisest in the long run. Say what we will, we can gain little credit with those we would conciliate. Always to their minds will the temporal power of the Pope, by divine right, loom up in the distance, and always will they believe, however individual Catholics here and there may deny it, or nominal Catholic governments oppose it, that it is the real Roman Catholic doctrine, to be re-asserted and acted the moment that circumstances render it prudent or expedient. We gain nothing with them but doubts of sincerity, and we only weaken among ourselves that warm and generous devotion to the Holy Father, which is due from every one of the faithful, and which is so essential to the prosperity of the Church, in her increasing struggles with the godless powers of this world.'—Brownson's Review, Jan. 1854."

The Dublin Tablet, a Catholic publication of high authority, is equally emphatic in its condemnation of Mr. Chandler's speech. The writer, after arguing to prove the power of the Pope to depose sinful sovereigns, says:—

"Mr. Chandler goes a great deal further—we are sorry to refer to him so often—and trenches on the real spiritual power, which he is so anxious to guard inviolate. His words are these: 'I deny to the Bishop of Rome the right resulting from his divine office, to interfere in the relations between subjects and their sovereigns—citizens and their governments.'

"It is impossible that he can mean what these words imply. The Pope is at this moment interfering in Piedmont, defending one class of citizens there against the government—and yet, in the House of Representatives, a Christian denies the right! Governments may and do prohibit good works, and the Pope interferes. They also encourage and commit evil—the Pope interferes, and good Christians prefer the Pope's authority to that of the state. The godless colleges in Ireland, the hierarchy in England, the trouble in Piedmont—all bear witness together against this unchristian opinion which must have escaped from the speaker, who did not ponder his words."

The closing paragraph of the article in the Tablet is in these words:—

"The old Gallican leaven, driven out of the Old World, foments in the New, and the exploded opinions of obstinate men in Europe seem to have found favor in some quarters in America. Humanly viewed, the matter is easy of explanation; but it is not the less perilous, for unsound theories about the extent of the ecclesiastical power will never convert heretics, but are sure to pervert Catholics."

The opinions expressed by Mr. Chandler in the above extract from his speech, are precisely the opinions of the American party, and yet when Americans announce them, they are charged with being persecutors and enemies of religious freedom!

The American party deny that the Pope has any temporal or political power outside of his own dominions. They deny that the subjects or citizens of any other government owe him any political allegiance. They deny that the Pope has any power to depose sovereigns or to overthrow republics. They deny that he has a right to absolve citizens or subjects from their allegiance to their own government. And they utterly repudiate the idea that there is a paramount allegiance due to him which overrides their own government.

And as a corollary to these propositions, they are unwilling to vote for any man for public office, in this country, who holds the opposite, or ultramontane doctrine.

They hold that the Constitution of the United States is the supreme law of the land, and no man who denies that proposition ought to hold office under it. They hold that our first, highest, and only political allegiance is due to our own country, and that none is due to any other.

They disclaim and denounce "the higher law doctrines" in all their length and breadth, whether they exhibit themselves in abolition fanaticism at the North, or in the recognition of a higher allegiance to the sovereign of the States of the Church than is due to the government of our own country.

They require that when a man swears to support the Constitution of the United States, he shall do so in good faith, and according to its true spirit, and not with qualifications and mental reservations.

None, who are unwilling to conform to these requisitions, can receive the support of the American party.

Ah! but (say our adversaries) this recognition of the temporal power of the Pope is a part of the Catholic religion, and therefore you are interfering with their religious freedom! So, it may be said, polygamy is a part of the religious faith of the Mormons, and abolition is an element in the creed of Theodore Parker, H. W. Beecher, and others of their fanatical stripe! And would our adversaries be willing to elect a Mormon or an Abolitionist to high office? I presume not, and therefore the argument proves too much. No such device can be tolerated as that by blending obnoxious political sentiments with religious opinions, immunity can be claimed for both, under the broad shield of the freedom of religion!

The Americans are charged with dragging religion into the political arena. This is wholly untrue. Their steadfast aim is to keep religion out of the party contests of the day. They have manifested no aggressive spirit. Throughout they have been on the defensive. It was not until the organs of the ultramontane branch of the Roman Church avowed their purpose to war on the freedom of religion—to strive to gain the ascendancy in this country, with the view to prostrate it at the footstool of Rome—to persecute Protestants—and for the accomplishment of these ends to vote as Catholics, and in a body, in such a way as to be most effective—that the Americans were roused to resistance.

No. 10.

In my last number I furnished some striking proofs of the extraordinary pretensions of the dominant party of the Romish church, to temporal power in the Pope. Before passing from this point, I will add further evidence to support my position.

Brownson's Review is the accredited organ of that party. He ostentatiously parades the names of the archbishops and bishops on the cover of his book, to give the stamp of authenticity to its sentiments, and he inserts in it that "I never think of publishing anything in regard to the church, without submitting my articles to the bishop for inspection, approval, and endorsement." This declaration stands to the present day, uncontradicted, and, therefore, on every principle of evidence, must be taken to be true.

Let us then look to his pages for an exposition of the devotions of his church. In his number for January, 1853, he says:—

"For every Catholic at least, the church is the supreme judge of the extent and limits of her power. She can be judged by no one; and this, of itself, implies her absolute supremacy, and that the temporal order must receive its law from her."

* * * * * *

"Whenever the occasion occurred, she asserted her power, not in empty words only, but in deeds, to judge sovereigns, kings, and Cæsars, to bestow or to take away crowns, to depose ungodly rulers, and to absolve their subjects from their oaths of allegiance."

Again, in the number for July, 1853, he says:—

"The church is supreme, and you have no power except what you hold in subordination to her, either in spirituals or in temporals * * * you no more have political than ecclesiastical independence. The church alone, under God, is independent, and she defies both your powers and her own."

"They have heard it said from their youth up, that the church has nothing to do with

politics, that she has received no mission in regard to the political order. * * * * * In opposing the nonjuring bishops and priests, they believed they were only asserting their national rights as men, or as the state, and were merely resisting the unwarrantable assumption of the spiritual power. If they had been distinctly taught, that the political authority is always subordinate to the spiritual, and had grown up in the doctrine that the nation is not competent to define, in relation to the ecclesiastical power, its own rights—that the church defines both its powers and her own, and that though the nation may be, and ought to be independent, in relation to other nations, it has and can have no independence in the face of the church—the kingdom of God on earth; they would have seen at a glance, that to support the civil authority against the spiritual, no matter in what manner, was the renunciation of their faith as Catholics, and the actual or virtual assertion of the supremacy of the temporal power."

In the same number, page No. 301, he says:—

"She (the church) has the right to judge who has or who has not, according to the law of God, the right to reign—whether the prince has, by his infidelity, his misdeeds, his tyranny and oppression, forfeited his trust and lost his right to the allegiance of his subjects, and therefore whether they are still held to their allegiances, or are released from it by the law of God. If she have the right to judge, she has the right to pronounce judgment, and order its execution: therefore, to pronounce sentence of deposition upon the prince, who has forfeited his right to reign, and to declare his subjects absolved from the allegiance to him, and free to elect themselves a new sovereign."

I might multiply authorities on this point, almost indefinitely, but it would seem to be unnecessary. Those who are disposed to pursue this subject, will find it ably treated in the speeches of Hon. Erastus Brooks, delivered last year, in the Senate of New York.

Can any man, who cherishes republican principles, tolerate sentiments like these? Is it not obvious that they are diametrically opposed to the cardinal doctrine which lies at the basis of all free institutions—viz.: the sovereignty of the people? According to that authoritative doctrine of Mr. Brownson, endorsed by his church,—all power is in the Pope. He is the supreme judge. If oppressed the people must look to him for redress. They have no inherent and inalienable rights—and the doctrines of the Declaration of Independence are all dangerous falsehoods!

But let us now come to the more immediate purpose of this number, which is to show the aggressive spirit of the ultramontane Catholics—their hostility to freedom of religion—their intolerance of Protestantism—their interference in politics, and their determination, if possible, to bring this country under the dominion of Rome.

As early as 1844, the Catholics, as a body, took their stand in the political arena. The illustrious Henry Clay and the virtuous and pious Theodore Frelinghuysen, were the nominees of the Whig party for the Presidency and Vice Presidency. I am not aware that there was any particular hostility entertained towards Mr. Clay, for at that time he was not a member of any church. But, Mr. Frelinghuysen was a member of the Presbyterian church, and what is more, he was the President of the Board of Foreign Missions!

This fact at once drew, not only upon him, but upon his distinguished associate, Mr. Clay, the bitter animosity of the Catholic press, and of the Catholic sect.

Brownson, in his number for July, 1844—in the heat of the contest, thus assailed Mr. Clay:—

"He is ambitious but short-sighted. * * He is abashed by no inconsistency, disturbed by no contradiction, and can defend, with a firm countenance, without the least misgiving, what everybody but himself sees to be a political fallacy or logical absurdity. * * * He is no more disturbed by being convicted of moral insensibility, than intellectual absurdity. * * * A man of rare abilities, but apparently void of both moral and intellectual conscience * * * and therefore a man whom no power under that of the Almighty can restrain; he must needs be the most dangerous man to be placed at the head of affairs it is possible to conceive."

It will be seen that the denunciations of Mr. Clay are all vague and declamatory. No special objection is taken to him, and it is obvious that the opposition was not so much to him as through him to Mr. Frelinghuysen. The Boston Pilot, another Catholic organ, discloses the plot in its number of 31st October, 1844—about five days before the election! Here is what it said: "We say to all men in the United States, entitled to be naturalized, become citizens while you can—let nothing delay you for an hour—let no hindrance, short of mortal disease, banish you from the ballot-box.—To those who are citizens, we say, vote your principles, whatever they may be—never desert them—do not be wheedled or terrified—but vote quietly, seriously, and unobtrusively. Leave to others the noisy warfare of words. Let your opinions be proved by your deliberate and determined action. We recommend to you no party; we condemn no candidate but one, and he is Theodore Frelinghuysen. We have nothing to say to him as a Whig—we have nothing to say to Mr. Clay, or any other Whig, as such—but to the President of the American Board of Foreign Missions, the friend and patron of the Kirks and Cones, we have much to say. We hate his intolerance—we dislike his associates—and we shudder at the blackness and bitterness of that school of sectarians, to which he belongs, and amongst whom he is regarded as an authority."

Presbyterians! Do you hear that! And do

you think that Americans are warring on civil and religious freedom, when they seek to rebuke sentiments of this character!

Appeals like these had their effect. The Catholics were rallied to the polls, and decided the election.

On the 9th November, 1844, Mr. Frelinghuysen wrote to Mr. Clay as follows: "More than 3000, it is confidently said, have been naturalized in this city (New York) alone since the 1st of October.—It is an alarming fact that this foreign vote has decided the great questions of American policy, and contracted a nation's gratitude."

But hear Brownson again:—

"Heretofore we have taken our politics from one or another of the parties, which divided the country, and have suffered the enemies of our religion to impose their political doctrines upon us; but it is time for us to begin to teach the country itself those moral and political doctrines which flow from the teachings of our own church. We are at home here, wherever we may have been born; this is our country, and as it is to become thoroughly Catholic, we have a deeper interest in public affairs than any other of our citizens. The sects are only for a day, the church for ever!"

Here we have a candid declaration, from the accredited organ of the church, that thenceforth Catholicism is to be made an element in the party contests of the country. Catholic politics are to be taught by the press, and Catholic votes are to be employed to make the country "thoroughly Catholic."

True to his professions, and keeping his eye single to Catholic interests, we find Brownson alternately denouncing both the great parties of the country, and vilifying without measure their leading men.

Gen. Cass having made a speech in the Senate in favor of free worship and the rights of conscience for Americans abroad, Brownson, after commiserating his "confusion of ideas" and "drivelling," said in his number for October, 1852:—

"We are glad to see Gen. Cass laid on the shelf, for we can never support a man who turns radical in his old age."

When Mr. Fillmore's administration closed, it was thus noticed by the "Freeman's Journal," the organ of Archbishop Hughes—the provocation being a letter written by Mr. Everett, asking the Grand Duke of Tuscany to release Medais from imprisonment:—

"It does not escape the independent judgment of the universe, that the administration, now happily defunct, has been as bigoted as it has been imbecile. The universe congratulates the country upon having elected a statesman for President, and for permitting the Unitarian ex-preacher, late Secretary of State, to return to his pulpit, to proclaim that Jesus is not God, and Mr. Fillmore himself to become a village lawyer."

From this it would seem that Gen. Pierce was a special favorite of the Catholic Church, as he had taken pains to conciliate it by appointing one of its members to a position in his cabinet. But the moment a controversy arose between the United States and Catholic Austria, in regard to Kosta's case, we find Brownson, with the instincts of a Jesuit, making his religion paramount to his civil obligations, and taking sides against his own country. In his number for January, 1854, after reviewing the case, he says: "The secret of the whole transaction is not difficult to divine. It was to get up, if possible, a war with Austria, in accordance with the plans and ardent wishes of Ludwig Kossuth. For this purpose, we doubt not, Kosta returned, or was ordered by Kossuth to return to Turkey, and very possibly with the knowledge and approbation of our jacobinical government!"

Thus we see no political attachments—no gratitude for past favors, can bind this "Corypheus of Catholic editors," when the interests of his sect are in anywise involved! Catholicism is the all-absorbing idea!

Thus, in his October number, 1852, Brownson says: "The sorriest sight to us, is a Catholic throwing up his cap and shouting 'all hail Democracy!'" This, too, at the very time that he was supporting the Democratic party in the Presidential contest! He would sooner have heard the cry, 'All hail Catholicism!' and he was only using Democracy as an instrument to advance his primary wish!

These passages are sufficient to show that the Catholic press and Catholic church have avowed their purpose to enter the political arena, and to make their religion an element in the future party contests of the country.

Hear, too, how the "Freeman's Journal" invokes the Catholic Irish in this country to bear themselves:—

"Irishmen learn in America to bide their time. Year by year the United States and England touch each other more and more nearly on the seas. Year by year the Irish are becoming more powerful in America. At length the propitious time will come;—some accidental, sudden collision, and a Presidential campaign at hand. We will use the very profligacy of our politicians for our purposes! They will want to buy the Irish vote, and we will tell them how they can buy it in a lump, from Maine to California, by declaring war on Great Britain, and wiping off at the same time the stains of concessions and dishonor that our Websters, and men of his kind, have permitted to be heaped upon the American flag by the violence of British agents."

Who can wink so hard as not to see that a religious and not a political war was in the mind of the writer—a war not to advance American interests but to promote the cause of Catholicism in Ireland, was the real object in contemplation!

Having thus shown the purpose of the organs of the Catholic church, to become a party to the political contests of the country, with a view to the advancement of its interests, let us now see in what way the power thus

gained is to be employed—whether for the promotion of "the cause of civil and religious freedom, or for its overthrow."

The first authority which I will cite is the "Freeman's Journal," the mouthpiece of Archbishop Hughes. That journal, in speaking of the labors of Mr. Hastings, the Protestant chaplain of the American consulate at Rome, amiably remarked, that if he made a single convert "he would be kicked out of Rome, though Mr. Cass (our minister) should bundle up his traps and follow him!"

The Pittsburgh Catholic Visiter, referring to the same subject, said, "For our own part, we take this opportunity of explaining our hearty delight, at the suppression of the Protestant Chapel in Rome. This may be thought intolerant—but when, we would ask, did we ever profess to be tolerant to Protestantism, or to favor the doctrine that Protestantism ought to be tolerated? On the contrary we hate Protestantism—we detest it with our whole heart and soul, and we pray that our aversion to it may never decrease. We hold it meet that in the Eternal City, no worship repugnant to God should be tolerated, and we are sincerely glad the enemies of truth are no longer permitted to meet together in the capital of the Christian world."

There certainly is a strong odor of religious freedom about these most Christian sentiments!

"The Rambler," another Catholic journal, thus expresses itself:—

"You ask if he, the Pope, were lord in the land and you were in a minority, if not in number, yet in power, what would he do to you? That we say would depend entirely on circumstances. If it would benefit the cause of Catholicism he would tolerate you—if expedient, he would imprison you—banish you—fine you—possibly hang you—but be assured of one thing, he would never tolerate you for the sake of the 'glorious principles' of civil and religious liberty."

This is undoubtedly marked by a most commendable degree of candor! The Boston Pilot very ingenuously observes:—

"No good government can exist without religion; and there can be no religion without an Inquisition, which is wisely designed for the promotion and protection of the true faith."

Brownson says:—"Protestantism of every form has not, and never can have, any rights where Catholicity is triumphant"—and again—"Let us dare to assert the truth in the face of the world, and instead of pleading for our church at the bar of the state, summon the state itself to plead at the bar of the church—its divinely constituted judge."

On the 15th of August, 1852, the Pope addressed to his followers an Encyclical letter, of which the following is an extract:—

"The absurd and erroneous doctrine or ravings, in defence of liberty of conscience, is a most pestilential error—a pest of all others, most to be dreaded in a state."

The Shepherd of the Valley, a leading paper, formerly published at St. Louis, Missouri, said:—

"Protestantism of every discription, Catholicity inserts in her catalogue of moral sins, she endures it when and where she must, but she hates it and directs all her energies to effect its destruction!"

Again, on 23d of Nov., 1851, that paper says:—

"The church is of necessity intolerant. Heresy she endures when and where she must, but she hates it, and directs all her energies to its destruction. If Catholics ever gain an immense numerical majority, religious freedom in this country is at an end. So our enemies say. So we believe."

On the 22d of October, 1853, the same paper says:—

"We think the 'masses' were never less happy, less respectable, and less respected, than they have been since the Reformation, and particularly within the last fifty or one hundred years, since Lord Brougham caught the mania of teaching them to read, and communicated the disease to a large portion of the English nation, of which, in spite of all our talk, we are too often the servile imitators."

The Rambler, in 1853, says:—

"Religious liberty, in the sense of a liberty possessed by every man to choose his religion, is one of the most wretched delusions ever foisted on this age by the father of all deceit."

Brownson, in his October number, 1852, page 456, says:—

"The liberty of heresy and unbelief is not right. * * * All the rights the sects have, or can have, are derived from the state, and rest on expediency. As they have, in their character of sects hostile to the true religion, no rights under the law of nature or the law of God, they are neither wronged nor deprived of liberty, if the state refuses to grant them any rights at all!"

I shall now close with two extracts from the "Paris Universe," which Professor McClintock, in his reply to Mr. Chandler, speaks of us as a leading ultramontane journal. It says:—

"A heretic, examined and convicted by the church, used to be delivered over to the secular power, and punished to death. Nothing has ever appeared to us more necessary. More than one hundred thousand persons perished in consequence of the heresy of Wickliffe; a still greater number for that of John Huss; and it would not be possible to calculate the bloodshed caused by Luther, and it is not yet over.

"As for myself, what I regret, I frankly own, is that they did not burn John Huss sooner, and that they did not likewise burn Luther; this happened because there was not found some prince sufficiently politic to stir up a crusade against Protestantism."

These citations will show which party has manifested the intolerant and aggressive spirit—which party is opposed to the "cause of civil and religious freedom!"

I offer no comments of my own, but leave every reader to judge for himself. The price of liberty is eternal vigilance. The remark applies to religious as well as to civil liberty. All we ask of the people is to be vigilant. Do not be so engrossed with the ordinary business of life, as to close your eyes to the important events that are transpiring around you. Watch with jealousy every measure which is calculated to abridge your political or religious freedom, and resist it at the threshold. Prevention is easier than cure. There are some measures that are so monstrous as to seem incredible; but history tells us that bloody persecution has, in former times, been the order of the day. Martyrdom has been suffered, and the massacre of St. Bartholomew's did take place, for religious opinion's sake. What has happened once may happen again. Let us, being forewarned, be likewise forearmed. Whilst we make no assaults on the liberty of others, let us not, by a blind sense of security, and a culpable neglect of duty, suffer our own to be put in jeopardy. Such is the position of the American party. They feel no disposition to interfere with the faith or worship of the ultramontane Catholics, but they are unwilling, by elevating them to positions of trust and influence, to give them the power to trample upon the rights of Protestants.

I have now completed my defence of the American party, against the charge of being hostile to "the cause of civil and religious freedom." It will be for an impartial public to decide how far the vindication has been successful.

I propose to close the series by two additional numbers, one of which will be devoted to the examination of the grounds on which Mr. Wise stigmatizes the American ticket as "a mongrel" or "mulatto ticket,"—and the other to the claims of the Democratic party to the title of the "White man's party."

No. 11.

Having vindicated the principles of the American party from the more serious charges preferred against it by Mr. Wise, this number will be devoted to a commentary upon certain other passages of his letter, and more particularly to the subject of "renegades," "conscientious Whigs," and the mongrel or mulatto ticket.

Mr. Wise, in his letter, says:—

"We gladly took them (the Whigs) in exchange for the renegade Democrats, who sneaked from their former friends, and took a test oath in the secrecy of the culvert, by the light of a dark lantern."

It seems to me that Mr. Wise is somewhat harsh upon his old political friends. The term "renegade," to say the least of it, is by no means courteous, and the charge that they "sneaked away," is liable to the same criticism. It is true that many independent and upright Democrats, disatisfied with the principles and policy of the Democratic party, left it, as did many of the Whigs, and joined the American party. But I was not before aware that it was such a heinous offence for a free citizen of this great republic to change his party relations. I did not know that the shackles of party allegiance were not to be thrown off without incurring the odium of being "renegades," and subjecting themselves to the denunciation of having "sneaked away." I had thought that with all true patriots the obligation to country was stronger than that to party. That parties were mere instruments to subserve the best interests of the country, and that it was not only the right but the duty of every patriot to leave his party when he thought it was not ministering to the good of his country. Mr. Rives announced that every man should recollect that "he had a country to serve, as well as a party to obey," and the whole country applauded the sentiment as the offspring of a patriotic spirit. The right to change his party relations, is one which has been exercised by Mr. Wise himself, and by hundreds of others, now high in the confidence of the Democratic party. Where was there a more bold, eloquent, and fearless champion of Whig principles than Mr. Wise himself? His noble sentiment, "the union of the Whigs for the sake of the Union," thrilled the heart of every Whig in the nation; and yet Mr. Wise left the Whig party, and is now the accredited champion of the party which he once so vehemently opposed. Surely Mr. Wise ought to extend the same toleration and charity to others, who have thought proper to change their political relations, which he claims for himself. He would hardly fancy the epithet of "renegade," or the charge of having "sneaked away from his former friends," if applied to himself, and he should therefore abstain from applying them to others.

But it seems to me the Democrats who left their party, and joined the Americans, have at least given the strongest evidence that they did not, like the brethren of Joseph, "go down into Egypt" after "corn!" They could not have been influenced by selfish motives, or the hope of advancement. They left a powerful party, flushed with a triumph unparalleled in the history of our country, and attached themselves to a new one, which could hold out them no hopes of promotion. Surely this is the highest evidence of disinterestedness, and should at least protect them from imputations of improper motives. If the case had been reversed,—if they had left a party whose fortunes were on the wane, to join one in the zenith of its prosperity,—able to confer high offices and rich rewards, then suspicion might have attached to their motives. But such not being the fact, justice and charity alike concur in according to them the credit of being influenced by high and patriotic principles.

"Whether these Whigs can be reclaimed by the new nomination at Philadelphia, says

Mr. Wise, time will show. I think they cannot be."

And why not? Did not Mr. Wise himself, in the canvass of 1852, contend that the failure of the Whig National Convention, to nominate Mr. Fillmore, was such an outrage on the party as to absolve its members from their allegiance? Was not Mr. Fillmore *then* the choice of the Whigs of Virginia? Was he not universally conceded to be a conservative,—constitution-loving, law-abiding, and law-enforcing chief magistrate? Did he not fulfil every requisition of the Jeffersonian test?—was he not honest and capable, and faithful to the Constitution? Did he not perform all his duties to the South and to the North with strict fidelity and impartiality? Did he not restore harmony to a distracted country? Did he not see that the laws were faithfully executed? Did he not maintain the honor of our country inviolate at home and abroad? Did he pander to sectional prejudices, or seek by duplicity—looking one way and rowing another—to conciliate popularity for himself? Was he not bold, straight-forward, manly, and true?

And what has he done since to forfeit the confidence of the Union-loving Whigs and Democrats? Has he intrigued or manœuvred for a nomination? Has he written letters or made promises to commend himself to popular favor and regard?

None of these things has he done, for he has been absent from the country for the greater part of a year. Why then, I repeat, should not Union and conservative Whigs support him? The Democracy profess to regard the slavery question as the great question of the day. Has not Mr. Fillmore proved himself sound on that? Where is the Democrat who has given as strong evidence as Mr. Fillmore of his determination to uphold the guarantees and compromises of the Constitution? And can any one doubt that, if elected, he will do the same thing again? Why then not support the man who safely guided the ship of state through the storms and tempests of 1850?

Is the fact that Mr. Fillmore is in favor of a modification of the naturalization laws—that he is an American in heart and sentiment—that he loves his own country and his own countrymen better than foreign countries and foreign men—sufficient to cancel the debt of gratitude which Virginia owes him, and to obliterate from the hearts of her sons the record of his virtues and his patriotic devotion to the national welfare? Oh no! It cannot be! The hearts of the Whigs of Virginia will leap toward him. They will remember his ability, and fidelity, and truth, and although they may even differ with him on some of these questions, they will make them secondary to the great object of securing domestic tranquillity, and placing in the chair of Washington a man whose administration, in times of peculiar peril, was pronounced, if not by Mr. Wise, at least by the concurrent voice of the nation, "Washington-like!"

But Mr. Wise says, "Mr. Fillmore is no longer a Whig; he has been changed by the hocus-pocus of the necromancy of Sam."

When the Whig party, after the defeat of 1852, retired from the field, Mr. Fillmore had to choose between the American party, whose principles he had approved as early as 1844 (as appears by his letter to Mr. Clay in that year), and the Democracy. I have no doubt that Mr. Fillmore was attached to the Whig party. He had been nurtured in its lap; he had been reared in its conservative principles; he had proudly borne its banner both in victory and defeat; he had learned wisdom at the feet of its great sages, Webster and Clay. Mr. Fillmore's opposition to Democracy was a matter of principle, not of expediency. It was not a thing that he could pick up, or lay down, as interest or caprice might prompt. He had denounced its tyranny, its misrule, its disregard of the Constitution—its reckless extravagance—from the conviction that his denunciations were just. He could not, therefore, when the old adversary of that party retired from the conflict, eat his own words; retract his own charges, and falsify his whole life, by affiliating with a party which he had contended to be unworthy of trust. Interest might have dictated such a course, but duty and patriotism forbade it. Mr. Fillmore saw the Democracy, in violation of all its pledges, renewing the agitation of the slavery question, which he had composed—opening the floodgates of sectional strife, and endangering the peace and security of the Union. Knowing that the only available power to stay the torrent which threatened to overwhelm the country, was the American party, with the energy and promptness which distinguish him, he extended the right hand of fellowship to it, and sought to aid it in the fulfilment of its great mission of peace.

And does Mr. Wise suppose that the Whigs of Virginia, who, for more than twenty years, have been doing battle manfully against the Democracy; crying aloud and sparing not; denouncing its harsh tyranny, its vindictive proscription, its reckless prodigality, its gross usurpations of authority not conferred by the Constitution, its official corruptions—will now consent to impliedly admit that all their charges were false, that all their clamors were mere idle words, and tamely put on the Democratic yoke, in order that they may, perchance, pick up a crumb as it falls from the rich man's table! If he cherishes any such hope, I think he sadly mistakes the metal of which Whigs are made. They are bold, gallant, and true. Majorities have no peculiar charms for them. They have been long used to defeat. Principle, not success and its incidents, has been the object for which they struggled. They are not now prepared to admit that their whole career has been one of falsehood and unfounded calumny.

They are not prepared, and cannot be persuaded to admit that they have all the time been slandering the Democracy, and that it is in truth pure and immaculate. No! the old line Whigs—the conservative, Union-loving Whigs—may have been deterred by the faults and follies of the original organization of the American party, from co-operating with it. They may have been misled by the secrecy which prevailed [and which was justly obnoxious] to fear that there was some unhallowed purpose entertained by the American party, and therefore were opposed to it. But now, that the veil of secrecy is thrown off; now, that everything is revealed to their view; now, that a sure guarantee is given to them, by a presentation of their own trusted favorite Fillmore, as its standard-bearer, the Whigs can no longer doubt that the ends and aims of that party must be patriotic and national, whose battle-cry is "Americans must rule America," and who rally their hosts beneath the banner of Millard Fillmore!

Conservatism of principle, pride of consistency, and sympathy of old associations, will conspire to induce the Whigs of Virginia, either collectively or as individuals, to yield to Mr. Fillmore a cordial support in the coming contest, and to win for him a glorious triumph in the Old Dominion.

But Mr. Wise says there will be new issues presented in the next Presidential canvass, by three parties—"the white man's party, the Democratic; the black man's party, the Black Republicans; the cross of Northern and Southern Know-Nothings, the ticket of Messrs. Fillmore and Donelson."

That there will be important issues presented in the coming election is unquestionably true; but I am not aware that they will be new issues. They are pretty much the same, though presented in a new phase, which have distracted the country in times past, and more especially since 1848. They still involve the slavery question; the same questions which convulsed the country in 1850; the same questions which Mr. Fillmore grappled with and put to rest from 1850 to 1853; the same questions which the Democratic party, by their solemn pledge given at Baltimore in 1852, promised not to agitate again, but which, in violation of their pledge of faith to the country, they have re-opened and re-agitated with tenfold more bitterness than ever, and which they have been unable to adjust.

The first inquiry which naturally suggests itself to the reflecting mind is, how is the country to be extricated from the difficulties which now environ it? And the reply comes up at once, by invoking the aid of the man who settled similar difficulties before. Common sense would seem to indicate the propriety of such a course. If a physician, by skilful treatment, had brought you through a severe spell of illness, and you were attacked a second time with the same disease, would you not call him to your relief again? If a pilot had steered you safely through a dangerous storm, and you were again beset by tempests, would you not a second time call him to the helm? Why then should not the people of the United States again avail themselves of the services of the statesman whose wisdom and patriotism guided them in 1850 through perils like those that now threaten their safety? MADISON.

Maine.

THE state of Massachusetts having, by act of the 19th of June, 1819, given its consent that the people of that part of Massachusetts, theretofore known as the District of Maine, should form themselves into an independent state; in pursuance thereof, they formed a state constitution agreeably to the provisions of the said act. Accordingly Congress, by act of March 3, 1820, admitted Maine as a state into this Union, on an equal footing with the original states in all respects whatever.

The proceedings on the admission of Maine, complicated as they were with those on the admission of Missouri, can be seen by reference to the history of the latter.

Matteson, Gilbert, Edwards, and Welch.

ALLEGED CORRUPT CONGRESSIONAL COMBINATIONS.

ON the 9th of January, 1857, Mr. William H. Kelsey, a member of the House of Representatives from the state of New York, rose in his place, and after causing to be read an editorial article in the New York Daily Times of the 6th January, 1857, introduced the following resolution:—

Whereas certain statements have been published, charging that members of this House have entered into corrupt combinations for the purpose of passing and of preventing the passage of certain measures now pending before Congress: Therefore

Resolved, That a committee, consisting of five members, be appointed by the Speaker, with power to send for persons and papers, to investigate said charges; and that said committee report the evidence taken, and what action, in their judgment, is necessary on the part of the House, without any unnecessary delay.

Mr. PAINE. I scarcely know, Mr. Speaker, whether to say anything in relation to this matter or not. I know nothing about the editor of that journal, or of the journal itself. I know nothing about any communication which has been made to that paper. I know not how its editor got his information. I know not whether what he says is true or false. But this I do know, that there has been a proposition made in this House, by a member of this House, upon this very subject. ["Name! name!"] I shall not name the gentleman at this time. It was with feelings of indignation that I heard the proposition. The reason I did not resent it was because it would have been a violation of the rules of this House. The reason I did not denounce it to the House was because, during the pendency of the struggle for the organization of this House, when a member rose in his place and stated to the House that a direct effort had been made to tamper with him in reference to the election of Speaker, the only

credit he received for divulging the fact was that of being laughed at, and of being charged that he did not accept of the bribe merely because there was no such place as was offered to him.

I say now distinctly upon this floor, that there is not an entire want of truth in the allegations contained in that article; that a distinct proposition has been made by a member of this House, and in regard to the Minnesota land bill, that $1500 would be guarantied to a member for his vote for that bill; and when the committee is raised and I am called upon, I will give my evidence before the committee.

After some farther debate the resolution was adopted.

The Speaker appointed the committee the next day, to consist of Messrs. Kelsey of N. Y., Orr of S. C., Davis of Md., Ritchie of Pa., and Warner of Ga.

On the 19th of February, 1857, the committee reported the following resolutions through the members of the committee respectively under whose name the resolutions appear.

The committee were unanimous in their conclusions upon all the cases, with the exception of the chairman, who declined to unite with the committee in their recommendations with reference to the guilty members.

The following are the resolutions.

By Mr. Warner of Geo.:—

Resolved, That Orsamus B. Matteson, a member of this House from the state of New York, did incite parties deeply interested in the passage of a joint resolution for construing the Des Moines grant to have here and to use a large sum of money and other valuable considerations corruptly, for the purpose of procuring the passage of said joint resolution through this House.

Resolved, That Orsamus B. Matteson, in declaring that a large number of the members of this House had associated themselves together, and pledged themselves each to the other not to vote for any law or resolution granting money or lands, unless they were paid for it, has falsely and wilfully assailed and defamed the character of this House, and has proved himself unworthy to be a member thereof.

Resolved, That Orsamus B. Matteson, a member of this House from the state of New York, be, and is hereby expelled therefrom.

By Mr. Davis of Md.:—

Resolved, 1. That William A. Gilbert, a member of this House from New York, did agree with F. F. C. Triplett to procure the passage of a resolution or bill through the present Congress for the purchase by Congress of certain copies of the book of the said Triplett on the pension and bounty land laws, in consideration that the said Triplett should allow him to receive a certain sum of money out of the appropriation for the purchase of the book.

Resolved, 2. That William A. Gilbert did cast his vote on the Iowa land bill, depending heretofore before this Congress, for a corrupt consideration, consisting of seven square miles of land and some stock given or to be given to him.

Resolved, 3. That William A. Gilbert, a member of this House from New York, be forthwith expelled from this House.

By Mr. Ritchie of Pa.:—

Resolved, That Francis S. Edwards, a member of this House from the state of New York, did, on the 23d day of December last, attempt to induce Robert T. Paine, a member of this House from the state of North Carolina, to vote, contrary to the dictates of his judgment and conscience, on a bill making a grant of lands to aid in the construction of a railroad in the territory of Minnesota, by holding out a pecuniary consideration to the said Paine for his support of the said bill.

Resolved, That the said Francis S. Edwards be, and he is hereby expelled from this House.

By Mr. Davis of Md.:—

Resolved, That William W. Welch did corruptly combine with William A. Gilbert, a member of this House from New York, to procure the passage of a resolution or bill through this House for the purchase of certain copies of the work of F. F. C. Triplett, on the pension and bounty land laws, for a share in the money to be paid to the said William A. Gilbert on its passage.

2. Resolved, That William W. Welch did attempt to procure money from James R. Sweeney for reporting favorably on the claim of Roxana Kimball from the Committee on Invalid Pensions, at this Congress.

3. Resolved, That William W. Welch, a member of this House from Connecticut, be forthwith expelled from this House.

Messrs. Matteson, Gilbert, and Edwards resigned.

On the 27th of February, 1857, the question was taken on the resolutions relative to Mr. Matteson.

The first resolution was adopted by yeas and nays as follows:—

YEAS.—Messrs. *Aiken*, AKERS, *Allen*, Allison, Ball, *Hendley S. Bennett*, Bishop, Bliss, *Bowie*, *Boyce*, Bradshaw, *Branch*, Brenton, BROOM, Buffinton, *Burnett*, *Cadwalader*, James H. Campbell, JOHN P. CAMPBELL, CARLILE, *Caruthers*, *Caskie*, Clawson, *Clingman*, *Williamson R. W. Cobb*, Comins, Covode, COX, *Craige*, *Crawford*, CULLEN, Damrell, *Davidson*, HENRY WINTER DAVIS, *Jacob C. Davis*, Day, *Denver*, De Witt, *Dowdell*, DUNN, Durfee, *Edmundson*, *Elliott*, Emrie, EUSTIS, *Faulkner*, Flagler, *Florence*, FOSTER, HENRY M. FULLER, *Thomas J. D. Fuller*, Galloway, *Garnett*, *Goode*, *Greenwood*, *Augustus Hall*, Harlan, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HARRISON, HAVEN, *Herbert*, HOFFMAN, Thomas R. Horton, Valentine B. Horton, *Houston*, *Jewett*, *George W. Jones*, *Keitt*, *Kelly*, KENNETT, *Kidwell*, Knapp, Knight, Knox, Kunkel, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullin*, *McQueen*, *Smith Miller*, *Millson*, Millward, MOORE, Morrill, *Morrison*, Mott, *Orr*, *Packer*, PAINE, Parker, *Peck*, Pennington, Perry, Pike, PORTER, *Powell*, Purviance, PURYEAR, *Quitman*, READE, READY, RICAUD, Ritchie, Robbins, Roberts, *Ruffin*, *Rust*, Sabin, *Sandidge*, Sapp, *Savage*, Scott, *Seward*, *Shorter*, *William Smith*, WILLIAM R. SMITH, Spinner, Stanton, *Stewart*, Stranahan, *Talbott*, *Taylor*, Todd, Trafton, Tyson, UNDERWOOD, *Vail*, VALK, *Walker*, *Warner*, Cadwalader C. Washburne, *Watkins*, *Wheeler*, *Winslow*, Wood, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—145.

NAYS.—Messrs. Albright, Henry Bennett, Burlingame, Lewis D. Campbell, Chaffee, Bayard Clarke, Colfax, Timothy Davis, Dickson, Granger, Holloway, Killian, Miller, Morgan, Murray, Andrew Oliver, Walbridge, Woodruff.—17.

The second resolution was adopted unanimously.

The third one was laid on the table.

The resolutions relative to Messrs. Gilbert and Edwards were laid on the table after their resignations.

The resolution relative to Mr. Welch coming up on the 27th of January, 1857, Mr. Smith of Va., offered the following substitute for the same:—

Resolved, That there has been no sufficient evidence elicited by the committee having charge of the subject, and reported to this House in the case of William W. Welch, a member thereof, and that no further proceedings shall be had against such member.

Which was agreed to by the following vote:—

YEAS.—Messrs. AKERS, Albright, Ball, Barbour, Henry Bennett, Benson, Billinghurst, Bingham, Bishop, Bliss, Bradshaw, Brenton, BROOM, Buffington, Burlingame, *Cadwalader*, James H. Campbell, Lewis D. Campbell, Chaffee, Bayard Clark, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Timothy Davis, Dean, De Witt, Dickson, Dodd, Durfee, Edie, Emrie, *Etheridge*, Flagler, HENRY M. FULLER, Galloway, Granger, Robert B. Hall, Harlan, J. MORRISON HARRIS, *Herbert*, Hodges, Holloway, Thomas R. Horton, Valentine B. Horton, Howard, Hughston, *Kelly*, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, *Letcher*, LINDLEY, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, McCarty, Killian Miller, *Millson*, Millward, MOORE, Morgan, Morrill, Mott, Murray, Nichols, Norton, PAINE, Parker, *Peck*, Pelton, Pennington, Perry, Pettit, Pike, PORTER, Pringle, Purviance, Robbins, Roberts, Sabin, Sage,

Sandidge, Sapp, Scott, *Seward*, Sherman, Simmons, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, UNDERWOOD, Wade, Wakeman, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, *Wells*, *Williams*, Wood, Woodruff, Woodworth.—119.

NAYS.—Messrs. *Allen*, *Hendley S. Bennett*, *Bowie*, *Burnett*, JOHN P. CAMPBELL, *Caruthers*, *Caskie*, *Williamson R. W. Cobb*, COX, *Crawford*, CULLEN, HENRY WINTER DAVIS, *Dowdell*, DUNN, *Edmundson*, *Elliott*, *Florence*, FOSTER, *Goode*, *Augustus Hall*, *Sampson W. Harris*, *Thomas L. Harris*, HAVEN, HOFFMAN, *Houston*, *Jewett*, *George W. Jones*, *Kidwell*, LAKE, *Lumpkin*, *McQueen*, *Orr*, *Packer*, READE, READY, RICAUD, *Ruffin*, *Shorter*, *Stewart*, *Walker*, *Warner*, *Wheeler*.—42.

The committee reported the following bill:—

A Bill to protect the people against corrupt and secret influence in matters of legislation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall, directly or indirectly, offer or agree to give any money or other valuable thing, or security for any money or other valuable thing, to any person for the service of such person, or of any other person, in aiding, or advocating, or procuring, the passage or defeat of any measure before either House of Congress, or any committee of either House, to be paid or delivered on the contingency of the passage or defeat of any measure before either House of Congress, or before any committee of either House: and that no person shall agree to accept or receive, or shall accept or receive, any money or other valuable thing for aiding, or advocating, or procuring, the passage or defeat of any measure before either House of Congress, or before any committee of either House; and that every bargain, contract, or security for any such compensation on any such contingency, and all shifts and contrivances to cover or conceal such bargain, are hereby declared null and void; and the parties to any such bargain, contract, agreement, or understanding, as well the party to pay as the party to receive the money or other valuable thing, or security therefor, on any such contingency as is above indicated, are hereby declared guilty of a misdemeanor; and on conviction thereof before any court of the United States having jurisdiction of the said offence, shall suffer imprisonment in the common jail for not less than six months, nor more than one year, and be subject to a fine of not less than one hundred dollars nor more than one thousand dollars.

Sec. 2. That no person having any interest in the passage or defeat of any measure before either House of Congress, and no agent or person acting for or representing any other person as agent or attorney, in law or in fact, for procuring, aiding, or advocating the passage or defeat of any measure before either House of Congress, or before any committee of either House, shall approach, converse with, or explain to, or in any manner attempt to influence, any member of either House relative to such measure, without first distinctly disclosing to such member whether he is interested personally in his own right or as agent for any other person in the passage or defeat of such measure; and any person who shall violate the provisions of this section is hereby declared guilty of a misdemeanor, and on conviction thereof, before any court of the United States, be punished by imprisonment for not less than one month nor more than one year, and by a fine of not less than one hundred dollars nor more than one thousand dollars.

The bill was passed on the 28th of Feb., 1857, by the following vote:—

YEAS.—Messrs. *Aiken*, Allison, *Hendley S. Bennett*, Benson, Bingham, *Burnett*, *Cadwalader*, James H. Campbell, JOHN P. CAMPBELL, Lewis D. Campbell, CARLISLE, *Caruthers*, *Caskie*, Ezra Clark, *Clingman*, *Williamson R. W. Cobb*, COX, *Crawford*, CULLEN, Cumback, *Davidson*, HENRY WINTER DAVIS, Day, Dean, Dick, *Dowdell*, DUNN, Durfee, *Edmundson*, *Elliott*, Emrie, EUSTIS, EVANS, *Faulkner*, *Florence*, FOSTER, *Garnett*, *Goode*, *Greenwood*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HAVEN, HOFFMAN, Valentine B. Horton, *Houston*, *Jewett*, *George W. Jones*, *Kelly*, *Kidwell*, Knight, Knowlton, KNOX, *Letcher*, *Lumpkin*, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McQueen*, Killian Miller, *Smith Miller*, MOORE, *Morrison*, Mott, Norton, *Orr*, *Packer*, *Peck*, Perry, Pike, *Powell*, PURVIANCE, PURYEAR, READY, Ritchie, *Ruffin*, *Sandidge*, *Savage*, Scott, *Seward*, Sherman, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, Spinner, Stranahan, *Talbott*, *Taylor*, UNDERWOOD, VALK, Wade, Wakeman, *Walker*, *Warner*, *Watkins*, Welch, *Wheeler*, *Williams*, Wood, Woodruff, Woodworth, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—104.

NAYS.—Messrs. Albright, *Allen*, Ball, Barbour, Barclay, Henry Bennett, Billinghurst, Bishop, Bliss, *Bocock*, *Bowie*, Bradshaw, Brenton, BROOM, Buffinton, Burlingame, Chaffee, Clawson, Colfax, Comins, Covode, *Craige*, Damrell, *Jacob C. Davis*, *Denver*, De Witt, Dickson, Dodd, Edie, ETHERIDGE, Flagler, HENRY M. FULLER, *Thomas J. D. Fuller*, Galloway, Granger, Harlan, *Herbert*, Hodges, Holloway, Thomas R. Horton, Howard, Hughston, KENNETT, King, Knapp, Kunkel, Leiter, LINDLEY, Mace, ALEXANDER K. MARSHALL, *Millson*, Millward, Morgan, Morrill, Nichols, Andrew Oliver, Parker, Pelton, Pennington, Pettit, PORTER, Pringle, *Quitman*, RICAUD, Robbins, Roberts, Robinson, Sabin, Sage, Sapp, Simmons, Stanton, STEWART, SWOPE, Tappan, Thorington, Thurston, Todd, Trafton, *Vail*, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Watson, *Wells*, WHITNEY, *Winslow*.—88.

Democrats in *italics*, Fillmore Americans in SMALL CAPITALS, Republicans in roman.

McKinley, John, late Associate Justice of the Supreme Court,

ON THE CONSTITUTIONALITY OF THE PASSENGER LAWS OF NEW YORK.

IN the cases of Smith *v.* Turner, and Norris *v.* City of Boston, in which the constitutionality of the passenger laws of New York and Massachusetts came under consideration, and were declared void, Justice McKinley delivered the following opinion:—

The first clause of the ninth section and first article of the Constitution provides, "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808, but a tax or duty may be imposed on such importations, not exceeding $10 for each person." On the last argument of this clause no reference was made to this clause of the Constitution; nor have I ever heard a full and satisfactory argument on the subject. Yet, on a full examination of this clause, connected with other provisions of the Constitution, it has had a controlling influence on my mind in the determination of the case before us. Some of my brethren have insisted that the clause here quoted applies exclusively to the importation of slaves. If the phrase "the migration or importation of such persons" was intended by the convention to mean slaves only, why, in the assertion of the taxing power, did they, in the same clause, separate migration from importation, and use the following language? "But a tax or duty may be imposed on such persons, not exceeding $10 for each person." All will admit, that if the word migration were excluded from the clause, it would apply to slaves only. An unsuccessful attempt was made in the convention to amend this clause, by striking out the word migration, and thereby to make it apply to slaves exclusively. In the face of this fact, the debates in the convention, certain numbers of the Federalist, together with Mr. Madison's report to the legislature of Virginia in 1799—eleven years after the adoption of the Constitution—are relied on to prove that the words migration and importation are synonymous, within the true intent and meaning of this clause. The acknowledged accuracy of language and clearness of diction in the Constitution would seem to forbid the imputation of so gross an error to the distinguished authors of that instrument. I have been unable to find anything in the debates of the conven-

tion, in the Federalist, or the report of Mr. Madison, inconsistent with the construction here given. Were they, however, directly opposed to it, they could not, by any known rule of construction, control or modify the plain and unambiguous language of the clause in question. The conclusion, to my mind, is therefore irresistible that there are two separate and distinct classes of persons intended to be provided for by this clause. Although they are both subjects of commerce, the latter class only is the subject of trade and importation. The slaves are not immigrants, and had no exercise of volition in their transportation from Africa to the United States. The owner was bound to enter them at the custom-house, as any other article of commerce or importation, and to pay the duty imposed by law; whilst the persons of the first class, although subjects of commerce, had the free exercise of volition, and could remove at pleasure from one place to another; and when they determined to migrate or remove from any European government to the United States, they voluntarily dissolved the bond of allegiance to their sovereign, with the intention to contract a temporary or permanent allegiance to the government of the United States, and if transported in an American ship, that allegiance commenced the moment they got on board. They were subject to, protected by, the laws of the United States to the end of their voyage. Having thus shown that there are two separate and distinct classes included in, and provided by, the clause of the Constitution referred to, the question arises, how far the persons of the first class are protected by the Constitution and laws of the United States from the operation of the statute of New York now under consideration? The power was conferred on Congress to prohibit migration or importation of such persons into all the new states, from and after the time of their admission into the Union, because the exemption from the prohibition of Congress was confined exclusively to the states then existing, and left the power to operate upon all the new states admitted into the Union prior to 1808. Four new states having been thus admitted within that time, it follows, beyond controversy, the power of Congress over the whole subject of migration and importation was complete throughout the United States after 1808.

The power to prohibit the admission of "all such persons," includes necessarily, the power to admit them on such conditions as Congress may think proper to impose; and, therefore, as a condition, Congress has the unlimited power of taxing them. If this reasoning be correct, the whole power over the subject belongs exclusively to Congress, and connects itself indissolubly with the power to regulate commerce with foreign nations. How far, then, are these immigrants protected, upon their arrival in the United States, against the power of state statutes? The ship, the cargo, the master, the crew, and the passengers are all under the protection of the laws of the United States to the final termination of the voyage; and the passengers have a right to be landed and go on shore under the protection of and subject to these laws only, except so far as they may be subject to the quarantine laws of the place where they are landed; which laws are not drawn in question in this controversy. The great question here is, where does the power of the United States over this subject end, and where does the state power begin? This is, perhaps, one of the most perplexing questions ever submitted to the consideration of this court.

A similar question arose in the case of Brown *v.* The State of Maryland (12 Wheat. 419), in which the court carried out the power of Congress to regulate commerce with foreign nations, upon the subject then under consideration, to the line which separates it from the reserved powers of the states, and plainly established the power of the states over the same subject-matter beyond that line.

The clause of the Constitution already referred to in this case, taken in connexion with the provision which confers on Congress the power to pass all laws necessary and proper for carrying into effect the enumerated and all other powers granted by the Constitution, seem necessarily to include the whole power over this subject; and the Constitution and laws of the United States being the supreme law of the land, state power cannot be extended over the same subject. It therefore follows that passengers can never be subject to state laws until they become a portion of the population of the state, temporarily or permanently; and this view of the subject seems to be fully sustained by the case above referred to. Were it even admitted that the state of New York had power to pass the statute under consideration, in the absence of legislation by Congress on this subject, it would avail nothing in this case, because the whole ground had been occupied by Congress before that act was passed, as has been fully shown by the preceding opinion of my brother Catron. The laws referred to in that opinion show conclusively that the passengers, their moneys, their clothing, their baggage, their tools, their implements, &c., are permitted to land in the United States without tax, duty, or impost. I therefore concur in the opinion, that the judgment of the court below should be reversed.

McLean, John, Justice.

OPINION OF, IN SAME CASE.

JUSTICE McLEAN thus distinctly recognised the internal police power of the states:—

"The acknowledged police power of a state extends often to the destruction of property. A nuisance may be abated. Everything prejudicial to the health or morals of a city may be removed. Merchandise from a port where a contagious disease prevails, being liable to communicate the disease, may be excluded; and, in extreme cases, it may be thrown into

the sea. This comes in direct conflict with the regulations of commerce, and yet no one doubts the local power. It is a power essential to self-preservation, and exists, necessarily, in every organized community. It is, indeed, the law of nature, and is possessed by man in his individual capacity. He may resist that which does harm him, whether he be assailed by an assassin, or approached by poison. And it is the settled construction of every regulation of commerce, that, under the sanction of its general laws, no person can introduce into a community malignant diseases, or anything which contaminates its morals, or endangers its safety. And this is an acknowledged principle applicable to all general regulations. Individuals, in the enjoyment of their own rights, must be careful not to injure the rights of others.

"From the explosive nature of gunpowder, a city may exclude it. Now this is an article of commerce, and is not known to carry infectious disease; yet, to guard against a contingent injury, a city may prohibit its introduction. These exceptions are always implied in commercial regulations, where the general government is admitted to have the exclusive power. They are not regulations of commerce, but acts of self preservation. And although they affect commerce to some extent, yet such effect is the result of the exercise of an undoubted power in the state.

* * * *

"In all matters of government, and especially of police, a wide discretion is necessary. It is not susceptible of an exact limitation, but must be exercised under the changing exigencies of society. In the progress of population, of wealth, and of civilization, new and vicious indulgencies spring up, which require restraints that can only be imposed by the legislative power. When this power shall be exerted, how far it shall be carried and where it shall cease, must mainly depend upon the evil to be remedied. Under the pretence of a police regulation, a state cannot counteract the commercial power of Congress. And yet, as has been shown, to guard the health, morals, and safety of the community, the laws of a state may prohibit an importer from landing his goods, and may sometimes authorize their destruction. But this exception to the operation of the general commercial law is limited to the existing exigency.

* * * *

"The police power of a state and the foreign commercial power of Congress must stand together. Neither of them can be so exercised as materially to affect the other. The sources and objects of these powers are exclusive, distinct, and independent, and are essential to both governments."

Mexican War.

On the 13th of October, 1845, an inquiry was made by the United States government of the government of Mexico, whether it would receive an envoy from the United States, intrusted with full powers to adjust all questions in dispute between the two governments, with the assurance that, if an affirmative answer should be received, such an envoy would be immediately despatched to Mexico.

An affirmative answer was received, with a request that the American naval force at Vera Cruz might be withdrawn, lest its presence might have the appearance of menace and coercion pending the negotiations. The naval force was withdrawn, and Mr. John Slidell of Louisiana was appointed envoy, with full power to adjust both the questions of the Texan boundary and of indemnification to our citizens.

Mr. Slidell reached Mexico on the 30th of November, but the government of General Herrera refused to receive him. That government giving place shortly to the government of General Paredes which succeeded it, he presented himself to it; but it likewise refused to receive him, when he returned home and reported the facts to his government.

A movement of American troops under General Taylor to the banks of the Del Norte opposite Matamoras, caused the Mexican forces to assume a belligerent attitude. On the 12th of April, 1846, General Ampudia, then in command of the Mexican forces, notified General Taylor to break up his camp and retire beyond the Nueces river. General Taylor not complying with this request, was on the 24th of April informed by the Mexican commander that hostilities had commenced, and that he should prosecute them. On the same day a party of American troops, who had been sent up the Rio del Norte to discover whether the Mexican troops had crossed the river, became engaged with a large body of them, and after a short battle, were surrounded and compelled to surrender. These facts were all communicated to Congress by President Polk, on the 11th day of May, 1846, who asked for supplies of men and money wherewith to carry on hostilities with Mexico. He said in his message:—

"As war exists, and, notwithstanding all our efforts to avoid it, exists by the act of Mexico herself, we are called upon by every consideration of duty and patriotism to vindicate with decision the honor, the rights, and the interests of our country."

On the same day a bill was reported in the House of Representatives, responding to the request of the President.

Mr. Boyd of Ky. moved the following as a substitute for the first section:—

"Whereas, by the act of the Republic of Mexico, a state of war exists between that government and the United States: Therefore

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of enabling the government of the United States to prosecute said war to a speedy and successful termination, the President be and he is hereby authorized to employ the militia, naval, and military forces of the United States, and to call for and accept the services of any number of volunteers, not exceeding fifty thousand, who may offer their services as cavalry, artillery, infantry, or riflemen, to serve six or twelve months after they shall have arrived at the place of rendezvous, or to the end of the war, unless sooner discharged.

"That the sum of ten millions of dollars, be and the same is hereby appropriated, out of any money in the Treasury or to come into the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect."

Mr. Holmes of S. C., denounced the preamble as base, fraudulent and false.

Mr. Bayly of Virginia was unwilling at that time to vote a declaration of war, but considered withholding the supplies under the circumstances a greater evil.

Mr. Albert Smith declared the preamble to be "false in facts, and operating as a fraud upon the nation."

The vote was taken, and here it is:—

The first question was on striking out the first section and inserting in lieu thereof the section moved by Mr. Boyd, hereinbefore re-recited.

On this question Mr. Rockwell of Con. demanded the yeas and nays.

Mr. Winthrop wished the question divided, and put last on what he contended was a preamble.

After an argument on the question of order, the chair ruled that the amendment was one, and could not be divided.

The question being put, the amendment was adopted by yeas and nays as follows:—

YEAS.—Messrs. Stephen Adams, Anderson, Arnold, Atkinson, Baker, Bell, Benton, Biggs, James Black, Jas. A. Black, Bowlin, Boyd, Brinkerhoff, Brockenbrough, Brodhead, Milton Brown, William G. Brown, John H. Campbell, Cathcart, John G. Chapman, Reuben Chapman, Chase, Chipman, Clarke, Cobb, Cocke, Collin, Cullom, Cummins, Daniel, Darragh, Jefferson Davis, De Mott, Dillingham, Dobbin, Douglas, Dromgoole, Edsall, Elsworth, Erdman, Farau, Ficklin, Fries, Garvin, Gentry, Goodyear, Gordon, Graham, Grover, Haralson, Harmanson, Henley, Hoge, Hopkins, Hough, George S. Houston, Hungerford, Jas. B. Hunt, Charles J. Ingersoll, Joseph R. Ingersoll, Joseph Johnson, Andrew Johnson, Geo. W. Jones, Kennedy, Preston King, Leib, La Sere, Levin, Ligon, Lumpkin, Maclay, McClean, McClelland, McClernand, McConnell, Joseph J. McDowell, James McDowell, McKay, John P. Martin, Barclay Martin, Morris, Morse, Moulton, Niven, Norris, Owen, Parish, Payne, Perrill, Pettit, Phelps, Pollock, Price, Ramsey, Rathbun, Reid, Relfe, Ritter, Roberts, Sawtelle, Sawyer, Scammon, Leonard H. Sims, Thos. Smith, Robert Smith, Stanton, Starkweather, St. John, Strong, Thibodeaux, Thomasson, Jacob Thompson, Thurman, Tibbats, Towns, Tredway, Trumbo, Wentworth, Wheaton, Wick, Woodruff, Yell, Young.—123.

NAYS.—Messrs. Abbott, John Q. Adams, Ashmun, Barringer, Bayly, Bedinger, Blanchard, Buffington, Burt, Wm. W. Campbell, Carroll, Cranston, Crozier, Culver, Garrett Davis, Delano, Dockery, Dunlap, John H. Ewing, Edwin H. Ewing, Foot, Giddings, Grider, Grinnell, Hamlin, Hampton, Harper, Herrick, Hilliard, E. B. Holmes, I. E. Holmes, Jno. W. Houston, E. W. Hubard, Sam. D. Hubbard, Hudson, Hunter, Daniel P. King, Thomas B. King, Lewis, McGaughey, McHenry, McIlvaine, Marsh, Miller, Moseley, Pendleton, Rhett, John A. Rockwell, Root, Schenck, Seddon, Severance, Alexander D. Sims, Simpson, Truman Smith, Albert Smith, Stephens, Stewart, Strohm, Benjamin Thompson, Tilden, Toombs, Vance, Vinton, Winthrop, Woodward, Yancey.—67.

The bill as amended, on motion of Mr. Boyd, passed by a vote of 122 yeas to 14 nays. The negative vote being as follows:—

Messrs. John Quincy Adams and Ashmun of Mass., Cranston of R. I., Culver of N. Y., Delany and Giddings of O., Grinnell, Hudson and King of Mass., Root of O., Severance of Me., Strohm of Pa., Tilden and Vance of O.

In the Senate a war was made upon the preamble of the bill.

A motion to strike it out was lost by the following vote:—

YEAS.—Messrs. Archer, Barrow, Berrien, Calhoun, Thomas Clayton, John M. Clayton, Corwin, Crittenden, Davis, Dayton, Evans, Huntington, McDuffie, Mangum, Morehead, Simmons, Upham, Woodbridge.—18.

NAYS.—Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Bright, Cameron, Cass, Colquitt, Dix, Houston, Jarnagin, Jenness, Johnson of Md., Johnson of La., Lewis, Niles, Pennybacker, Rusk, Semple, Sevier, Speight, Sturgeon, Turney, Westcott, Yulee.—28.

The bill finally passed the Senate, there being only two negative votes—Messrs. Thos. Clayton of Del., and John Davis of Mass.

Messrs. Calhoun, Berrien, and Evans refused to vote at all on account of the preamble.

Senators Crittenden and Upham answered "ay, except the preamble."

Messrs. Mangum, Clayton, and Dayton entered their protest against the preamble.

As passed by the Senate it was amended, which amendments were concurred in by the House, and the bill became a law on the 13th of May, 1846.

On that day the President issued his proclamation declaring war to exist between the United States and Mexico.

—

The Thirtieth Congress assembled on the 6th of Dec., 1847, with a Whig majority of 8 opposed to the administration of Mr. Polk, the remarkable gain of 71 Whig or opposition members upon the preceding Congress.

On the 15th of Dec., 1847, Mr. Calhoun introduced a resolution declaring—

"That to conquer and hold Mexico either as a province, or incorporating it into the Union, is inconsistent with the avowed object of the war, contrary to the settled policy of the government, in conflict with its character and genius, and in the end must be subversive of all our free and popular institutions."

"Resolved, That no line of policy in the farther prosecution of the war should be adopted, which may tend to consequences so disastrous."

Various resolutions were introduced in the House of Representatives, by different members, relative to the war.

A series by Mr. Holmes of S. C., entitled a project for peace and free trade with Mexico, agreeing to re-cede all the territory taken from Mexico beyond the Rio Grande in consideration of free ingress and egress for our citizens in New Mexico and Upper California, and of carrying on trade as fully as any of the Mexican citizens of these provinces.

Mr. Richardson of Ill. introduced resolutions advocating a prosecution of hostilities vigorously.

Mr. Stephens of Ga. introduced an amendment, that the present war with Mexico should not be waged with a view to conquest, either by the subjugation or dismemberment of that republic, and expressive of the desire of the United States to terminate hostilities upon terms honorable to both parties.

Mr. Botts of Va. offered as a substitute, resolutions to the following effect:—

"That a preservation of the national integrity, a strict observance of the limitations of the Constitution, and a resistance to executive encroachment, is the highest duty of the representatives of the people; that a war of con-

quest is violative of the Constitution and genius and spirit of our institutions; that the present war was not brought on by the act of Mexico; that it was the unauthorized act of the President; that we have no right to claim indemnity for the expenses of the war; that the honor of this nation does not consist in exacting territory from Mexico to which we have no claim, and yielding to Great Britain territory the title to which was declared to be clear and unquestionable, and that to pursue the weak and evade the strong does not present the honor, courage, or greatness of our people in their true light:

That to exact indemnity from Mexico would involve us in the sustenance of a principle in all future wars which would cause us either to surrender the same or be engaged in interminable conflict; that no new territory can be annexed to the United States by virtue of a war, without involving the agitation of domestic difficulties, begetting sectional animosities, and weakening the ties which bind us together. The resolutions continued in very much the same spirit in opposition to the war, and are too long to be afforded space in these columns.

Mr. Thompson of Ind. gave notice of a proposition which he should submit, when in order, pointing out the terms to Mexico upon which peace might be established.

The previous question not being seconded, the discussion of these resolutions was laid over to a future day.

On the 22d of Dec., Mr. Lincoln, of Ill., introduced a resolution calling upon the President to inform Congress whether the spot on which the first blood was shed, was American soil or not.

Mr. Toombs offered a resolution that the dismemberment of Mexico, as an indispensable condition of the restoration of peace, was neither required by the honor or interest of the republic.

Mr. Vandyke of N. J. offered a resolution that the order stationing General Taylor on the banks of the Rio Grande was an act of aggression in itself, and the immediate cause of the conflict between the two nations; that the war should not be prosecuted any further; that our forces should be withdrawn from Mexico, &c., &c.

—

On the 3d of January, 1848, Mr. Hudson moved the following resolution:—

Resolved, That the committee on military affairs be directed to inquire into the expediency of requesting the President of the United States to withdraw to the east bank of the Rio Grande our armies now in Mexico; and to propose to the Mexican government forthwith a treaty of peace on the following bases, namely: That we relinquish all claim to indemnity for the expenses of the war, and that the boundary between the United States and Mexico shall be established at or near the desert between the Nueces and the Rio Grande; that Mexico shall be held to pay all just claims due to our citizens at the commencement of the war; and that a convention shall be entered into by the two nations to provide for the liquidation of those claims and the mode of payment.

Mr. Hudson called for the previous question on the resolution.

After much discussion about disposing of the resolution, movements to lay it on the table, &c., the resolution was disagreed to by 41 yeas, 137 nays.

Mr. Dickey of Pa. moved a preamble and resolutions deprecating the present war with Mexico, and to appoint a joint committee of five from the Houses to confer with the President and to report to each House, in secret or open session as it may be proper, the best mode of terminating the same.

Mr. Hampton of Pa. introduced a preamble and resolutions providiug for the admission into our Union of such Mexican territories whose people may apply therefor.

Mr. Houston of Del., previous notice having been given, introduced the following joint resolution of thanks to Major Gen. Taylor:—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress are due, and they are hereby tendered to Major General Zachary Taylor, and through him to the officers and soldiers of the regular army and of the volunteers under his command, for their indomitable valor, skill, and good conduct conspicuously displayed on the 22d and 23d days of February last, in the battle of Buena Vista, in defeating a numerous Mexican army, consisting of four times their number, and composed of chosen troops under their favorite commander, Gen. Santa Anna, and thereby obtaining a victory over the enemy which, for its signal and brilliant character, is unsurpassed in the military annals of the world.

Resolved, That the President of the United States be requested to cause to be struck a gold medal with devices emblematical of this splendid achievement, and presented to Major Gen. Taylor, as a testimony of the high sense entertained of his services on that memorable occasion.

Resolved, That the President of the United States be requested to cause the foregoing resolutions to be communicated to Major General Taylor in such manner as he may deem best calculated to effect the objects thereof.

Mr. Evans intimated his desire to offer the following amendment:—

Resolved, That the capitulation of Monterey meets with the entire sanction and approbation of this Congress; and that the terms of that capitulation were as creditable to the humanity and skill of the gallant Taylor as the achievement of the victory of Monterey was glorious to our arms.

Some conversation ensued between the Speaker, Mr. Schenck, Mr. Evans, and others.

Mr. Houston of Del., to obviate all difficulties, moved the previous question on the original resolution.

The previous question was not seconded.

The speaker again announced the question to be on a motion by Mr. Jamison to refer to the committee on military affairs.

Mr. Henley moved to amend, by adding an instruction to the committee to add the words "engaged as they were in defending the rights and honor of the nation." On this he asked for the yeas and nays.

Mr. Ashmun moved to amend the amendment by adding the words "in a war unnecessarily and unconstitutionally begun by the President of the United States."

Mr. McLane said before he recorded his vote he desired—

The Speaker interposed, and informed the gentleman from Maryland that debate was not in order—if it became the subject of debate, it would go over until to-morrow.

Mr. McLane said he had an amendment to offer.

The Speaker said no amendment was in order at present.

After some conversation the yeas and nays were ordered on Mr. Ashmun's amendment to the amendment; and, being taken, they resulted as follows:—

YEAS.—Messrs. John Q. Adams, Ashmun, Barringer, Barrow, Belcher, Botts, Brady, Buckner, Canby, Clingman, Cocke, Collamer, Conger, Cranston, Crowell, Crozier, Dickey, Dixon, Donnell, Duer, Daniel Duncan, Garnett Duncan, Dunn, Eckert, Edwards, Alexander Evans, Nathan Evans, Fisher, Fulton, Gayle, Gentry, Giddings, Goggin, Grinnell, Hale, Nathan K. Hall, Jas. G. Hampton, Haskell, Henry, John W. Houston, Hubbard, Hudson, Irvin, Kellogg, Thos. B. King, D. P. King, Lincoln, McIlvaine, Marsh, Marvin, Mullin, Nes, Newall, Preston, Putnam, Reynolds, Julius Rockwell, John A. Rockwell, Root, Rumsey, St. John, Schenck, Shepperd, Sherrill, Sliugerland, Caleb B. Smith, Truman Smith, Stephens, Andrew Stewart, Strohm, Sylvester, Taylor, Thibodeaux, Tompkins, Richard W. Thompson, John B. Thompson, Toombs, Tuck, Van Dyke, Vinton, Warren, Wilson.—85.

NAYS.—Messrs. Beale, Bedinger, Birdshall, Backl, Bowdon, Brodhead, Wm. G. Brown, Charles Brown, Cathcart, Chase, Beverly L. Clark, Howell Cobb, Williamson R. W. Cobb, Cummins, Daniel, Dickinson, Faran, Featherston, Ficklin, Fries, French, Green, Willard P. Hall, Moses Hampton, Harmanson, Harris, Henley, Hill, G. S. Houston, Inge, Charles J. Ingersoll, Jamieson, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, Kaufman, Kennon, Lahm, La Sere, Sidney, Lawrence, Leffler, Lord, Lumpkin, M'Clelland, M'Clernand, McDowell, McLane, Mann, Meade, Miller, Morris, Morce, Murphy, Peaslee, Peck, Phelps, Pilsbury, Rhett, Richardson, Richey, Robinson, Rockhill, Sawyer, Sims, Smart, Robert Smith, Stanton, Starkweather, C. E. Stuart, Strong, Thomas, Jas. Thompson, Jacob Thompson, William Thompson, Thurston, Turner, Venable, Wick, Williams.—81.

The war ended on the 30th of May, 1848, the date of the treaty of peace.

Michigan.

THE act of January 11, 1805, constituted the northern portion of Indiana Territory the Territory of Michigan.

By the act of June 15, 1836, entitled an act to establish the northern boundary-line of the state of Ohio, and to provide for the admission of the state of Michigan into the Union upon the terms therein expressed, the constitution which the people of Michigan had formed for themselves was ratified, and it was provided that when the boundaries set forth in the said act should receive the assent of a convention of delegates of said state, she should become a state on an equal footing with the other states, without any further action by Congress. It was further conditioned that the jurisdiction of said state should only extend over the territory embraced within the limits set forth in said bill. The law prescribed that the convention to give the assent of the state to the boundaries set forth, should be elected for that purpose.

A convention elected in pursuance of an act of the state legislature (though it had not yet become a state), held on the 26th of Dec., 1836, rejected the fundamental condition of admission prescribed by Congress.

A convention held on the 14th of Dec., 1836, of delegates elected in all the counties of the state except two without the virtue of any act of the state or territorial legislature, but merely in pursuance of resolutions adopted by the people themselves in primary meeting, gave its assent to the fundamental conditions prescribed by Congress.

Here were two conventions pursuing directly an opposite course of action, and reaching opposite conclusions.

Under the law the President was required to issue his proclamation recognising Michigan to be one of the states of the Union when she complied with the requirements of the same. Had this condition of things arisen in the recess of Congress, President Jackson said he would have recognised the action of the convention which had originated from the people themselves. But as Congress was then in session, he deemed it proper to lay the subject before it for its decision.

The subject was referred in the Senate to the Committee on the Judiciary.

That committee reported a bill admitting Michigan into the Union upon an equal footing with the other states.

The bill passed the Senate on the 4th of Jan., 1836, by a vote of yeas 27; nays 4. The nays were Messrs. Bayard, Calhoun, Davis, and Prentiss.

The bill passed the House on the 25th of Jan., 1836.

On the 27th of Jan., 1836, Mr. Crary, member elect from Michigan, presented himself to be sworn in. Mr. Robertson objected, upon the ground that Michigan was not a state when Mr. Crary was elected.

The House decided by a vote of 150 ayes to 32 nays that he should be qualified as a member of the House.

Military Approriation Bill of 1856.

LAST DAY OF THE CALLED SESSION.

SATURDAY, August 30, 1856, in the House of Representatives, Mr. Campbell of Ohio, by leave, reported from the Ways and Means Committee another Army Appropriation Bill, with the proviso, that no part of the military of the United States, for the support of which appropriations are made by this act, shall be employed in aid of the enforcement of any

enactment of the body claiming to be the territorial legislature of Kansas.

The previous question was seconded, and under the operation thereof, the bill was read a third time and passed, by the following vote:—

YEAS.—Messrs. Albright, Allison, Barbour, Barclay, Henry Bennett, Benson, Billinghurst, Bingham, Bliss, Bradshaw, Brenton, Buffington. James H. Campbell, Lewis D. Campbell, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, HENRY WINTER DAVIS, Timothy Davis, Dean, De Witt, Dick, Dickson, Dodd, Durfee, Edie, EDWARDS, Emrie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Harlan, HAVEN, Holloway, Thomas R. Horton, Howard, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Matteson, McCarty, Morgan, Morrill, Mott, Murray, Norton, Andrew Oliver, Parker, Pelton, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Robison, Sabin, Sage, Sapp, Scott, Sherman, Simmons, Spinner, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Tyson, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Welch, *Wells*, *Williams*, Wood, Woodruff, Woodworth.—99.

NAYS.—Messrs. *Aiken*, AKERS, *Barksdale*, *Bell*, *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, *Burnett*, *Cadwalader*, JOHN P. CAMPBELL, CARLILE, *Caskie*, *Clingman*, *Howell Cobb*, *Williamson R. W. Cobb*, COX, *Craige*, *Crawford*, CULLEN, *Dowdell*, DUNN, *Edmundson*, *Elliott*, ETHERIDGE, *Florence*, *Thomas J. D. Fuller*, *Goode*, *Greenwood*, *Augustus Hall*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HARRISON, *Hickman*, HOFFMAN, *Houston*, *Jewett*, *George W. Jones*, *J. Glancy Jones*, KENNETT, *Kidwell*, LAKE, *Letcher*, *Lumpkin*, Mace, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Maxwell*, *McMullen*, *McQueen*, *Smith*, *Miller*, *Millson*, *Mordecai Oliver*, *Orr*, Pennington, *Phelps*, *Powell*, PUTNEAR, *Quitman*, RICAUD, RIVERS, *Ruffin*, *Rust*, *Shorter*, *William Smith*, WILLIAM R. SMITH, Stanton, *Stewart*, *Talbott*, *Vail*, *Walker*, *Warner*, *Wheeler*, *Daniel B. Wright*, *John V. Wright*.—77.

In the Senate, the bill having been taken up for consideration, Mr. Hunter moved that the Kansas proviso be stricken out of the bill, which was agreed to by the following vote:—

YEAS.—Messrs. ADAMS, *Allen*, *Bayard*, BELL of Tenn., *Bright*, *Brodhead*, *Brown*, *Butler*, *Cass*, *Clay*, CRITTENDEN, *Douglas*, *Geyer*, HOUSTON, *Hunter*, *Iverson*, *Johnson*, *Jones* of Tenn., *Mason*, *Pratt*, *Pugh*, *Reid*, THOMPSON of Ky., *Toucey*, *Weller*, *Wright*.—26.

NAYS.—Messrs. Durkee, Foot, Foster, Harlan, Trumbull, Wade, Wilson.—7.

The vote in the Senate on the passage of the bill as amended, was the same as the last except one less in the affirmative, Mr. Bell of Tennessee, who voted on the previous vote being absent.

In the House, a message having been received from the Senate, announcing that that body had passed the Army Appropriation Bill with an amendment striking out the Kansas proviso, the House proceeded to consider the amendment; when it was agreed to by the following vote:—

YEAS.—Messrs. *Aiken*, AKERS, *Barksdale*, *Bell*, *Bennett* of Miss., *Bocock*, *Bowie*, *Boyce*, *Branch*, *Burnett*, *Cadwalader*, CAMPBELL of Ky., CARLILE, *Caskie*, *Clingman*, *Cobb* of Ga., *Cobb* of Ala., COX, *Craige*, *Crawford*, CULLEN, *Davidson*, DAVIS of Md., *Denver*, *Dowdell*, *Edmundson*, *Elliot*, ETHERIDGE, EUSTIS, EVANS, *Faulkner*, *Florence*, *Fuller* of Me., *Goode*, *Greenwood*. *Hall* of Ia., HARRIS of Md., *Harris* of Ala., *Harris* of Ill., HARRISON, HAVEN, *Hickman*, HOFFMAN, *Houston*, *Jewett*, *Jones* of Tenn., *Jones* of Pa., *Keitt*, *Kelly*, KENNETT, *Kidwell*, LAKE, *Letcher*, *Lumpkin*, A. K. MARSHALL of Ky., H. MARSHALL of Ky., *Marshall* of Ill., *Maxwell*, *McMullen*, *McQueen*, *Miller* of Ind., *Millson*, *Oliver* of Mo., *Orr*, *Packer*, *Peck*, *Phelps*, PORTER, *Powell*, PUTNEAR, *Quitman*, RICAUD, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, *Seward*, *Shorter*, *Smith* of Tenn., *Smith* of Va., SMITH of Ala., SNEED, *Stephens*, *Stewart*, SWOPE, *Talbott*, *Taylor*, Tyson, UNDERWOOD, *Vail*, *Walker*, *Warner*, *Wells*, *Wheeler*, WHITNEY, *Williams*, *Winslow*, *Wright* of Miss., *Wright* of Tenn., ZOLLICOFFER.—101.

NAYS.—Messrs. Albright, Allison, Barbour, Barclay, Bennett of N. Y., Benson, Billinghurst, Bingham, Bliss, Bradshaw, Brenton, Buffington, Campbell of Pa., Campbell of O., Chaffee, Clark of Conn., Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Davis of Mass., Dean, De Witt, Dick, Dickson, Dodd, DUNN, Durfee, Edie, Edwards, Emrie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Harlan, Holloway, Horton of N. Y., Howard, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Morgan, Morrill, Mott, Murray, Norton, Oliver of N. Y., Parker, Pelton, Pennington, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Robinson, Sabin, Sage, Sapp, Scott, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Wade, Wakeman, Walbridge, Waldron, Washburne of Wis., Washburne of Ill., Washburne of Me., Welch, Wood, Woodruff, Woodworth.—98.

Democrats in *italics*, Republicans in roman, Fillmore Americans in SMALL CAPITALS.

Ministers of the Gospel.

PROTEST OF THREE THOUSAND AND FIFTY OF NEW ENGLAND AGAINST THE PASSAGE OF THE NEBRASKA BILL.

On the 14th of March, 1854, Mr. Everett of Mass., in the United States Senate, presented the memorial as follows:—

To the Honorable the Senate and House of Representatives in Congress assembled:

The undersigned, clergymen of different religious denominations in New England, hereby, in the name of Almighty God, and in his presence, do solemnly protest against the passage of what is known as the Nebraska bill, or any repeal or modification of the existing legal prohibitions of slavery in that part of our national domain which it is proposed to organize into the territories of Nebraska and Kansas. We protest against it as a great moral wrong, as a breach of faith eminently unjust to the moral principles of the community, and subversive of all confidence in national engagements; as a measure full of danger to the peace and even the existence of our beloved Union, and exposing us to the righteous judgments of the Almighty: and your protestants, as in duty bound, will ever pray.

Boston, Mass., March 1, 1854.

The memorial, after a long debate, was ordered to lie on the table.

On the 8th of May, 1854, Mr. Douglas presented the following memorial, which was ordered to lie on the table:—

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

The undersigned, clergymen of different religious denominations in the Northwestern states, as citizens and as ministers of the Gospel of Jesus Christ, hereby, in the name of Almighty God, and in his presence, do solemnly protest against the passage of what is known as the "Nebraska Bill," or any repeal or modification of existing legal prohibitions of slavery in that part of our national domain which it is proposed to organize into the territories of Nebraska and Kansas.

We protest against it as a great moral wrong; as a breach of faith eminently injurious to the moral principles of the community, and subversive of all confidence in national engagements; as a measure full of danger to the peace and even existence of our beloved Union, and exposure to the righteous judgments of the Almighty.

And your protestants, as in duty bound, will ever pray.

A. M. Stewart,	I. M. Weed,
Henry Klamer,	J. Sinclair,
A. Kenyon,	E. M. Gammon,
James E. Wilson,	John C. Holbrook,
C. Wentz,	N. H. Eggleston,
George L. Mulfinger,	Paul Anderson,
Thompson Guyer,	Harvey Curtiss,
R. H. Richardson,	John Clark,
S. Bolles,	R. F. Shinn,
J. V. Watson,	Luther Stone,
W. A. Nicholas,	A. W. Henderson,
Joseph H. Leonard,	—— Fitch.
J. McNamara,	

Then the paper continues:—

The following resolutions were adopted as expressive of the sentiments entertained by the individuals present:—

"1st. That the ministry is the divinely appointed institution for the declaration and enforcement of God's will upon all points of moral and religious truth, and that as such, it is their duty to reprove, rebuke, and exhort, with all authority and doctrine.

"2d. That while we disclaim all desire to interfere in questions of war and policy, or to mingle in the conflicts of political parties, it is our duty to recognise the moral bearing of such questions and conflicts, and to proclaim, in reference thereunto no less than to other departments of human interest, the principle of inspired truth and obligation.

"3d. That in our office as ministers, we have lost none of our prerogatives nor escaped our responsibilities as citizens, and that in the relation which we bear to God and the church, we find the highest reasons for fidelity in those which we bear to the state and to our fellow men.

"4th. That in the debate recently held in the Senate of the United States upon the presentation of the memorial of the clergy of New England, we greatly deplore the apparent want of courtesy and reverence toward man and God, manifest especially in the speeches of the senators from Illinois and Indiana, and that we regard the whole tone and spirit of that debate on the part of the opponents of said memorial, as an outrage upon the privileges of a large and respectable body of citizens, upon the dignity of the Senate, and upon the claims of the divine name, word, and institutions, to which we owe our profoundest honor and reverence."

These resolutions were passed with but one dissenting voice.

It was further resolved that the above protest should be published in the religious and secular papers in the Northwest; and to accomplish this object, that the editors of our city papers request their exchanges to reprint it.

The various ministers who may feel disposed to sign the protest, are requested to send their names to Philo Carpenter, Esq., Chicago, Illinois.

A. M. Stewart, Chairman.

J. McNamara, Secretary.

Minnesota.

On the 24th of December, 1856, Mr. Rice, of Minnesota, introduced a bill to authorize the people of Minnesota to form a state government preparatory to their admission into the Union, which was referred to the Committee on Territories.

Mr. Grow, of Pennsylvania, from the Committee on Territories, on the 31st of January, 1857, reported back the bill with an amendment in the shape of a substitute.

Mr. Grow in reporting the bill said:—

I do not choose, Mr. Speaker, to discuss this bill. I merely wish to refer to the subject of the boundaries of the proposed state, and this I can do in a few moments. A portion of the territory of Minnesota is divided by this bill, north and south, by the Red River, the whole length of that river, thence following the Big Stone lake to its outlet—the head of the Big Stone Lake and Lake Travers being connected by water—thence by a line due south to the boundary line of Iowa. All the territory east of that line is to be formed into a state, making seventy thousand square miles, and leaving west of those boundaries, now in the territory of Minnesota, about ninety thousand square miles, which, if the people of Minnesota shall adopt a state constitution, will be left to be organized under the name of Dacotah, as a proper name of Indian derivation. The general provisions of the bill are the same as those contained in the bill of the old form. I move the previous question.

Mr. Phelps. I desire to make one or two inquiries of the gentleman from Pennsylvania.

Mr. Grow. For that purpose I withdraw the previous question.

Mr. Phelps. I do not desire to impede the progress of this bill; but I desire to know how much of the proposed state of Minnesota lies west of the Mississippi river?

Mr. Grow. About three-fourths of it will be west of the Mississippi river.

Mr. Phelps. Very well. Mr. Speaker, I desire also to make another inquiry. I believe, Mr. Speaker, that the gentleman from Pennsylvania has frequently advocated on the floor of this House the sanctity of compacts. I believe he has frequently referred to the Missouri restriction of 1820 as a compact made by the Congress of the United States, which ought to have been observed.

Mr. Grow. Certainly; but I did not yield the floor for the purpose of allowing such questions.

Mr. Phelps. I desire to know also whether the gentleman does not believe in the sacredness of the ordinance of 1787?

Mr. Grow. Certainly.

Mr. Phelps. Very well, sir; here is the ordinance of 1787. Mr. Phelps here read the fifth and sixth articles of the ordinance of 1787, which says, not less than three nor more than five states shall be formed out of said territory.

These five states, the entire number authorized by the ordinance of 1787, are already organized; and now the gentleman, or the Committee on Territories, proposes to embrace within the limits of another state, a portion of territory which it was stipulated by those who framed that ordinance should be embraced in one of these five states.

Mr. GROW. I never knew a question to be so long as that which the gentleman asks, but I will answer it—

Mr. PHELPS, (interrupting.) I am not going to throw any obstacle in the way of the passage of this bill—

Mr. GROW. I yielded the floor to permit the gentleman from Missouri to ask a question.

Mr. PHELPS. I desire to make one additional remark. I understand that the position of the gentleman is this: that the sixth section of the ordinance of 1787 is a sacred compact; but that the fifth article of that ordinance is no compact whatever. I only desired to call the attention of the House to the fact that the House is now about to disregard the sacredness of that celebrated ordinance of 1787—an ordinance which I believe has no binding influence on the country, and which I have never regarded as binding on me.

Mr. GROW. It is due to myself, I believe, to reply to this question. I have no disposition whatever to engage in debate on any bill or question that may come before the House to-day. What does the gentleman from Missouri propose to do with that part of the territory which is left outside of the limits of the proposed state? Would he let it stand forever in an unorganized condition? Is that what the gentleman proposes? Or should it be organized into a separate state, so as to make six states out of the Northwest Territory? Will the gentleman trample down his own proposition? Five states have been formed out of the Northwest Territory, as required by the ordinance of 1787, and no one proposes to make any more, but only to take a gore of land left outside of all the organized states, and incorporate it with other territory never under the ordinance of 1787, which of itself would make a large state. How, then, is the ordinance of 1787 violated? It comes with a bad grace from a member of this House from the state of Missouri to raise such a question here to-day, when the Platte country was taken from the ordinance of 1820 and included within the limits of that state. It comes with a bad grace from a gentleman coming from a state which has trampled upon the sacredness of compacts, to come here and complain that we take from under the ordinance of 1787 a little strip of territory which was left outside the limits of all organized states. And now, because it is to be included within an organized state, it is, forsooth, a great breach of compact!

Mr. PHELPS. I want to make a correction.

Mr. GROW. I will yield for the purpose of allowing the gentleman to make a correction, if it be short.

Mr. PHELPS. As I understood the remarks of the gentleman from Pennsylvania, he was attributing to me that I regarded the ordinance of 1787 as a compact which must be observed by this Congress, as well as the Missouri restriction of 1820. I stated in my remarks, when I propounded the interrogatories to him, that I did not regard these acts—the one passed in the Congress of the Confederation, and the other in the Congress under the Constitution—as compacts. I stated that I only desired to call the attention of the country to the fact, that that solemn ordinance of 1787, to which the gentleman had attributed a great deal of sanctity, was now about to be violated and disregarded; that I did not esteem it an ordinance of that description; and that I expected that I should vote with the gentleman from Pennsylvania for this Minnesota bill.

Mr. GARNETT. With the permission of the House, I will ask the gentleman from Pennsylvania what is the difference between the size of Minnesota, as bounded in the original bill, and that of the substitute? The question is a perfectly fair one, and I hope it will be answered.

Mr. GROW. The difference is about five or six hundred square miles. The original bill bounds the state on the west by the Red River of the North and the Sioux River. The substitute follows the Red River of the North to Big Stone Lake, as the original bill does, and there it takes a due south line to the state of Iowa, cutting off a triangle. Gentlemen, on looking at the map, can see for themselves. There can be but a few hundred square miles at most.

Mr. BOYCE. There can be no objection to the admission of Minnesota as a state. The only point is, is there sufficient population; and the question I desire to ask is, whether the gentleman has any official information as to the population of that portion of Minnesota which is proposed to be organized into a state?

Mr. GROW. I will answer the gentleman's question. The boundaries of this state include some seventy thousand square miles, being bounded on the east by the organized states, on the west by the Red River of the North, to its source, then by Big Stone Lake to its outlet, and thence by a due south line to the state of Iowa, which will strike that state a little east of its northwest corner; making a state of about the same size and extent as the state of Missouri.

As to its population, so far as the best information can be relied upon, she has from one hundred and seventy-five thousand to two hundred thousand inhabitants. The bill provides for giving her one Representative on this floor, and such other Representatives as a census to be taken under the bill shall show her to be entitled to under the present ratio of representation.

As to the land features of the bill, they are the same as are contained in all bills of the

kind, so far as the forms are concerned. Sections for school purposes are set apart the same as in Iowa. It provides the same restrictions in regard to natural streams in Minnesota, as are contained in bills of this kind heretofore passed. The bill is in the usual form; and indeed, in drawing it up it was like taking a form-book, and drafting this bill from it, with the exception of the boundaries.

Mr. SMITH of Tenn. I desire to ask the gentleman from Pennsylvania a question. I have had some opportunity to examine the original bill, but have not been able to examine the substitute; and I desire to know of the gentleman from Pennsylvania if the only difference between the original bill and the substitute is in reference to the boundaries?

Mr. GROW. The committee made a slight alteration in the boundary as contained in the original bill referred to us. In the original bill the boundary proceeded from the southern extremity of Lake Travers to the juncture of Kampeskee Lake with the Big Sioux River, thence down the main channel of that river to the northwest corner of the state of Iowa. In the substitute we proceed from the southern extremity of Lake Travers in a direct line to the head of Big Stone Lake, thence through its centre to the outlet, thence by a due south line to the state of Iowa. That is the only change in the boundaries.

Mr. SMITH of Ten. Is that the only difference?

Mr. GROW. Then the original bill had no provision guarantying the uninterrupted navigation of the common highways that pass through Minnesota and along its borders. We provide that such navigable waters shall be common highways, and for ever free to the inhabitants of that state, and to all the other citizens of the United States.

These are the only two material changes which we have made in the bill referred to us. All other changes are merely verbal.

The original bill was the same bill which was referred to the committee with our amendments thereto. As those amendments would require a separate vote, the committee, in order to facilitate business, have reported a substitute containing the amendments which were included in the original bill.

Mr. SMITH of Tenn. Then I shall vote for the bill.

The substitute was then adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GROW moved the previous question upon the passage of the bill.

The previous question was seconded; and the main question ordered to be put.

Mr. FLORENCE demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 75; as follows:—

YEAS.—Messrs. Aiken, Albright, Allen, Allison, Ball, Barbour, Benson, Billinghurst, Bliss, Bocock, Brenton, Buffinton, Cadwalader, Caruthers, Bayard Clarke, Clingman, Howell Cobb, Colfax, Cragin, Damrell, Davidson, Jacob C. Davis, Day, Denver, Dick, Dickson, Dodd, Emrie, English, Florence, Thomas J. D. Fuller, Granger, Grow, Augustus Hall, Harlan, Herbert, Hickman, Hodges, Holloway, Thomas R. Horton, Valentine B. Horton, Howard, Hughston, Jewett, Kelly, Knapp, Knowlton, Knox, Leiter, Mace, Samuel S. Marshall, Matteson, McCarty, Killian Miller, Smith Miller, Morgan, Morrill, Mott, Murray, Nichols, Parker, Peck, Pelton, Perry, Pettit, Phelps, Pike, Pringle, Quitman, Sabin, Sage, Sandidge, Sapp, Scott, Sherman, Simmons, Samuel A. Smith, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Tyson, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Isr'l Washburne, Watkins, Watson, Wells, Wheeler, Williams, Woodworth.—97.

NAYS.—Messrs. Akers, Barksdale, Hendley S. Bennett, Bingham, Bowie, Bradshaw, Burnett, James H. Campbell, Lewis D. Campbell, Carlile, Caskie, Ezra Clark, Williamson R. W. Cobb, Comins, Cox, Crawford, Cullen, Timothy Davis, Dean, Dowdell, Dunn, Durfee, Elliott, Etheridge, Evans, Faulkner, Garnett, Goode, Greenwood, J. Morrison Harris, Harrison, Haven, Houston, George W. Jones, Kennett, King, Knight, Kunkel, Lake, Letcher, Lumpkin, Alexander K. Marshall, McMullin, Millson, Millward, Moore, Andrew Oliver, Mordecai Oliver, Paine, Pennington, Powell, Purviance, Puryear, Ready, Ricaud, Robbins, Roberts, Ruffin, Savage, Seward, Shorter, William Smith, William R. Smith, Stephens, Swope, Talbott, Todd, Trafton, Underwood, Valk, Walker, Whitney, Woodruff, Daniel B. Wright, Zollicoffer.—75.

So the bill was passed.

Pending the call, many members changed their votes, and the following explanations were made:—

Mr. COLFAX stated that Mr. Cumback was confined to his room by illness.

Mr. COMINS stated that his colleague, Mr. Chaffee, was confined to his room by sickness.

Mr. MORGAN stated that Mr. Flagler was detained from the House by indisposition.

Mr. HARRIS of Md. Mr. Speaker, as I understand it, this bill reaffirms the doctrine of squatter sovereignty and alien suffrage, and if that be so I cannot vote for it. I ask, sir, if in order now that the section of the bill relating to the qualification of voters in the territory may be read, that the House may know the fact.

Mr. GROW. I object.

Mr. PURYEAR. I hope there will be no objection.

Mr. GROW. I object.

Mr. PURYEAR. If I can defeat the bill by voting, I shall vote "no;" but I decline voting at present.

Mr. TODD. I vote "no" on this bill on account of the alien clause.

Mr. WHITNEY. I vote "no" upon the alien feature of the bill.

Mr. MORRISON. I was not in the Hall when my name was called. Had I been, I should have voted in the affirmative.

Mr. BROOM. Had I been within the bar when my name was called, I should have voted "no."

Mr. PHELPS. I desire to inquire of the gentleman from Pennsylvania if "Sam" is in this bill? [Laughter.]

Mr. WATKINS. Mr. Speaker, I rise for the purpose of asking on which side my name is recorded.

The SPEAKER. The gentleman's name is recorded in the affirmative.

Mr. WATKINS. I voted in the affirmative, and designed so to vote. I did so with a full

knowledge and appreciation of all the points involved in the pending measure. If I were not aware that it is not in order to do so, I should like to explain the reasons why I so voted, and why I was strictly consistent in principle, policy, and upon the record in casting that vote.

Mr. SMITH of Tenn. stated that his colleague, Mr. Wright, was detained from the House by illness.

The vote, as above recorded, was then announced.

Mr. GROW moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. JONES of Tenn. I move to amend the title by adding the words "and for other purposes." I wish to say that the title should be altered, because the bill is for other purposes besides the admission of a state. One provision of the bill is that five per cent. of the proceeds of the public lands sold within htat state, after deducting the expenses, shall be paid over to the state of Minnesota. I am perfectly willing that that should be done. But it goes further.

Mr. GROW. I rise to a question of order. The merits of the bill are not in question on a motion to amend the title.

The SPEAKER. That is undoubtedly correct; but it is competent for the gentleman from Tennessee to speak of a provision of a bill which is not mentioned in its title.

Mr. JONES of Tenn. The bill goes on to provide that the state shall vest or appropriate that five per cent. in the construction of internal improvements. That is not the admission of the state. I am willing to give the people of Minnesota the five per cent., but it is to be in consideration that they do not tax the public lands. If that had been provided in the bill, I should have voted for it.

Mr. GROW. I have only a word to say. The title of the bill corresponds with its provisions. I call the previous question.

The previous question was seconded, and the main question ordered; and under its operation the amendment of the title was not agreed to.

In the Senate the objection to the bill consisted in the clause permitting alien suffrage. By reference to the part of this work under the head of "Alien Suffrage," the proceedings in the Senate in detail will be seen. The bill having passed with that clause stricken out, it was reconsidered on motion of Mr. Hale, and the clause retained. It finally passed the Senate on the 25th of February, 1857, by yeas and nays as follows:—

YEAS.—Messrs. Allen, Bell of N. H., Bigler, Bright, Cass, Collamer, Dodge, Douglas, Durkee, Fessenden, Fish, Fitch, Foot, Foster, Green, Hale, Harlan, James, Johnson, Jones of Ia., Nourse, Pugh, Sebastian, Seward, Stuart, Toombs, Toucey, Trumbull, Wade, Weller and Wilson.—31.

NAYS.—Messrs. Adams, Bayard, Benjamin, Biggs, Brodhead, Brown, Butler, Clay, Crittenden, Fitzpatrick, Geyer, Houston, Hunter, Iverson, Jones of Tennessee, Mason, Pratt, Reid, Rusk, Slidell, Thompson of Ky., Yulee.—22.

Mississippi.

THE act of April 7, 1798, provided a government for Misisissippi territory, and for an amicable settlement of the boundary between it and the state of Georgia.

"See. 3 establishes a government for the Mississippi territory, in all respects similar to that now exercised in the territory northwest of the river Ohio, excepting and excluding the last article of the ordinanee made for the government thereof by the late Congress, on the 13th day of July, 1787, which provides that there shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, &c.

"Sec. 7 makes it unlawful to bring slaves into Mississippi territory from any place without the United States—imposes a penalty of $300 for every slave thus brought into the territory in violation of the provisions of this act, and gives every slave, thus brought in, his or her freedom."

The bill from which this act originated passed the Senate on the 2d of March, 1798. In the House a motion made by Mr. Thatcher of Mass. to strike out that part which excepted the slavery provision of the Ordinance of 1787, from extending over the territory, received but 12 votes.

Sec. 7 of the law, quoted above, was an amendment carried in the House on motion of Mr. Harper of S. C.

Mr. Thatcher endeavored to prohibit the introduction of slaves therein from within the United States. But his motion to that effect did not receive a second.

The bill as amended passed the House on the 27th of Mareh, 1798. The Senate concurred in the amendment of the House on the 29th of March, 1798, and the bill thus became, with the approval of the President, a law.

During the last session of the 13th Congress a memorial was presented from the territorial legislature of Mississippi, praying that its people be authorized to form a state government, and be admitted into the Union.

The petition was acted on at the first session of the 14th Congress—a bill to that effect was brought to a vote in the House on the 30th of March, 1816, when it passed, the yeas being 70, the nays 53.

The negative vote was as follows:—

Messrs. Alexander of O., Baer of Md., Baker of N. J., Boss of R. I., Bradbury of Mass., Breckenridge of Va., Brown of Mass., Burnside of Pa., Chipman of Vt., Cilley of N. H., Clayton of Del., Cooper of Del., Culpepper of N. C., Cuthbert of Geo., Davenport of Conn., Edwards of N. C., Gaston of N. C., Gold of N. Y., Goldsborough of Md., Griffen of Pa., Hale of N. H., Hawes of Va., Heister of Pa., Hopkinson of Pa., Hulbert of Mass., Jewett of Vt., Kent of N. Y., Langdon of Vt., Law of Conn., Lewis of Va., Lovett of N. Y., Marsh of Vt., Milnor of Pa., Mosely of Conn., Nelson of Mass., Pickering of Mass., Pitkin of Conn., Randolph of Va., Roane of Va., Ruggles of Mass., Southard of N. J., Stanford of N. C., Stearns of Mass., Strong of Mass., Sturges of Conn., Taggart of Mass., Telfair of Geo., Tucker of Va., Vose of N. H., Ward of Mass., Ward of N. J., Daniel Webster of N. H., Wilcox of N. H.

In the Senate, on the 25th of April, 1816, the bill was indefinitely postponed on motion of Mr. Barbour of Va.

The objection urged against this bill was the vast extent of territory covered by the limits of the proposed state.

At the second session of the 14th Congress a bill was passed and became a law, dividing the territory, and constituting a territorial government for the eastern portion of the territory of Mississippi, which was called Alabama.

A bill was then reported in the Senate, authorizing the people of the western portion of Mississippi territory to form a constitution and state government, and for the admission of such state into the Union. This bill passed the Senate on the 30th of January, 1817.

The negative vote, on its engrossment, was as follows:—

Messrs. Ashman of Mass., Daggett of Conn., Goldsborough of Md., Hunter of R. I., King of N. Y., Macon of N. C., Mason of N. H., Smith of S. C., Thompson of N. H., Tickenor of Vt., Varnum of Mass.

The bill passed the House on the 3d of March, 1817, and became a law, by the approval of the President, on the 1st of March, 1817.

A joint resolution, consummating her admission, passed the Senate on the 3d of December, 1817. It passed the House on the 8th of December, and was approved by the President on the 10th of December, 1817.

Missouri.

THE act of June 4, 1812, constituted the territory theretofore called Louisiana, Missouri territory.

In the House of Representatives, on the 18th of December 1818, the Speaker presented the memorial of the Legislative Council of the territory of Missouri, praying said territory may be permitted to form a constitution and state government, which memorial was referred.

In the House of Representatives, February 16, 1819, the "bill to authorize the people of the territory of Missouri to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states," being under consideration, the question was taken on the following amendment submitted by Mr. Tallmadge of New York:—

"*That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall be duly convicted;* and that all children of slaves born within the said state, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years."

A division of the question being called for, it was taken; first, on that part of the amendment italicized, which was carried by yeas and nays as follows:—

YEAS.—Messrs. Adams of Mass., Allen of Mass., Anderson of Pa., Barber of O., Bateman of N. J., Beecher of O., Bennett of N. J., Boden of Pa., Campbell of O., Clagett of N. H., Comstock of N Y., Crafts of Vt., Cushman of N. Y., Darlington of Pa., Drake of N. Y., Ellicott of N. Y., Folger of Mass., Fuller of Mass., Gage of Mass., Gilbert of Conn., Hale of N. H., Hall of Del., Hasbrouck of N. Y., Herrick of O., Hendricks of Ind., Herkimer of N. Y., Heister of Pa., Hitchcock of O., Hopkinson of Pa., Hostetter of Pa., Hubbard of N. Y., Hunter of Vt., Huntington of Conn., Irving of N. Y., Kinsey of N. J., Kirtland of N. Y., Lawyer of N. Y., Lincoln of Mass. Linn of N. J., Livermore of N. H., W. Maclay of Pa., W. P. Maclay of Pa., Marchand of Pa., Mason of R. I., Merrill of Vt., Mills of Mass., R. Moore of Pa., S. Moore of Pa., Morton of Mass., Mosely of Conn., Murray of Pa., Nelson of Mass., Ogle of Pa., Orr of Mass., Palmer of N. Y., Patterson of Pa., Pawling of Pa., Pitkins of Conn., Rice of Mass., Rich of Vt., Richards of Vt., Rogers of Pa., Ruggles of Mass., Sampson of Mass., Savage of N. Y., Schuyler of N. Y., Scudder of N. Y., Sergeant of Pa., Sherwood, Silsbee of Mass., Southard of N. J., Spencer of N. Y., Tallmadge of N. Y., Taylor of N. Y., Terry of Conn., Tompkins of N. Y., Townsend of N. Y., Upham of N. H., Wallace of Pa., Wendover of N. Y., Westerlo of N. Y., Whiteside of Pa., Wilkin of N. Y., Willlams of Conn., Williams of N. Y., Wilson of Mass., and Wilson of N. Y.—87.

NAYS.—Messrs. Abbott of Geo., Anderson of Ky., Austin of Va., Ball of Va., Barbour of Va., Bassett of Va., Bayly of Md., Bloomfield of N. J., Blount of Tenn., Bryan of N. C., Burwell of Va., Butler of La., Cobb of Geo., Colston of Va., Cook of Geo., Cruger of N. Y., Culbreth of Md., Davidson of N. C., Desha of Ky., Edwards of N. C., Ervin of S. C., Fisher of S. C., Garnett of Va., Hall of N. C., Harrison of O., Holmes of Mass., Johnson of Va., Johnson of Ky., Jones of Tenn., Lewis of Va., Little of Md., Loundes of S. C., McLane of Del., McLean of Ill., McCoy of Va., Marr of Tenn., Mason of Mass., Middleton of S. C., H. Nelson of Va., T. M. Nelson of Va., Nesbitt of S. C., New of Ky., Newton of Va., Ogden of N. Y., Owen of N. C., Parrott of N. H., Pegram of Va., Peter of Md., Pindall of Va., Pleasants of Va., Poindexter of Miss., Reed of Md., Rhea of Tenn., Ringgold of Md., Robertson of Ky., Sawyer of N. C., Settle of N. C., Shaw of Mass., Simkins of S. C., Slocumb of N. C., Smith of Md., Smith of Va., Smyth of Va., J. S. Smith of N. C., Speed of Ky., Stewart of N. C., Stewart of Md., Storrs of N. Y., Terrell of Geo., Trimble of Ky., Tucker of Va., Tucker of S. C., Tyler of Va., Walker of Ky., and Williams of N. C.—76.

The second branch of said amendment, being the part not italicized, was agreed to by a vote of yeas 82, nays 78.

The vote in the affirmative on this amendment was the same as on the other, less Messrs. Beecher, Campbell, Linn, Mason, Schuyler, and Westerlo, the four former of whom voted against this amendment. Mr. S. Smith, who voted no on last amendment, voted ay on this.

The negative vote was the same, with the exception of Mr. Smith and Mr. McLean, the latter of whom did not vote at all on this vote, and with the addition of Messrs. Beecher, Campbell, Linn, and Mason.

The bill was ordered to be engrossed, by the following vote:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	4	1	North Carolina	1	10
Massachusetts	15	2	South Carolina	1	2
Rhode Island	1		Georgia		4
Connecticut	7		Kentucky	1	6
Vermont	5		Tennessee		4
New York	25	1	Ohio	5	1
New Jersey	5	1	Indiana	1	
Pennsylvania	21		Mississippi		1
Delaware	2		Louisiana		1
Maryland	2	6		—	—
Virginia	1	16		97	56

The said bill passed as engrossed, without a division.

In the Senate, February 27, 1819, the bill from the House being under consideration, the vote was taken on striking out the amendment of Mr. Tallmadge.

A division of the question being called for, the question was taken on striking out the last branch of said provision, being the part not italicized, and it was decided in the affirmative:—

YEAS.—Messrs. Barbour of Va., Crittenden of Ky., Daggett of Conn., Dana of Conn., Eaton of Tenn., Edwards of Ill., Eppes of Va., Fromentin of La., Gaillard of S. C., Goldsborough of Md., Horsey of Del., Johnson of La., King of N.

Y., Lacock of Pa., Leake of Miss., Macon of N. C., Morrow of O., Otis of Mass., Palmer of Vt., Roberts of Pa., Sanford of N. Y., Stokes of N. C., Stover of N. H., Tait of Ga., Talbot of Ky., Thomas of Ill., Tickenor of Vt., Van Dyke of Del., Williams of Miss., Williams of Tenn.—30.

NAYS.—Messrs. Burrill of R. I., Dickerson of N. J., Mellen of Mass., Morril of N. H., Noble of Ind., Ruggles of O., and Wilson of N. J.—7.

On striking out the first branch of the amendment, being the part italicized, the vote was yeas 22, nays 16. The vote was, in comparison with the vote on the last branch of the amendment, as follows: Messrs. Daggett, Dana, King, Morrow, Roberts, Sandford, Stover, Tickenor, who voted for striking out the other, voted against striking out this. Mr. Taylor, who did not vote on striking out the last, voted against striking out this.

The vote by states was as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire		2	South Carolina	1	
Massachusetts	1	1	Georgia	1	
Rhode Island		1	Kentucky	2	
Connecticut		2	Tennessee	2	
Vermont	1	1	Ohio		2
New York		2	Louisiana	2	
New Jersey		2	Indiana		2
Pennsylvania	1	1	Mississippi	2	
Delaware	2		Illinois	2	
Maryland	1				
Virginia	2			22	16
North Carolina	2				

In the House of Representatives, March 2, 1819.—On the question to concur with the Senate in striking out the aforesaid clause.

It was determined in the negative—yeas 76, nays 78.

In the Senate, March 2, 1819.—On motion by MrTait of Ga.,

Resolved, That the Senate adhere. (No division.)

In the House of Representatives, March 2, 1819.—On motion by Mr. Taylor of N. Y.,

Resolved, That the House of Representatives adhere.

It was determined in the affirmative—yeas 78, nays 66. So the bill was lost.

—

On the 8th of December, 1819, Mr. Holmes of Mass., presented a memorial from the people of Maine, praying to be admitted into the Union on an equal footing with the original states, together with a copy of the constitution formed for the state. Referred to a committee of five members.

Mr. Scott, delegate from Missouri, presented a memorial from the people of Missouri, praying to be authorized to form a constitution of state government, and to be admitted on an equal footing with the original states. Referred to a select committee.

On the 14th of December, Mr. Taylor of N. Y., introduced a resolution proposing an inquiry into the expediency of prohibiting by law the introduction of slaves into the territories west of the Mississippi. [The committee were afterwards discharged from the further consideration of the subject.]

A bill authorizing the people of Missouri to form a state constitution had been previously reported, and the consideration of the subject was fixed for the second Monday in January.

On the 28th of December, Mr. Taylor moved another resolution on the subject of prohibiting the introduction of slaves into the territories west of the Mississippi. Laid on the table, 82 to 62.

In the House of Representatives, January 3, 1820.—The bill for the admission of the state of Maine into the Union, and to extend the laws of the United States to such state, was passed, and sent to the Senate.

In the Senate, January 4, 1820, Journal, page 72.—The said bill was read and referred to the Committee on the Judiciary, consisting of Messrs. Smith of South Carolina, Leake of Mississippi, Burrill of Rhode Island, Logan of Kentucky, and Otis of Massachusetts.

January 6, page 84.—Reported with amendments—these amendments provided for the admission also of Missouri into the Union. This form of amendment contained no clause whatever concerning slavery.

January 13, page 100.—Considered. Mr. Roberts moved to recommit, and leave out Missouri.

January 14, page 102.—Mr. Roberts's motion rejected—yeas 18, nays 25. This bill was debated from day to day until February 2, 1820, when the question was taken on Mr. Roberts's amendment, viz.: (this is the first slavery proposition on this bill,) "Provided, also, that the further introduction into the said state of persons to be held in slavery, or involuntary servitude, within the same shall be absolutely and irrevocably prohibited."

And determined in the negative—yeas 16, nays 27, as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	1	1	South Carolina		2
Massachusetts	2		Georgia		2
Rhode Island	1	1	Kentucky		2
Connecticut	1	1	Tennessee		2
Vermont	1	1	Ohio	2	
New York	2		Louisiana		2
New Jersey	2		Indiana	2	
Pennsylvania	2		Mississippi		2
Delaware		1	Illinois		2
Maryland		2	Alabama		2
Virginia		2			
North Carolina		2		16	27

YEAS.—Messrs. Merrill of N. H., Mellen and Otis of Mass., Dana of Conn., Burrell of R. I., Tichenor of Vt., King and Sanford of N.Y., Dickerson and Wilson of N. J., Lowrie and Roberts of Pa., Ruggles and Trimble of O., Noble and Taylor of Ind.—16.

NAYS.—Messrs. Parrot of N. H., Hunter of R. I., Lanman of Conn., Palmer of Vt., Van Dyke of Del., Lloyd and Pinkney of Md., Barbour and Pleasants of Va., Macon and Stokes of N. C., Gaillard and Smith of S. C., Elliot and Walker of Ga., Johnson and Logan of Ky., Eaton and Williams of Tenn., Brown and Johnson of La., Leak and Williams of Miss., Edwards and Thomas of Ill., King and Walker of Ala.—27.

February 3, 1820, page 137.—Mr. Thomas submitted the following amendment:—

Sec. —. And be it further enacted, That in all that tract of country ceded by France to the United States under the name of Louisiana, which lies north of 36° 30′ north latitude, excepting only such part thereof as is included within the limits of the state contemplated by this act, shall be neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: Provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any

state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid, and—

February 7, page 145.—Mr. Thomas withdrew the said amendment.

February 16, page 160.—On the question to agree to the amendments reported by the committee on the judiciary (not containing any slavery clause), it was determined in the affirmative—yeas 23, nays 21; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	2		South Carolina	2	
Massachusetts	2		Georgia	2	
Rhode Island	2		Kentucky	2	
Connecticut	2		Tennessee	2	
Vermont	2		Ohio		2
New York	2		Louisiana	2	
New Jersey	2		Indiana	1	1
Pennsylvania	2		Mississippi	2	
Delaware	2		Illinois	2	
Maryland		2	Alabama	2	
Virginia	2				
North Carolina	2			23	21

So the amendment to include Missouri, without any slavery clause, was agreed to.

The bill being still in Committee of the Whole, Mr. Thomas proposed the following additional amendment:—

Sec. —. And be it further enacted, That the sixth article of compact of the ordinance of Congress, passed on the 13th of July, 1787, for the government of the territory of the United States northwest of the river Ohio, shall, to all intents and purposes, be, and hereby is, deemed and held applicable to, and shall have full force and effect in and over all that tract of country ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, excepting only such part thereof as is included within the limits of the state contemplated by this act.

On motion by Mr. Elliott, of Georgia, it was agreed to take the question by yeas and nays.

Feb. 17, page 164.—Mr. Thomas withdrew the amendment proposed by him yesterday, and offered the following, as a new section:—

Sec. —. And be it further enacted, That [in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, excepting only such part thereof as is included within the limits of the state contemplated by this act] slavery and involuntary servitude, otherwise than in the punishment of crime whereof the party shall have been duly convicted, shall be, and is hereby, for ever prohibited: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

On motion by Mr. Trimble, of Ohio, to amend said amendment by striking out the words within the brackets, and inserting the following: "All that part of Louisiana [as ceded by France to the United States] which lies west of the Mississippi river, except that part which is contained in the state of Louisiana, and except that part of the territory which lies north of the state of Louisiana, and east of the 17th° or 94th° of west longitude, agreeably to Melish's map, and south of the line which may be established for the northern boundary for the proposed state of Missouri."

It was determined in the negative—yeas 20, nays 24—as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	2		South Carolina		2
Massachusetts	2		Georgia		2
Rhode Island	2		Kentucky		2
Connecticut	2		Tennessee		2
Vermont	2		Ohio	2	
New York	2		Louisiana		2
New Jersey	2		Indiana		2
Pennsylvania	2		Mississippi		2
Delaware	2		Alabama		2
Maryland		2	Illinois		2
Virginia		2			
North Carolina		2		20	24

This amendment being lost,

The question then recurred on the last amendment, proposed by Mr. Thomas,

And it was determined in the affirmative—yeas 34, nays 10—as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	2		South Carolina		2
Massachusetts	2		Georgia		2
Rhode Island	2		Kentucky	2	
Connecticut	2		Tennessee	2	
Vermont	2		Ohio	2	
New York	2		Louisiana	2	
New Jersey	2		Indiana		2
Pennsylvania	2		Mississippi	1	1
Delaware	2		Illinois	2	
Maryland	2		Alabama	2	
Virginia		2			
North Carolina	1	1		34	10

For the Amendment.—Messrs. Brown, Burrill, Dana, Dickerson, Eaton, Edwards, Horsey, Hunter, Johnson of Ky., Johnson of La., King of Ala., King of N. Y., Lanman, Leake, Lloyd, Logan, Lowrie, Mellen, Morril, Otis, Palmer, Parrott, Pinkney, Roberts, Ruggles, Sanford, Stokes, Thomas, Tichenor, Trimble, Van Dyke, Walker of Ala., Williams of Tenn., Wilson.—34.

Against the Amendment.—Messrs. Barbour, Elliott, Gaillard, Macon, Noble, Pleasants, Smith, Taylor, Walker of Ga., Williams of Miss.—10.

The bill having been reported to the Senate, and the amendments concurred in,

On the question, "Shall the amendments to the bill be engrossed, and the bill read a third time?" it was determined in the affirmative—yeas 24, nays 20—as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	1	1	South Carolina	1	1
Massachusetts		2	Georgia	2	
Rhode Island	1	1	Kentucky	2	
Connecticut		2	Tennessee	2	
Vermont		2	Ohio		2
New York		2	Louisiana	2	
New Jersey		2	Indiana		2
Pennsylvania		2	Mississippi	2	
Delaware	2		Illinois	2	
Maryland	2		Alabama	2	
Virginia	2				
North Carolina	1	1		24	20

Yeas.—Messrs. Barbour, Brown, Eaton, Edwards, Elliott, Gaillard, Horsey, Hunter, Johnson of Ky., Johnson of La., King of Ala., Leake, Lloyd, Logan, Parrott, Pinkney, Pleasants, Stokes, Thomas, Van Dyke, Walker of Ala., Walker of Ga., Williams of Miss., Williams of Tenn.—24.

Nays.—Messrs. Burrill, Dana, Dickerson, King of N. Y., Lanman, Lowrie, Macon, Mellen, Morril, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Taylor, Tichenor, Trimble, Wilson.—20.

So the bill was ordered to be engrossed, and read a third time to-morrow.

Feb. 18, 1820, page 170.—The bill passed, with the amendment, without a division.

In the House of Representatives, Feb. 19,

1820, page 229, the House took up the bill and amendments from the Senate.

Mr. Taylor of N. Y. moved to disagree to the amendments of the Senate.

Mr. Scott, delegate from Missouri, moved to refer the bill and amendments to the Committee of the Whole; which was determined in the negative—yeas 70, nays 107. (See Journal of House of Representatives, page 230.)

Mr. Alexander Smyth of Va. then moved that the amendments lie on the table; which was rejected.

The question then recurred on the motion of Mr. Taylor, and on motion of Mr. Simkins of S. C. was postponed to Tuesday, the 22d February.

Feb. 23, page 240.—The question on Mr. Taylor's motion was divided so as to strike out so much of the amendments of the Senate as proposes "to enable the people of Missouri to form a constitution and state government, &c., &c., &c.; and was determined in the affirmative—yeas 93, nays 72.

Feb. 23, page 241.—The question was then stated: "Will the House disagree to the residue of the amendments of the Senate to the said bill, except the ninth section?" and it was determined in the affirmative—yeas 102, nays 68.

Feb. 23, page 242.—The question was then stated: "Will the House disagree to the said ninth section?" contained in the following words:—

Sec. 9. And be it further enacted, That in all territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, excepting only such part thereof as is included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the party shall have been duly convicted, shall be, and is hereby, for ever prohibited: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid.

And it was also determined in the affirmative—yeas 159, nays 18—as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	6		South Carolina	9	
Massachusetts	18	2	Georgia	6	
Rhode Island	2		Kentucky	7	1
Connecticut	7		Tennessee	5	1
Vermont	4	2	Ohio	5	1
New York	25		Louisiana	1	
New Jersey	3	3	Indiana	1	
Pennsylvania	20	2	Mississippi	1	
Delaware	1		Illinois	1	
Maryland	5	4	Alabama	1	
Virginia	20	1		—	—
North Carolina	11	1		159	18

So the House disagreed to all the amendments of the Senate to include Missouri in the bill providing for a government in Maine, and notified the Senate thereof.

In Senate, February 24, 1820.—On motion by Mr. Burrill of R. I.,

"That the Senate recede therefrom,"

Mr. Macon of N. C., called for a division of the question, so to be taken separately on each amendment; one containing provisions for the admission of Missouri into the Union, and the other prohibiting the further introduction of slavery into the territories of the United States.

The subject was debated in the Senate until Feb. 28, when the question was taken: "To recede from so much of the amendments as provides for the admission of Missouri into the Union," &c.

It was determined in the negative—yeas 21, nays 23; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	2		South Carolina		2
Massachusetts	2		Georgia		2
Rhode Island	2		Kentucky		2
Connecticut	2		Tennessee		2
Vermont	2		Ohio	2	
New York	2		Louisiana		2
New Jersey	2		Indiana	1	1
Pennsylvania	2		Mississippi		2
Delaware	2		Illinois		2
Maryland		2*	Alabama		†2
Virginia		2		—	—
North Carolina		2		21	23

So the Senate refused to recede from their amendment for the admission of Missouri.

On the question to recede from the residue of the amendments, prohibiting the further introduction of slavery into the territories of the United States, north of 36° 30′ north latitude, it was determined in the negative—yeas 11, nays 31; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire		2	South Carolina	2	
Massachusetts		2	Georgia	2	
Rhode Island		2	Kentucky		2
Connecticut		2	Tennessee		2
Vermont		2	Ohio		2
New York	1	1	Louisiana		2
New Jersey		2	Indiana	2	
Pennsylvania		2	Mississippi	1	1
Delaware		2	Illinois		2
Maryland		2*	Alabama		2
Virginia	2			—	—
North Carolina	1‡	1‖		11	33

So the Senate refused to recede from their amendment prohibiting the further introduction of slavery in the territories north of 36° 30′.

On motion by Mr. Barbour of Va.,

Resolved, That the Senate insist on their amendment for the admission of Missouri.

On motion by Mr. Roberts of Pa.,

Resolved, That the Senate insist on their other amendment prohibiting the further introduction of slavery into the territories of the United States.

So it was

Resolved, That the Senate insist on all their amendments disagreed to by the House of Representatives.

In House of Representatives, February 28, 1820,

Mr. Taylor of N. Y. moved to insist on their disagreement to the amendments of the Senate.

A division of the question was called for—

And, on the question, "Will the House insist on their disagreement to said amendments providing for the admission of Missouri?"

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* Pinckney and Lloyd. † William R. King and Walker.
‡ Macon. ‖ Stokes.

It was determined in the affirmative—yeas 97, nays 76; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	6		South Carolina		9
Massachusetts	18	1	Georgia		6
Rhode Island	2		Kentucky		8
Connecticut	7		Tennessee		6
Vermont	6		Ohio	6	1
New York	24		Louisiana		1
New Jersey	4	1	Indiana	1	
Pennsylvania	21	2	Mississippi		1
Delaware			Illinois	1	
Maryland		8	Alabama		
Virginia	1*	22			
North Carolina		11		97	76

So the House of Representatives insisted on their disagreement to the Senate's amendment for the admission of Missouri.

The question was then taken: "Will the House insist on their disagreement to the amendment of the Senate, prohibiting the further introduction of slavery into the territories north of 36° 30′?"

And it was determined in the affirmative—yeas 160, nays 14; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	6		South Carolina	9	
Massachusetts	19	2	Georgia	5	
Rhode Island	2		Kentucky	8	
Connecticut	7		Tennessee	5	1
Vermont	4	1	Ohio	5	1
New York	25		Louisiana	1	
New Jersey	3	2	Indiana	1	
Pennsylvania	20	3	Mississippi	1	
Delaware			Illinois	1	
Maryland	6	2	Alabama		
Virginia	22	1			
North Carolina	10	1		160	14

So the House of Representatives insisted upon their disagreement to all the amendments of the Senate, and notified the Senate thereof.

In Senate, Feb. 28, 1820,

On motion by Mr. Thomas,

Resolved, That the Senate ask a conference on the disagreeing votes of the two Houses on said amendments.

Ordered, That Mr. Thomas of Ill., Mr. Pinkney of Md., and Mr. Barbour of Va., be the managers at the said conference on the part of the Senate.

Ordered, That the secretary notify the House of Representatives accordingly.

In House of Representatives, Feb. 29, 1820,

Resolved, That this House do agree to the conference, &c., &c.

Ordered, That Mr. Holmes of Mass., Mr. Taylor of N. Y., Mr. Lowndes of S. C., Mr. Parker of Mass., and Mr. Kinsey of N. J., be the managers at the said conference on the part of this House.

Feb. 29, 1820.—The House took up the amendments made in committee of the whole to the "bill to authorize the people of the Territory of Missouri to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states," and concurred therein, with the exception of the following amendment:—

"And shall ordain and establish, that there shall be neither slavery nor involuntary servitude in the said state, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: Provided, always, that any person escaping within the same from whom labor or service is lawfully claimed in any other state, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid: Provided, nevertheless, that the said provision shall not be construed to alter the condition or civil rights of any person now held to service or labor in the said territory."

The question was then stated on agreeing to this amendment, when

Mr. Storrs of N. Y. moved to strike out these words: "And shall ordain and establish that," and in lieu thereof to insert the following:—

"And be it further enacted, That the following propositions be, and the same are hereby, offered to the said convention, for their free acceptance or rejection, to be incorporated into the constitution of the said state as articles of compact between the said state and the United States, viz.: That there be neither slavery," &c., as above.

And, on the question to agree to this amendment of Mr. Storrs, it was determined in the negative—yeas 82, nays 98.

The question was then taken on agreeing to the above amendment made in the committee of the whole, and passed in the affirmative—yeas 94, nays 86.

A motion was then made by Mr. Taylor of N. Y. further to amend the said bill by striking out these words: "And the said state, when formed, shall be admitted into the Union upon an equal footing with the original states, in all respects whatever;" and in lieu thereof to insert, And if the same (that is the constitution) shall be approved by Congress, the said territory shall be admitted into the Union as a state, upon the same footing as the original states.

And the question being taken thereon, it was determined in the negative—yeas 49, nays 125.

No further amendment being proposed, the question was then taken, "Shall the said bill be engrossed and read a third time?" and passed in the affirmative—yeas 93, nays 84.

In House of Representatives, Mar. 1, 1820. On the question "Shall the bill pass?" and it passed in the affirmative—yeas 91, nays 82; as follows:—

YEAS.—Messrs. Adams of Mass., Allen of N. Y., Baker of N. Y., Bateman of N. J., Beecher of O., Boden of Pa., Brush of O., Buffum of N. H., Campbell of O., Case of N. Y., Clagett of N. H., Clark of N. Y., Cook of Ill., Crafts of Vt., Cushman of Mass., Darlington of Pa., Dennison of Pa., De Witt of N. Y., Dickinson of N. Y., Dowse of Mass., Eddy of R. I., Edwards of Conn., Edwards of Pa., Fay of N. Y., Folger of Mass., Ford of N. Y., Forrest of Pa., Fuller of Mass., Gross of N. Y., Gross of Pa., Guyon of N. Y., Hackley of N. Y., Hall of N. Y., Hazard of R. I., Hemphill of Pa., Hendricks of Ind., Herrick of O., Hibsham of Pa., Heister of Pa., Hill of Mass., Hostetter of Pa., Kendall of Mass., Kensey of N. J., Kinsley of Me., Lathrop of Mass., Lincoln of Mass., Linn of N. J., Lyman of N. Y., Maclay of Pa., Marchand of Pa., Meech of Vt., R. Moore of Pa., S. Moore of Pa., Mouell of N. Y., Morton of Mass., Moseley of Conn., Murray of Pa., Nelson of Mass., Parker of Mass., Patterson of Pa., Phelps of Conn.,

* Nelson.

Philson of Pa., Pitcher of N. Y., Plumer of N. H., Rich of Vt., Richards of Vt., Richmond of N. Y., Rogers of Pa., Ross of O., Russ of Conn., Sampson of Mass., Sergeant of Pa., Silsbee of Mass., Sloan of O., Smith of N. J., Southard, Stevens of Conn., Street of N. Y., Strong of Vt., Strong of N. Y., Tarr of Pa., Taylor of N. Y., Tomlinson of Conn., Tompkins of N. Y., Tracey of N. Y., Upham of N. H., Van Rensselaer of N. Y., Wallace of Pa., Wendover of N. Y., Whitman of Mass., Wood of N. Y.—91.

NAYS.—Messrs. Alexander of Va., Allen of Tenn., Anderson of Ky., Archer of Md., Archer of Va., Baldwin of Pa., Barbour of Va., Bayley of Md., Bloomfield of N. J., Brevard of S. C., Brown of Ky., Bryan of Tenn., Burton of N. C., Burwell of Va., Butler of La., Cannon of Tenn., Cobb of Geo., Crowell of Ala., Culbreth of Md., Culpepper of N. C., Cuthbert of Ga., Davidson of N. C., Earle of S. C., Edwards of N. C., Erwin of S. C., Fisher of N. C., Floyd of Va., Foot of Conn., Fullerton of Pa., Garnett of Va., Hall of N. C., Hardin of Ky., Holmes of Mass., Hook of N. C., Johnson of Va., Jones of Va., Jones of Tenn., Kent of Md., Little of Md., Lowndes of S. C., McCoy of Va., McCreary of S. C., McLane of Del., McLean of Ky., Mason of Mass., Meigs of N. Y., Mercer of Va., Metcalf of Ky., Neale of Md., Nelson of Va., Newton of Va., Overstreet of S. C. Parker of Va., Pinckney of S., C., Pindall of Va., Quarles of Ky., Randolph of Va., Rankin of Miss., Read of Ga., Rhea of Tenn., Ringgold of Md., Robertson of Ky., Settle of N. C., Shaw of Mass., Simkins of S. C., Slocum of N. C., Smith of Md., B. Smith of Va., A. Smyth of Va., Smith of N. C., Storrs of N. Y., Strother of Va., Swearingen of Va., Terrill of Geo., Trimble of Ky., Tucker of Va., Tucker of S. C., Tyler of Va., Walker of N. C., Warfield of Md., Williams of Va., Williams of N. C.—82.

Vote classified by states:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	4		South Carolina		9
Massachusetts	16	3	Georgia		4
Rhode Island	2		Kentucky		8
Connecticut	6	1	Tennessee		5
Vermont	5		Ohio	6	
New York	24	2	Louisiana		1
New Jersey	5	1	Mississippi		1
Pennsylvania	21	2	Alabama		1
Delaware		1	Indiana	1	
Maryland		9	Illinois	1	
Virginia	22				
North Carolina	12			91	82

In Senate of United States, March 2, 1820. The aforesaid bill, from the House of Representatives, was received and taken up, and on motion by Mr. Barbour of Va. to strike out the clause "that the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes whereof the party shall be duly convicted; and that all children of slaves born within the said state, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years," as an amendment; and it was agreed to—yeas 27, nays 15; as follows:—

States.	Y.	N.	States.	Y.	N.
New Hampshire	1	1	South Carolina	2	
Massachusetts		2	Georgia	2	
Rhode Island	1	1	Kentucky	2	
Connecticut	1	1	Tennessee	2	
Vermont			Ohio		2
New York		2	Louisiana	2	
New Jersey		2	Mississippi	2	
Pennsylvania		2	Alabama	2	
Delaware	2		Indiana		2
Maryland	2		Illinois	2	
Virginia	2				
North Carolina	2			27	15

The said clause was therefore stricken from the bill of the House of Representatives.

On motion by Mr. Thomas to amend said bill by adding thereto the following, as a new section:—

Sec. 8. And be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′, north latitude, Not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall be, and is hereby, for ever prohibited: Provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

The said amendment was agreed to in Senate without a division.

Mr. Trimble of Ohio then moved to amend this new section by striking out the following: "All that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, not included within the limits of the state contemplated by this act," and inserting in lieu thereof the following:—

All that part of Louisiana west of the Mississippi ceded by France to the United States, except the state of Louisiana, the territory included in the proposed state of Missouri, and the Arkansas territory east of the 17° or 94° of longitude (agreeably to Melish's map.)

On the question to agree to this amendment, it was determined in the negative—yeas 12, nays 30, as follows:

States.	Y.	N.	States.	Y.	N.
New Hampshire	1	1	South Carolina		2
Massachusetts		2	Georgia		2
Rhode Island		1	Kentucky		2
Connecticut		2	Tennessee		2
Vermont		1	Ohio	2	
New York		2	Louisiana		2
New Jersey		2	Mississippi		2
Pennsylvania		2	Alabama		2
Delaware		2	Indiana		2
Maryland		2	Illinois		2
Virginia		2			
North Carolina		2		12	30

The title of the bill was then amended by adding thereto the following: "And to prohibit slavery in certain territories." And the bill was passed without a division, and sent to the House of Representatives.

On the reception of which in the House of Representatives, the managers of the conference on the disagreeing votes on the amendments to the "bill providing for the admission of the state of Maine into the Union," made a report (which is in the journal of the House of Representatives, page 275), recommending

1st. That the Senate recede from all their amendments to the bill for the admission of Maine, and

2d. That the bill of the House of Representatives to enable the people of Missouri to form a state government, &c., should be so amended as to strike out the clause prohibiting slavery within the state to be formed, and to insert a new section prohibiting slavery in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, not included within the limits of the state of Missouri, &c.

The said report was read and ordered to lie on the table.

The House then took up and proceeded to

consider the amendments proposed by the Senate to the bill to authorize the people of Missouri to form a constitution, &c., &c.; "and the said amendments being in exact conformity to the report, or recommendations of the committee of conference herein recited," the question was first taken on striking out the clause prohibiting slavery in Missouri, and it was carried in the affirmative—yeas 90, nays 87, as follows:—

YEAS.—Messrs. Abbott, Alexander, Allen of Tenn,, Anderson, Archer of Md., Archer of Va., Baldwin, Barbour, Bayly, Bloomfield, Brevard, Brown, Bryan, Burton, Burwell, Butler of La., Cannon, Cobb, Cocke, Crawford, Crowell, Culbreth, Culpepper, Cuthbert, Davidson, Earle, Eddy, Edwards of N. C., Ervin, Fisher, Floyd, Foot, Fullerton, Garnett, Hall of N. C., Hardin, Hill, Holmes, Hooks, Johnson, Jones of Va., Jones of Tenn., Kent, Kinsey, Little, Lowndes, McCoy, McCreary, McLane of Del., McLean of Ky., Mason, Meigs, Mercer, Metcalf, Neale, Nelson of Va., Newton, Overstreet, Parker of Va., Pinckney, Pindall, Quarles, Randolph, Rankin, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simpkins, Slocumb, Smith of N. J., Smith of Md., B. Smith of Va., A. Smyth of Va., Smith of N. C., Stevens, Storrs, Strother, Swearingen, Terrell, Trimble, Tucker of Va., Tucker of S. C., Tyler, Walker of N. C., Warfield, Williams of Va., Williams of N. C.—90.

NAYS.—Messrs. Adams, Allen of Mass.. Allen of N. Y., Baker, Bateman, Beecher, Boden, Brush, Buffum, Butler of N. H., Campbell, Clagett, Clark, Cooke, Crafts, Cushman, Darlington, Denuison, Dewitt, Dickinson, Dowse, Edwards of Pa., Fay, Folger, Ford, Forrest, Fuller, Gross of N. Y., Gross of Pa., Guyon, Hackley, Hall of N. Y., Hazard, Hemphill, Hendricks, Herrick, Hibsham, Hiester. Hostetter, Kendall, Kinsley, Lathrop, Lincoln, Linn, Livermore, Lyman, Maclay, Mallary, Marchand, Meech, R. Moore, S. Moore, Monell, Morton, Moseley. Murray, Nelson of Mass., Parker of Mass., Patterson, Phelps, Philson, Pitcher, Plumer, Rich, Richards, Richmond, Rogers, Ross, Russ, Sampson, Sergeant, Silsbee, Sloan, Southard, Street, Strong of Vt., Strong of N. Y., Tarr, Taylor, Tomlinson, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, and Wood.—87.

Those who voted in the affirmative and negative are as follows, by states:—

States.	Y.	N.	States.	Y.	N.
New Hampshire		6	South Carolina	9	
Massachusetts	4	16	Georgia	6	
Rhode Island	1	1	Kentucky	8	
Connecticut	2	4	Tennessee	6	
Vermont		6	Ohio		6
New York	2	22	Louisiana	1	
New Jersey	3	3	Indiana		1
Pennsylvania	2	21	Mississippi	1	
Delaware	1		Alabama	1	
Maryland	9		Illinois		1
Virginia	22				
North Carolina	12			90	87

The main question was taken on concurring with the Senate in inserting in the bill, in lieu of the state restriction, the clause inhibiting slavery in the territory north of 36° 30′ north latitude, and was decided in the affirmative, by yeas and nays as follows:—

YEAS.—Messrs. Allen of N. Y., Allen of Tenn., Anderson, Archer of Md., Baker, Baldwin, Bateman, Bayly, Beecher, Bloomfield, Boden, Brevard, Brown, Brush, Bryan, Butler of N. H., Campbell, Cannon, Case, Clagett, Clarke, Cocke, Cook, Crafts, Crawford, Crowell, Culbreth, Culpepper, Cushman, Cuthbert, Darlington, Davidson, Dennison, Dewitt, Dickinson, Dowse, Earle, Eddy. Edwards of Pa., Fay, Fisher, Floyd, Foot, Ford, Forrest, Fuller, Fullerton, Gross of Pa., Guyon, Hacklay, Hall of N. Y., Hardin, Hazard, Hemphill, Hendricks, Herrick, Hibsham, Hiester, Hill, Holmes, Hostetter, Kendall, Kent. Kinsey, Kinsley, Lathrop, Little, Lincoln, Linn, Livermore. Lowndes, Lyman, Maclay, McCreary, McLane of Del., McLean of Ky., Mallary, Marchand, Mason, Meigs, Mercer, R. Moore, S. Moore, Monell, Morton, Mosely, Murray, Nelson of Mass., Nelson of Va., Parker of Mass., Patterson, Philson, Pitcher, Plumer, Quarles, Rankin, Rich, Richards, Richmond, Ringgold, Robertson, Rogers, Ross, Russ, Sampson, Sergeant, Settle, Shaw, Silsbee, Sloan, Smith of N. J., Smith of Md., Smith of N. C., Southard, Stevens, Storrs, Street, Strong of Vt., Strong of N. Y., Strother, Tarr, Taylor, Tomlinson, Tompkins, Tracy, Trimble, Tucker of S. C., Upham, Van Rensselaer, Wallace, Warfield, Wendover, Williams of N. C., Wood.—134.

NAYS.—Messrs. Abbott, Adams, Alexander, Allen of Mass., Archer of Va., Barbour, Buffum, Burton, Burwell, Butler of La., Cobb, Edwards of N. C., Ervin, Folger, Garnett, Gross of N. Y., Hall of N. C., Hooks, Johnson, Jones of Va., Jones of Tenn., McCoy, Metcalf, Neale, Newton, Overstreet, Parker of Va., Pinckney, Pindall, Randolph, Reed, Rhea, Simkins, Slocumb, B. Smith of Va., A. Smyth of Va., Swearingen, Terrell, Tucker of Va., Tyler, Walker of N. C., Williams of Va.—42.

States.	Y.	N.	States.	Y.	N.
New Hampshire	5	1	South Carolina	5	4
Massachusetts	16	3	Georgia	2	4
Rhode Island	2		Kentucky	7	1
Connecticut	5		Tennessee	4	2
Vermont	5		Ohio	6	
New York	25	1	Louisiana		1
New Jersey	6		Mississippi	1	
Pennsylvania	23		Alabama	1	
Delaware	1		Indiana	1	
Maryland	8	1	Illinois	1	
Virginia	4	18			
North Carolina	6	6		134	42

So the House concurred in all the amendments of the Senate, and the bill was passed by the two Houses. The following is a copy of it as it became a law:—

An act to authorize the people of the Missouri territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Missouri territory included within the boundaries hereinafter designated, be, and they are hereby authorized to form for themselves a constitution and state government; and to assume such name as they shall deem proper; and the said state, when formed, shall be admitted into the Union upon an equal footing with the original states, in all respects whatsoever.

The 3d, 4th, 5th, 6th, and 7th sections of the law embrace mere matters of detail, having no connexion with the great question which is now agitating the country. The 8th section, which is what is generally known as the Missouri Compromise, is as follows:—

Sec. 8. And be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the parties shall have been duly convicted, shall be, and is hereby for ever prohibited; Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed, in any state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

Approved 6th March, 1820.

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THE SECOND MISSOURI COMPROMISE.

In the constitution formed by Missouri there was a clause requiring the legislature to pass laws prohibiting the emigration of free

people of color into the state; and this restriction opened up the question, and produced resistance to her admission.

On the 23d November, 1820, in the House of Representatives, Mr. Lowndes of S. C., from the select committee to whom was referred the constitution formed for their government by the people of the state of Missouri, made a report, concluding with a joint resolution, "that the state of Missouri shall be, and is hereby declared to be, one of the United States of America, and is admitted into the Union on an equal footing with the original states in all respects whatever."

On the 29th of November, 1820, a similar resolution was reported to the Senate from a select committee, and it was subsequently passed, and sent to the House of Representatives.

On the 29th of January, 1821, on motion of Mr. Clay, the House went into committee of the whole on the resolution from the Senate for admitting Missouri into the Union, with a *caveat* against the provision, if there be any, which conflicts with the Constitution of the United States.

On the 22d of February the resolution was further considered, and, after much discussion, Mr. Clay moved the appointment of a committee of thirteen to consider the Senate's resolution; and this being agreed to, the following gentlemen were appointed the committee, viz:—

Messrs. Clay of Ky., Eustis of Mass., Smith of Md., Sergeant of Penn., Lowndes of S. C., Ford of N. Y., Campbell of Ohio, Archer of Va., Hackley of N. Y., S. Moore of Penn., Cobb of Ga., Tomlinson of Conn., and Butler of N. H.

On the 10th of February Mr. Clay from the above committee made a report for the admission of Missouri into the Union. This report was intended to obviate the difficulties caused by the restriction in the constitution of Missouri, and Mr. Clay earnestly invoked a spirit of harmony and concession.

The resolution attached to this report, being the Senate resolution as amended by the committee, was rejected by the House by a vote of 80 to 83.

This vote was 76 Representatives from the South and 14 from the North in the affirmative. The 14 Northern affirmative votes being as follows:—

Messrs. Baldwin of Pa., Bateman and Bloomfield of N. J., Clark of N. Y., Eddy of R. I., Guyon and Hackley of N. Y., Hill of Mass., Meigs of N. Y., Shaw of Mass., Smith of N. J., Stevens of Conn., Storrs and Tompkins of N. Y.

Eighty Northern and three Southern Representatives in the negative.

The three Southern Representatives being Messrs. Edwards of N. C., Randolph of Va., and Terrill of Ga.

Mr. Livermore of N. H. moved a reconsideration for the purpose of giving every member an opportunity to vote on the important question.

The reconsideration was carried on the 13th of Feb. by yeas 101, nays 66.

And the resolution was again rejected by a vote of 82 to 88.

In addition to the northern representatives who voted ay on the resolution before, Mr. Ford of N. Y. did so on this vote.

Mr. Terrill of Ga., who voted against the resolution before, did not vote on this vote. Messrs. Randolph and Edwards again voted against it. Mr. Garnett of Va., who voted for it before, voted against it on this.

Otherwise the vote sectionally was the same.

The southern representatives who voted no, did so because of the amendment of the House committee to the Senate resolution, which was intended to negative the clause in the constitution of Missouri against the emigration of free negroes into the state, if said clause be in conflict with the Federal Constitution.

Feb. 22.—In the House Mr. Clay moved the appointment of a committee, to act with one from the Senate, to consider and report in regard to the admission of Missouri. Agreed to—101 to 55.

The following gentlemen were elected the committee on the part of the House, as follows:—

Messrs. Clay of Kentucky, Cobb of Georgia, Hill of Maine, Barbour of Virginia, Storrs of New York, Cocke of Tennessee, Rankin of Mississippi, Archer of Virginia, Brown of Kentucky, Eddy of Rhode Island, Ford of New York, Culbreth of Maryland, Hackley of New York, S. Moore of Pennsylvania, Stevens of Connecticut, Rogers of Pennsylvania, Southard of New Jersey, Darlington of Pennsylvania, Pitcher of New York, Sloan of Ohio, Randolph of Virginia, Baldwin of Pennsylvania, and Smith of North Carolina.

In the Senate, on the 24th of Feb. 1821, on the announcement of a message that the House had appointed a committee of conference, Mr. Smith of South Carolina, opposed it, and Mr. Barbour of Virginia, and Mr. Holmes of Maine, supported it. The Senate concurred by a vote of 29 to 7, and a committee was appointed to meet the House committee, and the following gentlemen were appointed:—

Messrs. Holmes of Maine, Roberts of Pennsylvania, Morrill of New Hampshire, Barbour of Virginia, Southard of New Jersey, Johnson of Kentucky, and King of New York.

On the 26th Feb. 1821, Mr. Clay, from the joint committee, reported a joint resolution for the admission of the state of Missouri, upon condition that the restrictive clause in her constitution should never be so construed as to authorize the passage of any law by which any citizen of any other state shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States. [This resolution is printed hereinafter.]

Mr. Clay briefly explained the views of the committee, and the considerations which induced them to report the resolution. He con-

sidered this resolution as being the same in effect as that which had been previously reported by the former committee of thirteen members; and stated that the committee on the part of the Senate was unanimous, and that on the part of the House nearly so, in favor of this resolution.

After further debate, the previous question was ordered, and the main question put, viz.: "Shall the resolution be engrossed and read a third time?" It was decided as follows:—

For the third reading . . . 86
Against it 82

The resolution was then ordered to be read a third time this day, but not without considerable opposition.

The resolution was accordingly read a third time, and put on its passage.

Mr. Randolph, in a speech of some twenty minutes, delivered the reasons why he should not vote for the resolution.

The final question was then taken on the resolution, and decided in the affirmative, as follows:—

YEAS.—Messrs. *Abbott*, *Alexander*, *Allen* of Tenn., *Anderson*, *Archer* of Md., *Archer* of Va., Baldwin, *Ball*, *Barbour*, Bateman, *Bayly*, *Blackledge*, Bloomfield, *Brevard*, *Brown*, *Bryan*, *Butler* of La., *Cannon*, Clark, *Clay*, *Cobb*, *Cocke*, *Crawford*, *Crowell*, *Culbreth*, *Culpepper*, *Cuthbert*, *Davidson*, Eddy, *Edwards* of N. C., *Fisher*, *Floyd*, Ford, *Gray*, Guyon, Hackley, *Hall* of N. C., *Hardin*, Hill, *Hooks*, *Jackson*, *Johnson*, *Jones* of Va., *Jones* of Tenn., *Little*, *McCoy*, *McCreary*, *McLean* of Ky., Meigs, *Mercer*, *Metcalf*, *Montgomery*, S. Moore, *Moore*, *Neale*, *Nelson* of Va., *Newton*, *Overstreet*, *Pinckney*, *Rankin*, *Reid*, *Rhea*, *Ringgold*, *Robertson*, Rogers, *Sawyer*, *Settle*, Shaw, *Simpkins*, Smith of N. J., *Smith* of Md., *A. Smyth* of Va., *Smith* of N. C., Southard, Stevens, Storrs, *Swearingen*, *Trimble*, *Terrell*, *Tucker* of Va., *Tucker* of S. C., *Tyler*, Udree, *Walker*, *Warfield*, *Williams* of Va., *Williams* of N. C.—87.

NAYS.—Messrs. Adams, Allen of Mass., Allen of N. Y., Baker, Beecher, Boden, Brush, Buffum, Butler of N. H., Campbell, Case, Clagett, Cook, Cushman, Dane, Darlington, Dennison, DeWitt, Dickinson, Edwards of Conn., Edwards of Pa., Eustis, Fay, Folger, Foot, Forrest, Fuller, Gorham, Gross of N. Y., Gross of Pa., Hall of N. Y., Hemphill, Hendricks, Herrick, Hibsham, Hobart, Hostetter, Kendall, Kinsey, Kingsley, Lathrop, Lincoln, Livermore, Maclay, McCullough, Mallary, Marchand, Meech, Monell, R. Moore, Morton, Moseley, Murray, Nelson of Mass., Patterson, Parker of Mass., Phelps, Philson, Pitcher, Plumer, *Randolph*, Rich, Richards, Richmond, Ross, Russ, Sergeant, Sillsbee, Sloan, Street, Strong of Vt., Strong of N. Y., Tarr, Tomlinson, Tracy, Upham, Van Rensselaer, Wallace, Wendover, Whitman, Wood.—81.

So the resolution was passed, and ordered to be sent to the Senate for concurrence.

On the 26th of February, in the Senate, Mr. Holmes of Maine, from the joint committee of the two Houses, reported a resolution for the admission of Missouri into the Union, which was read and laid on the table.

On the 27th, the resolution having passed the House, was taken up in the Senate.

After an unsuccessful attempt by Mr. Macon to strike out the condition and proviso, which was negatived by a large majority, and a few remarks by Mr. Barbour in support of the expediency of harmony and concession on this momentous subject—

The question was taken on ordering the resolution to be read a third time, and was decided in the affirmative by the following vote:—

YEAS.—Messrs. *Barbour*, Chandler, *Eaton*, *Elliot*, *Gaillard*, Holmes of Me., Holmes of Miss., *Horsey*, Hunter, *Johnson* of Ky., *Johnson* of La., *King* of Ala., Lowrie, Morril, Parrot, *Pleasants*, Roberts, Southard, *Stokes*, *Talbot*, Taylor, Thomas, *Van Dyke*, *Walker* of Ala., *Williams* of Miss., *Williams* of Tenn.—26.

NAYS.—Messrs. Dana, Dickerson, King of N. Y., Knight, Lanman, *Macon*, Mills, Noble, Otis, Palmer, Ruggles, Sanford, *Smith*, Tichenor, Trimble.—15.

A motion was made to read the resolution a third time forthwith, but it was objected to, and, under the rule of the Senate, of course it could not be done.

On the 28th, the resolution from the House of Representatives, declaring the admission of the state of Missouri into the Union, was read a third time, and the question on its final passage was decided as follows:—

YEAS.—Messrs. *Barbour*, Chandler, *Eaton*, Edwards, *Gaillard*, Holmes of Me., *Holmes* of Miss., *Horsey*, Hunter, *Johnson* of Ky., *Johnson* of La., *King* of Ala., Lowrie, Morril, Parrott, *Pinckney*, *Pleasants*, Roberts, Southard, *Stokes*, *Talbot*, Taylor, Thomas, *Van Dyke*, *Walker* of Ala., *Walker* of Geo., *Williams* of Miss., *Williams* of Tenn.—28.

NAYS.—Messrs. Dana, Dickerson, King of New York, Knight, Lanman, *Macon*, Mills, Noble, Otis, Ruggles, Sanford, *Smith*, Tichenor, Trimble.—14.

Southern men in *italics*, Northern men in roman.

The following is Mr. Clay's compromise:—

Resolution providing for the admission of Missouri into the Union on a certain condition.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Missouri shall be admitted into the Union on an equal footing with the original states, in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the Constitution, submitted on the part of the said state to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the states in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: Provided, That the legislature of the said state, by solemn public act shall declare the assent of the said state to the said fundamental condition, and transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of said act; upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said state into this Union shall be considered as complete.

JOHN W. TAYLOR,
Speaker of the House of Representatives.

JOHN GAILLARD,
Speaker of the Senate, pro tem.

Approved, March 2, 1821.

JAMES MONROE.

This new compromise, the one under which Missouri was admitted into the Union, the one to which Mr. Clay is so justly entitled to the credit, makes no reference whatever to the 8th section of the act of 6th March, 1820.

Views of Mr. Jefferson on the Missouri Compromise:—

"The question is a mere party trick. The leaders of federalism, defeated in their schemes of obtaining power by rallying partisans to the principle of monarchism—a principle of personal, not of local division—have changed their tact and thrown out another barrel to the whale. They are taking advantage of the virtuous feeling of the people to effect a division of parties by a geographical line; they expect that this will insure them, on local principles, the majority they could never obtain on principles of federalism; but they are still putting their shoulders to the wrong wheel; they are wasting jeremiads on the miseries of slavery, as if we were advocates of it. Sincerity in their declamations should direct their efforts to the true point of difficulty, and unite their councils with ours in devising some reasonable and practicable plan of getting rid of it."—*Jefferson's Writings, vol. 7.*

In a letter to Mr. Adams, dated Jan. 22, 1821, he says:—

"Our anxieties in this quarter are all concentrated in the question, What does the holy alliance, in and out of Congress, mean to do with us on the Missouri question? And this, by the way, is but the name of the case; it is only the John Doe or Richard Roe of the ejectment. The real question, as seen in the states afflicted with this unfortunate population, is, Are our slaves to be presented with freedom and a dagger? For, if Congress has the power to regulate the conditions of the inhabitants of the states within the states, it will be but another exercise of that power to declare that all shall be free. Are we, then, to see again Athenian and Lacedæmonian confederacies? To wage another Peloponnesian war to settle the ascendancy between them? Or is this the tocsin of merely a servile war? That remains to be seen; but I hope not by you or me. Surely they will parley awhile and give us time to get out of the way. What a bedlamite is man!"

In a letter to Lafayette, dated Nov. 4, 1823, Mr. Jefferson said:—

"On the eclipse of federalism with us, although not its extinction, its leaders got up the Missouri question, under the false front of lessening the measure of slavery, but with the real view of producing a geographical division of parties, which might insure them the next President. The people of the North went blindfold into the snare, and followed their leaders for awhile with a zeal truly moral and laudable, until they became sensible that they were injuring instead of aiding the real interests of the slaves; that they had been used merely as tools for electioneering purposes, and that trick of hypocrisy then fell as quickly as it had been got up."

In a letter to Mr. Short, dated April 13, 1820, Mr. Jefferson said:—

"Although I had laid down as a law to myself never to write, talk, or even think of politics, to know nothing of public affairs, and had therefore ceased to read newspapers, yet the Missouri question aroused and filled me with alarm. The old schism of Federal and Republican threatened nothing, because it existed in every state, and united them together by the fraternism of party. But the coincidence of a marked principle, moral and political, with a geographical line, once conceived, I feared would never more be obliterated from the mind; that it would be recurring on every occasion, and renewing irritations, until it would kindle such mutual and mortal hatred as to render separation preferable to eternal discord. I have been among the most sanguine in believing that our Union would be of long duration. I now doubt it much, and see the event at no great distance, and the direct consequence of this question; not by the line which has been so confidently counted on—the laws of nature control this—but by the Potomac, Ohio, and Missouri, or more probably the Mississippi, upwards to our northern boundary. My only comfort and consolation is, that I shall not live to see it; and I envy not the present generation the glory of throwing away the fruits of their fathers' sacrifices of life and fortune, and of rendering desperate the experiment which was to decide ultimately whether man is capable of self-government. This treason against human hope will signalize their epoch in future history as the counterpart of the model of their predecessors."

"I thank you, my dear sir, for the copy you have been so kind as to send me of the letter to your constituents on the Missouri question. * * * But this momentous question, like a fire-bell in the night, awakened me and filled me with terror. I considered it at once as the knell of the Union. It is hushed, indeed, for the moment; but this is a reprieve only, not a final sentence. A geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper. * * * If they would but dispassionately weigh the blessings they will throw away, against an abstract principle, more likely to be effected by union than by scission, they would pause before they could perpetrate this act of suicide on themselves and of treason against the hopes of the world."—*Letter to Jno. Holmes, dated Monticello, April 22, 1820.*

"I am indebted to you for your two letters of February 7th and 19th. The Missouri question, by a geographical line of division, is the most portentous one I ever contemplated. * * * * * is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is * * * * * without his hopes, nor scrupulous as to the means of fulfilling them."—*Letter to Mr. Madison.*

"The banks, bankrupt laws, manufactures, Spanish treaty, are nothing. These are occurrences which, like waves in a storm, will pass under the ship, but the Missouri question is a breaker on which we lose the Missouri country by revolt, and what more, God only knows. From the battle of Bunker's Hill to the treaty of Paris, we never had so ominous a question. It even damps the joy with which I hear of your high health, and welcomes to me the want of it. I thank God I shall not live to witness its issue."—*Letter to John Adams, December* 10, 1819.

"The line of division lately marked out between different portions of our confederacy, is such as will never, I fear, be obliterated, and we are now trusting to those who are against us in position and principle, to fashion to their own form the minds and affections of our youth. If, as has been estimated, we send three hundred thousand dollars a year to the northern seminaries for the instruction of our own sons, then we must have five hundred of our sons imbibing opinions and principles in discord with those of their own country. This canker is eating on the vitals of our existence, and, if not arrested at once, will be beyond remedy."—*Letter to General Breckenridge, Feb.* 11, 1821.

"The Missouri question is the most portentous one which ever yet threatened our Union. In the gloomiest moment of the revolutionary war, I never had any apprehension equal to that I felt from this source."—*Letter to Mr. Monroe, March* 3, 1820.

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Views of Mr. Calhoun on the Missouri Compromise.

In his speech on the Oregon bill, 1st session 30th Congress, Mr. Calhoun said:—

"After an arduous struggle of more than a year, on the question whether Missouri should come into the Union with or without restrictions prohibiting slavery, a compromise line was adopted between the North and the South; but it was done unde rcircumstances which made it nowise obligatory on the latter. It is true, it was moved by one of her distinguished citizens (Mr. Clay); but it is equally so, that it was carried by the almost united vote of the North against the almost united vote of the South, and was thus imposed on the latter by superior numbers, in opposition to her strenuous efforts. The South has never given her sanction to it, or assented to the power it asserted. She was voted down, and has simply acquiesced in an arrangement which she has not had the power to reverse, and which she could not attempt to do without disturbing the peace and harmony of the Union—to which she has ever been adverse. Acting on this principle, she permitted the territory of Iowa to be formed, and the state to be admitted into the Union, under the compromise, without objection; and that is now quoted by the senator from New York to prove her surrender of the power he claims for Congress.

"To add to the strength of this claim, the advocates of the power hold up the name of Jefferson in its favor, and go so far as to call him the author of the so-called Wilmot proviso, which is but a general expression of a power of which the Missouri compromise is a case of its application. If we may judge by his opinion of that case, what his opinion was of the principle, instead of being the author of the proviso, or being in its favor, no one could be more deadly hostile to it. In a letter addressed to the elder Adams in 1819, in answer to one from him, he uses these remarkable expressions in reference to the Missouri question:

"'The banks, bankrupt laws, manufactures, Spanish treaty, are nothing. These are occurrences which, like waves in a storm, will pass under the ship. But the Missouri question is a breaker on which we lose the Missouri country by revolt, and what more, God only knows.'

"To understand the full force of these expressions, it must be borne in mind that the questions enumerated were the great and exciting political questions of the day, on which parties divided. The banks and bankrupt law had long been so. Manufactures (or what has since been called the protective tariff) was at the time a subject of great excitement, as was the Spanish treaty; that is, the treaty by which Florida was ceded to the Union, and by which the western boundary between Mexico and the United States was settled, from the Gulf of Mexico to the Pacific Ocean. All these exciting party questions of the day Mr. Jefferson regarded as nothing compared to the Missouri question. He looked on all of them as, in their nature, fugitive; and to use his own forcible expression, 'would pass off under the ship of state like waves in a storm.' Not so that fatal question; it was a breaker on which it was destined to be stranded; and yet his name is quoted by the incendiaries of the present day in support of, and as the author of, a proviso which would give indefinite and universal extension of this fatal question to all the territories. It was compromised the next year by the adoption of the line to which I have referred. Mr. Holmes of Maine, long a member of this body, who voted for the measure, addressed a letter to Mr. Jefferson, enclosing a copy of his speech on the occasion. It drew out an answer from him which ought to be treasured up in the heart of every man who loves the country and its institutions. It is brief; I will send it to the secretary to be read. The time of the Senate cannot be better occupied than in listening to it."

The secretary here read the letter hereinbefore contained.

"Mark, said he, Mr. Jefferson's prophetic words! Mark his profound reasoning!

"'It, the question, is hushed for the moment. But this is a reprieve only, not a final sentence. A geographical line coinciding with a marked principle, moral and political, once conceived and held up to the angry pas-

sions of men, will never be obliterated, and every new irritation will mark it deeper and deeper.'

"Twenty-eight years have passed since these remarkable words were penned, and there is not a thought which time has not thus far verified, and it is to be feared will continue to verify until the whole will be fulfilled. Certain it is that he regarded the compromise line as utterly inadequate to arrest that fatal course of events which his keen sagacity anticipated from the question. It was but a 'reprieve.'"

"Mark, said Mr. Calhoun, the deeply melancholy impression which it made on Mr. Jefferson's mind:—

"'I regret that I am to die in the belief that the useless sacrifice of themselves by the generation of 1776, to acquire self-government and happiness for themselves, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be that I live not to weep over it.'

"Can any one believe, after listening to this letter, tha Jefferson is the author of the so-called Wilmot proviso, or ever favored it? And yet there are at this time strenuous efforts making in the North to form a purely sectional party on it, and that, too, under the sanction of those who profess the highest veneration for his character and principles! But I must speak the truth, while I vindicate the memory of Jefferson from so foul a charge. I hold he is not blameless in reference to this subject. He committed a great error in inserting the provision he did in the plan he reported for the government of the territory, as much modified as it was. It was the first blow, the first essay 'to draw a geographical line coinciding with a marked principle, moral and political.' It originated with him in philanthropic but mistaken views of the most dangerous character, as I shall show in the sequel. Others, with very different feelings and views, followed, and have given to it a direction and impetus which, if not promptly and efficiently arrested, will end in the dissolution of the Union and the destruction of our political institutions."

"I have, I trust, established beyond controversy, that neither the Ordinance of 1787, nor the Missouri Compromise, nor the precedents growing out of them, nor the authority of Mr. Jefferson, furnishes any evidence whatever to prove that Congress possesses the power over the territory claimed by those who advocate the twelfth section of this bill. But admit, for the sake of argument, that I am mistaken, and that the objections I have urged against them are groundless—give them all the force which can be claimed for precedents—and they would not have the weight of a feather against the strong presumption which I, at the outset of my remarks, showed to be opposed to the existence of the power. Precedents, even in a court of justice, can have but little weight, except where the law is doubtful, and should have little in a deliberative body, in any case, on a constitutional question, and none where the power to which it has been attempted to trace it does not exist, as I have shown, I trust, to be the case in this instance."

On the 19th of February, 1847, Mr. Calhoun thus declared his opposition to the Missouri Compromise:—

"Sir, here let me say a word as to the compromise line. I have always considered it as a great error—highly injurious to the South, because it surrendered, for mere temporary purposes, those high principles of the Constitution upon which I think we ought to stand. I am against any compromise line. Yet I would have been willing to acquiesce in a continuance of the Missouri Compromise, in order to preserve, under the present trying circumstances, the peace of the Union. One of the resolutions in the House, to that effect, was offered at my suggestion. I said to a friend there, 'Let us not be disturbers of this Union. Abhorrent to my feelings as is that compromise line, let it be adhered to in good faith; and if the other portions of the Union are willing to stand by it, let us not refuse to stand by it. It has kept peace for some time, and in the present circumstances perhaps it would be better to be continued as it is.' But it was voted down by an overwhelming majority. It was renewed by a gentleman from a non-slaveholding state, and again voted down by an overwhelming majority.

"I see my way in the Constitution; I cannot in a compromise. A compromise is but an act of Congress. It may be overruled at any time. It gives us no security. But the Constitution is stable. It is a rock. On it we can stand. It is a firm and stable ground, on which we can better stand in opposition to fanaticism, than on the shifting sands of compromise.

"Let us be done with compromises. Let us go back and stand upon the Constitution!"

—

Congress Hall, March 2, 1820,
3 o'clock at night.

Dear Sir: I hasten to inform you that this moment we have carried the question to admit Missouri and all Louisiana to the southward of 36 deg. 30 min. free of the restriction of slavery, and give the South, in a short time, an addition of six, and perhaps eight, members to the Senate of the United States. It is considered here by the slaveholding states as a great triumph. The votes were close—ninety to eighty-six (the vote was so first declared)—produced by the seceding and absence of a few moderate men from the North. To the north of 36 deg. 30 min. there is to be, by the present law, a restriction, which you will see by the votes I voted against. But it is at present of no moment; it is a vast track, uninhabited only by savages and wild beasts, in which not a foot of the Indian claim to soil is extinguished, and in which, according to the ideas prevalent, no land-office will be open for a great length of time.

With respect, your obedient servant,

CHARLES PINCKNEY.

Judge Douglas on the Missouri Compromise. Extract from his speech in the Senate, March 13, 1856:—

The next in the series of aggressions complained of by the Senator from South Carolina is the Missouri compromise. The Missouri compromise an act of Northern injustice, designed to deprive the South of her due share of the territories! Why, sir, it was only on this very day that the Senator from Mississippi despaired of any peaceable adjustment of existing difficulties, because the Missouri compromise line could not be extended to the Pacific! That measure was originally adopted in the bill for the admission of Missouri by the union of Northern and Southern votes. The South has always professed to be willing to abide by it, and even to continue it as a fair and honorable adjustment of a vexed and difficult question. In 1845 it was adopted in the resolutions for the annexation of Texas, by Southern as well as Northern votes, without the slightest complaint that it was unfair to any section of the country. In 1846 it received the support of every Southern member of the House of Representatives, Whig and Democrat, without exception, as an alternative measure to the Wilmot proviso. And again, in 1848, as an amendment to the Oregon bill, on my motion, it received the vote, if I recollect right, and I do not think that I can possibly be mistaken, of every Southern Senator, Whig and Democrat, even including the Senator from South Carolina himself (Mr. Calhoun). And yet we are now told that this is only second to the ordinance of '87, in the series of aggressions on the South.

Mr. Butler. I think you are mistaken about it. I don't think my colleague (Mr. Calhoun) voted for it.

Mr. Douglas. I do not think that I can be mistaken upon this point—that Mr. Calhoun voted for my motion to insert the Missouri compromise in the Oregon bill. He voted for my amendment, and then did not vote at all, or voted against the bill on its passage. I cannot be mistaken on the material point, which was upon the adoption of my amendment. For, having offered this amendment, first in the House of Representatives and subsequently in this body, I was denounced in certain sections as a slavery exactionist, a dough-face—and many other kind and polite terms of similar import were applied to me, and my name was published in certain newspapers with black marks drawn around it, with the view of concentrating popular odium upon me and the party to which it is my pride and pleasure to belong. And now, sir, the very measure which drew all these anathemas and denunciations upon my devoted head, is now represented by the Senator from South Carolina as a measure of deadly hostility to Southern interests; a measure calculated to limit and diminish the area of slavery more than any act of the government during its whole history. Be this as it may, I think that Southern gentlemen should not complain of the measure after having given it their united vote on several occasions.

Mr. Butler. Will the gentleman allow me a single word? Will he do justice to the Southern gentlemen by saying that they voted for the Missouri compromise as a peace offering, after they had found the country brought into jeopardy by the Wilmot proviso? They acquiesced in it as a peace offering—as a compromise—and not as giving up their rights.

Mr. Douglas. I so understand it.

Mr. Butler. One word concerning my colleague (Mr. Calhoun). I think the Senator from Illinois (Mr. Douglas) is right in saying that my colleague voted for the amendment to the Oregon bill, but throughout the whole discussion I think he took occasion to say that, though he acquiesced in it, he did not approve of it.

Mr. Douglas. I take great pleasure in saying that I believe the Southern gentlemen did vote for the Missouri compromise as a peace offering and a compromise. It was offered by me and received by them in that spirit. But I must be permitted to say that it seems somewhat extraordinary that that which they all voted for as a compromise and a peace offering should now be denounced as an act of Northern aggression. Because it was tendered and received as a peace offering, it should never be called an act of aggression. In regard to the effects of the Missouri compromise upon the question of slavery I have but a few words to say. I do not think that it did have any practical effect on that question, one way or the other. Missouri was admitted into the Union with slavery. This must necessarily have been done, whether the compromise had been effected or not, for there was no rightful mode of preventing it. The Louisiana treaty, under which Missouri was purchased from France, stipulated for the admission into the Union according to the Constitution of the United States. The faith of the nation was pledged, and must have been redeemed. Their right to come into the Union as a state being conceded, it is very clear that they possessed the right to form for themselves just such a constitution as they pleased, provided it did not conflict with the Constitution of the United States. Arkansas was then a slave territory, and no one seriously thought of changing its character in that respect, except by a vote of the people interested. The substance of the Missouri compromise line, therefore, was that west of Missouri and Arkansas slavery should be prohibited north of 36° 30′. Thus slavery was prohibited by the positive enactment of law in all that region of country extending from thirty-six degrees thirty minutes to the forty-ninth degree of north latitude. But, while this was the express provision of the statute, slavery was as effectually excluded from the whole of that country, by the laws of nature, of climate, and production, before, as it is now by act of Congress. The Missouri compromise, therefore, had no practical bearing upon

the question of slavery—it neither curtailed nor extended it one inch. Like the ordinance of '87, it did the South no harm—the North no good—except that it had the effect to calm and allay an unfortunate excitement which was alienating the affections of different portions of the Union.

—

Gen. Cass on the Missouri Compromise. From a speech made on the 20th of February, 1854.

Mr. President: I have not withheld the expression of my regret elsewhere, nor shall I withhold it here, that this question of repeal of the Missouri compromise, which opens all the disputed points connected with the subject of Congressional action upon slavery in the Territories of the United States, has been brought before us. I do not think the practical advantages to result from the measure will outweigh the injury which the ill-feeling, fated to accompany the discussion of this subject through the country, is sure to produce. And I was confirmed in this impression from what was said by the Senator from Tennessee, (Mr. Jones,) by the Senator from Kentucky, (Mr. Dixon,) and from North Carolina, (Mr. Badger,) and also by the remarks which fell from the Senator from Virginia, (Mr. Hunter,) and in which I fully concur, that the South will never receive any benefit from this measure, so far as respects the extension of slavery; for, legislate as we may, no human power can establish it in the regions defined by these bills. And such were the sentiments of two eminent patriots, to whose exertions we are greatly indebted for the satisfactory termination of the difficulties of 1850, and who since passed from their labors, and, I trust, to their reward. Thus believing, I should have been better content had the whole subject been left as it was by the bill when first introduced by the Senator from Illinois, without any provision regarding the Missouri compromise. I am aware that it was reported that I intended to propose the repeal of that measure, but it was an error. My intentions were wholly misunderstood. I had no design whatever to take such a step, and thus resuscitate a deed of conciliation which had done its work, and done it well, and which was hallowed by patriotism, by success, and by its association with great names, now transferred to history. It belonged to a past generation; and in the midst of a political tempest which appalled the wisest and firmest in the land, it had said to the waves of agitation, *Peace, be still*, and they became still. It would have been better, in my opinion, not to disturb its slumber, as all useful and practical objects could have been attained without it. But the question is here without my agency.

—

Extension of the Missouri Compromise to the Pacific.

On the 10th of August, 1848, in the Senate of the United States, the Oregon bill being under consideration, the question was taken on the amendment extending the Missouri compromise line to the Pacific; and it was decided in the affirmative, as follows:—

Yeas.—Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, *Bright*, Butler, Calhoun, *Cameron*, Davis of Miss., *Dickinson, Douglas*, Downs, *Filzgerald*, Foote, *Hannegan*, Houston, Johnson of Md., Johnson of La., Johnson of Ga., King, Lewis, Mangum, Mason, Metcalf, Pearce, Sebastian, Spruance, *Sturgeon*, Turney, Underwood.—33.

Nays.—Messrs. *Allen, Atherton, Baldwin, Bradbury, Breese, Clarke, Corwin, Davis* of Mass., *Dayton, Dix, Dodge, Felch, Greene, Hale, Hamlin, Miller, Niles, Phelps, Upham, Walker, Webster, Westcott*.—22.

The bill, with this amendment, came before the House on the next day; and the amendment of the Senate extending the Missouri line to the Pacific was non-concurred in by the following vote:—

Yeas.—Messrs. Adams, Atkinson, Barringer, Barrow, Bayly, Beale, Bedinger, *Birdsall*, Bocock, Botts, Bowdon, Bowlin, Boyd, Boydon, *Brodhead, Charles Brown*, A. G. Brown, Buckner, Burt, Cabell, Chapman, Chase, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crozier, Daniel, Donnell, Garnett Duncan, Alexander Evans, Featherston, Flournoy, French, Fulton, Gayle, Goggin, Greene, Willard P. Hall, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, *Charles J. Ingersoll*, Iverson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman, Thomas Butler King, Ligon, Lumpkin, McDowell, McKay, McLane, Meade, Morehead, Outlaw, Pendleton, Phelps, Pillsbury, Preston, Rhett, Roman, Sheppard, Stanton, Stephens, Thomas, Jacob Thompson, J. B. Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Wallace, Woodward.—82.

Nays.—Messrs. *Abbott, Ashmun, Bingham, Blanchard, Brady, Butler, Canby, Cathcart, F. Clark, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Daniel Duncan, Dunn, Eckert, Edsall, Edwards, Embree, Nathan Evans, Faran, Farelly, Ficklin, Fisher, Freedly, Fries, Gott, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, James G. Hampton, Moses Hampton, Henly, Henry, Elias B. Holmes*, John W. Houston, *Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Irvin, Jenkins, Kellogg, Kennon, D. P. King, W. T. Lawrence, Sydney Lawrence, Lincoln, Lord, Lynde, Maclay, McClelland, McClernand, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Miller, Morris, Mullen, Murphy, Nelson, Nes, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Robinson, Rockhill, John A. Rockwell, Root, Rose, Rumsey, St. John, Sawyer, Schenck, Sherrill, Sylvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Strong, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Tuck, Turner, Van Dyke, Vinton, Warren, Wentworth, White, Wick, Williams, Wilmot*.—121.

The House having thus non-concurred with the Senate, the question was decided in the Senate on the 12th of August, 1848, in favor of receding from its amendment, running the Missouri line to the Pacific, by yeas and nays, as follows:—

Yeas.—Messrs. *Allen, Baldwin*, Benton, *Bradbury, Breese, Bright, Cameron, Clarke, Corwin, Davis* of Mass., *Dayton, Dickinson, Dix, Dodge, Douglas, Felch, Fitzgerald, Greene, Hale, Hamlin, Hannegan*, Houston, *Miller, Miles, Phelps*, Spruance, *Upham, Walker, Webster*.—29.

Nays.—Messrs. Atchison, Badger, Bell, Berrien, Borland, Butler, Calhoun, Davis of Miss., Downs, Foote, Hunter, Johnson of Md., Johnson of La., Johnson of Ga., Lewis, Mangum, Mason, Metcalfe, Pearce, Rusk, Sebastian, Turney, Underwood, Westcott, Yulee.—25.

[Northern men in small capitals; Southern men in roman.]

—

The bill for the admission of California being before the Senate,

Mr. Turney moved to strike out all after the enacting clause, and insert as follows:—

"When it shall be made to appear to the President of the United States, by satisfactory evidence, that the people inhabiting the ter-

ritory of California (or so much of said territory as is comprised within the limits proposed by this bill, as the boundaries of the state of California), assembled in Convention, have agreed to a line not further south than the parallel of 36° 30′ north latitude, as the southern boundary of said state, and limited the representation of said state to one representative until after the next census of the inhabitants of the United States, the said state of California may be admitted into the Union, upon the proclamation of the President, upon an equal footing with the original states.

"Sec. —. And be it further enacted, That the line of 36° 30′ of north latitude, known as the Missouri Compromise Line, as defined by the eighth section of an act, entitled 'An act to authorize the people of the Missouri Territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories,' approved March 6, 1820, be, and the same is hereby declared to extend to the Pacific ocean: and the said eighth section, together with the compromise therein effected, is hereby revived, and declared to be in full force and binding for the future organization of the territories of the United States, in the same sense and with the same understanding with which it was originally adopted."

The question was stated to be upon the amendment of Mr. Turney, and, being taken by yeas and nays, was rejected by the following vote:—

YEAS.—Messrs. *Atchison, Badger, Barnwell, Bell, Berrien, Butler, Clemens, Davis* of Miss., *Dawson, Downs, Foote, Houston, Hunter, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soule, Turney, Yulee.*—24.

NAYS.—Messrs. Baldwin, *Benton*, Bradbury, Bright, Cass, Clarke, Cooper, Davis of Mass., Dayton, Dickenson, Dodge of Wis., Dodge of Ia., Douglas, Ewing, Felch, Greene, Hale, Hamlin, Jones, Norris, Phelps, Seward, Shields, Smith, *Spruance*, Sturgeon, *Underwood*, Upham, *Wales*, Walker, Whitcomb, and Winthrop.—32.

Southern men in *italics*, Northern men in roman.

Naturalization.

LAWS OF THE UNITED STATES RELATIVE THERETO:—

THE first act of Congress "to establish an uniform rule of naturalization," in accordance with the power conferred by the eighth section of the first article of the Constitution of the United States, was approved March 26, 1790.

On the 29th of January, 1795, this act was repealed and new regulations were established by another act; and to the latter act were added still further regulations by an act June 18, 1798.

On the 14th of April, 1802, all regulations upon naturalization hitherto made and in force were abolished, and new ones created by the following law:—

An Act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on the subject.

Be it enacted, &c., That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:—

1st. That he shall have declared, on oath or affirmation, before the supreme, superior, district, or circuit court of some one of the states, or of the territorial disticts of the United States, or a circuit or district court of the United States, three years at least before his admission, that it was, *bona fide*, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof such alien may, at the time, be a citizen or subject.

2dly. That he shall, at the time of his application to be admitted, declare, on oath or affirmation, before some one of the courts aforesaid, that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

3dly. That the court admitting such alien shall be satisfied that he has resided within the United States five years at least, and within the state or territory where such court is at the time held one year at least; and it shall further appear to their satisfaction, that during that time he has behaved as a man of a good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: Provided, That the oath of the applicant shall, in no case, be allowed to prove his residence.

4thly. That in case the alien applying to be admitted to citizenship shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application shall be made; which renunciation shall be recorded in the said court: Provided, That no alien who shall be a native citizen, denizen, or subject of any country, state, or sovereign with whom the United States shall be at war at the time of his application, shall be then admitted to be a citizen of the United States: Provided, also, That any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof, made to some one of the courts aforesaid, that he has resided two years, at least, within and under the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the state or territory where such court is at the time held; and on

his declaring, on oath or affirmation, that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, moreover, on its appearing, to the satisfaction of the court, that during the said term of two years he has behaved as a man of good moral character, attached to the Constitution of the United States, and well-disposed to the good order and happiness of the same; and where the alien applying for admission to citizenship shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his moreover making in the court an express renunciation of his title or order of nobility, before he shall be entitled to such admission; all of which proceedings, required in this proviso to be performed in the court, shall be recorded by the clerk thereof: And provided, also, That any alien who was residing within the limits and under the jurisdiction of the United States at any time between the said twenty-ninth day of January, one thousand seven hundred and ninety-five, and the eighteenth day of June, one thousand seven hundred and ninety-eight, may, within two years after the passing of this act, be admitted to become a citizen without a compliance with the first condition above specified.

Sec. 2. Provided, also, That, in addition to the directions aforesaid, all free white persons, being aliens, who may arrive in the United States after the passing of this act, shall, in order to become citizens of the United States, make registry and obtain certificates in the following manner, to wit: every person desirous of being naturalized shall, if of the age of twenty-one years, make report of himself, or, if under the age of twenty-one years, or held in service, shall be reported by his parent, guardian, master, or mistress, to the clerk of the district court of the district where such alien or aliens shall arrive, or to some other court of record of the United States, of either of the territorial districts of the same, or of a particular state; and such report shall ascertain the name, birthplace, age, nation, and allegiance of each alien, together with the country whence he or she migrated, and the place of his or her intended settlement: and it shall be the duty of such clerk, on receiving such report, to record the same in his office, and to grant to the person making such report, and to each individual concerned therein, whenever he shall be required, a certificate, under his hand and seal of office, of such report and registry; and for receiving and registering each report of an individual or family, he shall receive fifty cents, and for each certificate granted pursuant to this act to an individual or family, fifty cents; and such certificate shall be exhibited to the court by every alien who may arrive in the United States after the passing of this act, on his application to be naturalized, as evidence of the time of his arrival within the United States.

Sec. 3. And whereas doubts have arisen whether certain courts of record in some of the states are included within the description of district or circuit courts: Be it further enacted, That every court of record in any individual state having common law jurisdiction, and a seal and clerk or prothonotary, shall be considered as a district court within the meaning of this act; and every alien who may have been naturalized in any such court shall enjoy, from and after the passing of the act, the same rights and privileges as if he had been naturalized in a district or circuit court of the United States.

Sec. 4. That the children of persons duly naturalized under any of the laws of the United States, or who, previous to the passing of any law on that subject by the government of the United States, may have become citizens of any one of the said states, under the laws thereof, being under the age of twenty-one years at the time of their parents being so naturalized or admitted to the rights of citizenship, shall, if dwelling in the United States, be considered as citizens of the United States; and the children of persons who now are or have been citizens of the United States shall, though born out of the limits and jurisdiction of the United States, be considered as citizens of the United States: Provided, That the right of citizenship shall not descend to persons whose fathers have never resided within the United States: Provided, also, That no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the late war, shall be admitted a citizen as aforesaid without the consent of the legislature of the state in which such person was proscribed.

Sec. 5. That all acts heretofore passed respecting naturalization be, and the same are hereby, repealed.

Approved, April 14, 1802.

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An act in addition to an act intituled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

Be it enacted, &c., That any alien, being a free white person, who was residing within the limits and under the jurisdiction of the United States at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand eight hundred and two, and who has continued to reside within the same, may be admitted to become a citizen of the United States without a compliance with the first condition specified in the first section of the act, intituled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

Sec. 2. That when any alien who shall have complied with the first condition specified in the first section of the said original act, and who shall have pursued the directions prescribed in the second section of the said act, may die before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.

Approved, March 26, 1804.

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An act for the regulation of seamen on board the public and private vessels of the United States.

Sec. 12. That no person who shall arrive in the United States from and after the time when this act shall take effect, shall be admitted to become a citizen of the United States who shall not for the continued term of five years next preceding his admission as aforesaid, have resided within the United States, without being at any time during the said five years out of the territory of the United States.

Approved, March 3, 1813.

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An act supplementary to the acts heretofore passed on the subject of an uniform rule of naturalization.

Be it enacted, &c., That persons resident within the United States, or the territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intentions to become citizens of the United States, or who, by the existing laws of the United States, were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they shall be alien enemies at the times and in the manner prescribed by the laws heretofore passed on that subject: Provided, That nothing herein contained shall be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

Approved, July 30, 1813.

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An act relative to evidence in cases of naturalization.

Be it enacted, &c., That the certificate of report and registry required as evidence of the time of arrival in the United States, according to the second section of the act of the fourteenth of April, one thousand eight hundred and two, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," and also a certificate from the proper clerk or prothonotary of the declaration of intention, made before a court of record, and required as the first condition, according to the first section of said act, shall be exhibited by every alien, on his application to be admitted a citizen of the United States in pursuance of said act, who shall have arrived within the limits and under the jurisdiction of the United States since the eighteenth day of June, one thousand eight hundred and twelve, and shall each be recited at full length in the record of the court admitting such alien: otherwise he shall not be deemed to have complied with the conditions requisite for becoming a citizen of the United States; and any pretended admission of an alien who shall have arrived within the limits and under the jurisdiction of the United States since the said eighteenth day of June, one thousand eight hundred and twelve, to be a citizen, after the promulgation of this act, without such recital of each certificate at full length, shall be of no validity or effect under the act aforesaid.

Sec. 2. Provided, That nothing herein contained shall be construed to exclude from admission to citizenship any free white person who was residing within the limits and under the jurisdiction of the United States at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand eight hundred and two, and who, having continued to reside therein without having made any declaration of intention before a court of record, as aforesaid, may be entitled to become a citizen of the United States according to the act of the 26th of March, one thousand eight hundred and four, entitled "An act in addition to an act entitled 'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject.'" Whenever any person without a certificate of such declaration of intention as aforesaid shall make application to be admitted a citizen of the United States, it shall be proved, to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the fourteenth day of April, one thousand eight hundred and two, and has continued to reside within the same, or he shall not be so admitted. And the residence of the applicant within the limits and under the jurisdiction of the United States for at least five years immediately preceding the time of such application shall be proved by the oath or affirmation of citizens of the United States; which citizens shall be named in the record as witnesses. And such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant: otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.

Approved March 22, 1816.

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An Act in further addition to "An act to establish an uniform rule of naturalization,

and to repeal the acts heretofore passed on that subject."

Be it enacted, &c., That any alien, being a free white person, and a minor, under the age of twenty-one years, who shall have resided in the United States three years next preceding his arriving at the age of twenty-one years, and who shall have continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he shall have resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States without having made the declaration required in the first condition of the first section of the act to which this is an addition three years previous to his admission: Provided, Such alien shall make the declaration required therein at the time of his or her admission; and shall further declare, on oath, and prove, to the satisfaction of the court, that for three years next preceding it has been the bona fide intention of such alien to become a citizen of the United States, and shall in all other respects comply with the laws in regard to naturalization.

Sec. 2. That no certificates of citizenship or naturalization heretofore obtained from any court of record within the United States shall be deemed invalid in consequence of an omission to comply with the requisition of the first section of the act entitled "An act relative to evidence in cases of naturalization," passed the twenty-second day of March, one thousand eight hundred and sixteen.

Sec. 3. That the declaration required by the first condition specified in the first section of the act to which this is an addition shall, if the same has been *bona fide* made before the clerk of either of the courts in the said condition named, be as valid as if it had been made before the said courts respectively.

Sec. 4. That a declaration by any alien, being a free white person, of his intended application to be admitted a citizen of the United States, made, in the manner and form prescribed in the first condition specified in the first section of the act to which this is an addition, two years before his admission, shall be a sufficient compliance with said condition, anything in the said act, or in any subsequent act, to the contrary notwithstanding.

Approved May 26, 1824.

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An act to amend the acts concerning naturalization.

Be it enacted, &c., That the second section of the act entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," which was passed on the fourteenth day of April, one thousand eight hundred and two, and the first section of the act entitled "An act relative to evidence in cases of naturalization," passed on the twenty-second day of March, one thousand eight hundred and sixteen, be, and the same are hereby, repealed.

Sec. 2. That any alien, being a free white person, who was residing within the limits and under the jurisdiction of the United States between the fourteenth day of April, one thousand eight hundred and two, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become a citizen: Provided, That whenever any person without a certificate of such declaration of intention shall make application to be admitted a citizen of the United States, it shall be proved, to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same, or he shall not be so admitted; and the residence of the applicant within the limits and under the jurisdiction of the United States for at least five years immediately preceding the time of such application shall be proved by the oath or affirmation of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant: otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.

Approved, May 24, 1828.

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An act to amend the act entitled "An act for the regulation of seamen on board the public and private vessels of the United States," passed the third of March, eighteen hundred and thirteen.

Be it enacted, &c., That the last clause of the twelfth section of the act hereby amended, consisting of the following words, to wit, "without being at any time during the said five years out of the territory of the United States," be, and the same is hereby, repealed.

Approved, June 26, 1848.

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Views favorable to naturalization expressed in the Convention which formed the Constitution.

Mr. Governeur Morris (Federalist) moved to insert fourteen years, instead of four years' citizenship, as a qualification for senators.

Mr. Madison (Republican) was not adverse to some restrictions on this subject, but could never agree to the proposed amendment. Should the Constitution have the intended effect of giving stability and reputation to our government, great numbers of respectable Europeans, men who loved liberty and wished to partake its blessings, will be ready to transfer their fortunes hither. All such would feel

the mortification of being marked with suspicious incapacities, though they should not covet the public honors. He was not apprehensive that any dangerous number of strangers would be appointed by the state legislatures, if they were left at liberty to do so; nor that foreign powers would make use of strangers as instruments for their purposes.

Dr. Franklin (Republican) was not against a reasonable time, but should be very sorry to see anything like illiberality inserted in the Constitution. The people in Europe are friendly to this country. We found, in the course of the Revolution, that many strangers served us faithfully, and that many natives took part against their country. When foreigners, after looking about for some other country in which they can obtain more happiness, give preference to ours, it is a proof of attachment which ought to excite our confidence and affection.

Mr. Randolph (Republican) never could agree to the motion for disabling foreigners for fourteen years from participating in the public honors. He reminded the Convention of the language held by our patriots during the revolution, and the principles laid down in all the American constitutions. He would go as far as seven years, but no farther.

Mr. Wilson (Republican) said he rose with feelings which were perhaps peculiar, mentioning the circumstance of his not being a native, and the possibility, if the ideas of some gentlemen should be pursued, of his being incapacitated from holding a place under the very Constitution which he had shared the trust of making. He remarked the illiberal complexion which the motion would give the whole system, and the effect which a good system would have in inviting meritorious foreigners among us, and the discouragement and mortification they must feel from the degrading discrimination now proposed.

On the motion of Mr. Morris, the vote stood: New Hampshire, New Jersey, South Carolina, Georgia—Ayes, 4. Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina—Noes, 7.

Mr. Rutledge. Seven years citizenship having been required for the House of Representatives, surely a longer time is requisite for the Senate, which will have more power.

On the question for nine years: New Hampshire, New Jersey, Delaware, Virginia, South Carolina, Georgia—Ayes, 6. Massachusetts, Connecticut, Pennsylvania, Maryland—Noes, 4. North Carolina divided.

On the 13th August, 1787, the question again came up on a motion to strike out seven, and insert four years, as the required term for citizenship of a member of the House of Representatives.

Mr. Madison (Republican) wished to maintain the character of liberality which had been professed in all the constitutions and publications of America. He wished to invite foreigners of merit and republican principles among us. America was indebted to emigration for her settlement and prosperity.

Mr. Wilson (Republican) remarked that almost all the general officers of the Pennsylvania line, of the late army, were foreigners, and no complaint had ever been made against their fidelity or merit. Three of her deputies to the Convention, Morris, Fitzsimmons, and himself were also not natives.

On the motion to make the term four years instead of seven, the vote stood: Connecticut, Maryland, Virginia—Ayes, 3. New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, and Georgia—Noes, 8.

The adverse views of the early fathers of the republic, who were opposed to naturalization, will be found under the head of "Madison Letters."

Nebraska and Kansas.

The whole region comprised within the boundaries of the territories of Nebraska and Kansas (excepting that portion on its southwest border which formerly belonged to Texas), originally constituted the upper part of the province of Louisiana.* The section ceded by Texas, not incorporated into the territory of New Mexico, consists of the tract extending from the north boundary of Texas (lat. 36° 30′) to the Arkansas River, between 100° and 103° of longitude; and also of that narrow strip between the 38th parallel and the Arkansas river, stretching north towards the 42d parallel; which together are roughly estimated to contain about 30,000 square miles.

France acquired its claim to the entire Valley of the Mississippi from the discoveries of Joliet and Marquette, in June, 1673; of La Salle, about the same time, who gave the name of Louisiana to all the region between the so-called Illinois country (afterwards called East Louisiana) and the Gulf of Mexico, and declared it to be an appendage of France; from the settlements made on the shores of Louisiana Proper, in 1699, by Iberville and Bienville; and from undisputed possession held from 1712 to 1732, under the charter of Louis XIV. Adventurous traders, advancing from both north and south into the interior, established their posts throughout the Valley, until they possessed a chain of forts extending from the Great Lakes to the Gulf; among which was Fort Orleans, built in 1719, on the Missouri River, near the mouth of the Osage, and the present town of Jefferson City.

In 1760, when the war broke out between Great Britain and France, the latter commenced negotiating with Spain a secret treaty (ratified Nov. 3, 1762), conveying to Spain all of the Louisiana Province west of the Mississippi river, with New Orleans, &c. This was

* The beginning of this chapter is from a historical narrative by Charles Colby, A. M.

not published until 1764, after the general "Treaty of Paris," made in 1763, by Great Britain, France, and Spain, when France ceded Canada to Great Britain, with all of the Louisiana Province east of the Mississippi. Thus France disposed of all her territory in North America. In 1764, the settlement of St. Louis was commenced; and by this event a new impulse was given to the foundation of trading posts and small settlements in the lower part of the valley of the Missouri river.

By the treaty of 1783, at the close of the revolutionary war, the United States acquired from Great Britain all of East Louisiana; and Spain, retaining her previous possessions, received in addition the whole of Florida. Settlements now rapidly increased along the banks of the great rivers, and trade flourished. The United States obtained (Oct. 20, 1795) the free navigation of the Mississippi, which had become an urgent public want; but Spain afterwards threw so many obstacles in the way of trade, that it is probable hostilities with that nation were only prevented by its ceding Louisiana to France, March 21, 1801, in accordance with the treaty of San Ildefonso, on Oct. 1, 1800.

About this period general attention was drawn, by many circumstances, to a consideration of the probable destiny of the Great Mississippi Valley; and the earnest sentiment of our people began to be generally manifest in the public press, which, with great unanimity, called on Congress to make arrangements for purchasing the entire province. Mr. Jefferson, deeming it desirable that the country should at once be explored, addressed Congress Jan. 18, 1803, recommending that means for such purpose be taken without delay; and, his suggestions having been approved, he commissioned Captains Lewis and Clarke to explore the Missouri and its principal branches to their sources. Negotiations were commenced with France; and the condition of her affairs so favored the projected purchase, that it was soon consummated. The treaty of Paris, signed April 13, 1803, and perfected on the 30th of that month, transferred Louisiana, with all its rights, &c., to the United States, for the sum of 60,000,000 francs, and the country was surrendered in December following.

By the act of March 20, 1804, the country was divided into two sections: the first consisting of the territory of Orleans, or the present state of Louisiana; while the rest was constituted a district of the United States, under the name of the district of Louisiana; over which the American authority was instituted on the 19th October ensuing, by Gen. W. H. Harrison, then Governor of Indiana.

The territory of Missouri was established (July 4, 1805), though under the name of Territory of Louisiana, and thus called until July 4, 1812.

The territory of Missouri increased so rapidly in population, that as early as 1818 its admission as a state was considered in Congress.

From 1819 to the present time, the proceedings of Congress relative to Nebraska and Kansas, with the events directly resulting therefrom, form the main parts of their history. In 1819, the territory of Arkansas was established; and the application of the territory of Missouri for permission to form a state constitution was taken into consideration. Then (1819, and 2d session 15th Congress), the House of Representatives passed the latter bill, with its amendment, restricting slavery, which was struck out by the Senate. Each House persisted in adhering to its action; and in consequence of this disagreement the bill was lost.

Sixteenth Congress—1819–1821.—In Dec. 1819, a bill was reported, authorizing the formation of a state constitution for Missouri, which was finally passed, embracing the celebrated Missouri compromise.

Mr. Douglas of Ill. gave notice in the House of Representatives, on December 11, 1844, of a motion for leave to introduce a bill to establish the territory of Nebraska. On December 17 he introduced said bill, which was read twice, and referred to the Committee on Territories. The committee reported (January 7, 1845), an amendatory bill, and this was committed to the Committee of the Whole; but no further action was taken on it during the session. Mr. Douglas (January, 1845), also introduced a bill to establish military posts in Nebraska; which was read, referred, reported, and referred to the Committee of the Whole, but was not further acted upon.

Thirtieth Congress—1847–9.—At the first session was presented the memorials of the legislature of Missouri, praying the establishment of a territorial government in Nebraska, and in strict adherence to the principles of the 8th sec. of Act of March 6, 1820. On March 15, 1848, Mr. Douglas introduced a bill to establish the territory of Nebraska, which was read twice and referred. It was reported on April 20, and made the special order of the 26th succeeding; but it was neither taken up on that day, nor again referred to during the session. A bill of Mr. Borland's, attaching Nebraska to the surveying district of Arkansas, was also referred and not afterwards considered.

At the second session (1848–9), the Senate commenced the consideration of the bill, but ordered its re-commitment to the Committee on Territories, and nothing afterwards was done.

Second Session—1852–53.—In the Senate, Mr. Dodge, of Iowa, early introduced a resolution, which was passed, instructing the Committee on Territories to inquire into the expediency of organizing the territory; but no further action was taken until the House of Representatives had passed its bill for that purpose. The proceedings of the House on this subject were as follows:—On the first day of the session, Mr. Hall gave notice of a

bill for "organizing the territory of Platte," (or Nebraska), and presented it on the ensuing Monday. On December 17, the petition of Mr. Guthrie, for a seat as a delegate from Nebraska, was received and referred. The Committee on Territories reported their bill for organizing Nebraska, February 2, 1853; and the next week it was debated in Committee of the Whole. Having been considered for three days (February 8, 9, and 10), it was passed on the latter day. The Senate received it next day (Feb. 11), and at once referred it to the Committee on Territories, which reported it on the 17th without amendment. Further proceedings were not taken until March 2; when efforts were made by Mr. Douglas and its friends to get its consideration, though without avail. On March 3, it was again pressed; but the Senate laid it on the table.

[See next column on this page for vote and details of these proceedings.]

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ACTION OF INHABITANTS OF NEBRASKA, IN 1853.

The citizens of Nebraska, and of the states bordering that territory, were much disappointed by the Senate's neglecting to pass the bill organizing the territory. Consultations were frequently held during the summer of 1853, at the various settlements; and at length it was proposed to hold a general convention of the inhabitants of the territory, as a united demonstration in favor of its organization. This was held at the Wyandotte Mission, July 26, 1853, when resolutions were adopted in favor of electing a delegate to Congress, and provisional officers were chosen. These officers, on August 1 ensuing, announced that an election for such purpose would be held at Belleview and other places, on the 11th October. Before the election, a general notice was published of a preliminary convention at Kickapoo, on September 20; and the following is a copy of this call. The notes in brackets, here appended to the names of its signers, were not of course, on the original notice, but were furnished to the author by a member of Congress:—

CONVENTION AND BARBECUE.

The citizens of Nebraska, including the chiefs and leading men of its Indian tribes, are invited to attend a Grand Barbecue and Meeting in Mass Convention, at Kickapoo, near Fort Leavenworth, on Tuesday, September 20, 1853.

The object of this call is to secure the adoption of proper rules for the proposed election of a delegate in October next, and such interest in it as shall make the election the fair expression of the wishes and preferences of the entire resident population who are already citizens, or desire to become such; and to prepare such instructions to said delegate, as to the measures to be adopted for expediting the organization of the territory and its settlement by the whites, without detriment to the rights of the Indians.

H. Rich, Fort Leavenworth, [Sutler at Fort L.]
W. F. Dyer, [Licensed Trader.]
Rev. Joel Grover, [Missionary.]
H. Dawson, Kickapoo, [Farmer.]
Rev. Thomas Johnson, Shawnee Mission, [one of the Nebraska delegates.]
R. C. Miller, [Trader,] } Pottawatomes.
John Pate, [Clerk,] }
Peter Dessout, [Half-breed,] }
Lewis Vieaux, do., }
Chas. Vieaux, do., }
Fred. Sloyce, do., Soldier's Creek, }
George Dyer, [Clerk for Trader.]
Joseph Lorton, [has an Indian wife.]
Joseph La Frombois, [Half-breed.]
Joseph Kennedy, Pleasant-Ridge, [Indian wife.]
A. S. Smith, do.
H. Weld, do.
John Ogee, [Baptist Mission.]
Dr. Bowton, [at the Union Mission.]
J. Preston, Union Town, [Clerk for Trader.]
E. G. Booth, [Clerk for Trader.]
Dr. Palmer.
A. Higbee, [Indian family.]
J. Wilson, [St. Mary's Catholic Mission.]
Robert W. Wilson, Fort Riley, [Sutler, Clerk for H. Rich.]

A provisional government was the result of this.

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32d Congress.—2d session.—A bill providing a territorial government for Nebraska, embracing all of what is now the territories of Nebraska and Kansas, was introduced in the House by Mr. Richardson of Ill., and passed that body on the 8th of Feb. 1853. It was silent on the subject of the repeal of the Missouri Compromise. The vote in the House on its passage was as follows:—

YEAS.—Messrs. Charles Allen of Mass., Willis Allen of Ill., Allison of Pa., Babcock of N. Y., Barrere of O., Bell of O., Bibighaus of Pa., Busby of O., Jos. Cable of O., Lewis D. Campbell of O., Thompson Campbell of Ill., Cartter of O., Clark of Ia., Cleveland of Conn., Clingman of N. C., Darby of Mo., John G. Davis of Ind., Dawson of La., Dean of N. Y., Dimick of Pa., Doty of Wis., Duncan of Mass., Durkee of Wis., Eastman of Wis., Edgerton of O., Evans of Md., Ficklin of Ill., Fitch of Ind., Florence of Pa., Gamble of Pa., Gaylord of O., Giddings of O., Gilmore of Pa., Goodrich of Mass., Gorman of Ind., Green of O., Grey of Ky., Grow of Pa., Hall of Mo., Harper of O., Hart of N. Y., Hendricks of Ind., Hibbard of N. H., Holladay of Va., John W. Howe of Pa., Thomas Y. How of N. Y., Ingersoll of Conn., Ives of N. Y., Jenkins of N. Y., Andrew Johnson of Tenn., Johnson of O., J. Glancy Jones of Pa., Preston King of N. Y., Landry of La., Little of Mass., Lockhart of Ind., Mace of Ind., Mann of Mass., McDonald of Me., McMullin of Va., McNair of Pa., Miller of Mo., Molony of Ill., Henry D. Moore of Pa., Morrison of Pa., Murray of N. Y., Newton of O., Andrew Parker of Pa., Penniman of Mich., Perkins of N. H., Porter of Mo., Powell of Va., Price of N. J., Reed of Me., Richardson of Ill., Robbins of Pa., Robie of N. Y., Sabin of Vt., Origen S. Seymour of Conn., Skelton of N. J., Smart of Me., Smith of Ala., Benjamin Stanton of O., Stone of Ky., St. Martin of La., Stratton of N. J., Stuart of Mich., Taylor of O., Thurston of R. I., Townshend of O., Walbridge of N. Y., Ward of Ky., Washburne of Me., Watkins of Tenn., Welch of O., Wells of N. Y., Williams of Tenn., Yates of Ill.—98.

NAYS.—Messrs. Abercrombie of Ala., William Appleton of Mass., Averett of Va., Bocock of Va., Bowie of Md., Brooks of N. Y., Albert G. Brown of Miss., Caskie of Va., Chastain of Ga., Cobb of Ga., Colcock of S. C., Cottman of Md., Daniel of N. C., Dockery of N. C., Dunham of Ind., Edmundson of

Va., Samson W. Harris of Ala., Haws of N. Y., Haven of N. Y., Henn of Ia., Horsford of N. Y., Houston of Ala., Howard of Tex., Thomas M. Howe of Pa., Jackson of Ga., George W. Jones of Tenn., Letcher of Va., McQueen of S. C., Meacham of Vt., Millson of Va., Morehead of N. C., Orr of S. C., Outlaw of N. C., Ross of Pa., Stanley of N. C., Abraham P. Stephens of N. Y., Strother of Va., Sutherland of N. Y., Venable of N. C., Wallace of S. C., Walsh of Md., Wildrick of N. J., Woodward of S. C.—43.

During the debate on this bill on the 8th of Feb., 1853, the following dialogue took place:

Mr. JOHN W. HOWE. I wish to inquire of the gentleman from Ohio [Mr. Giddings], whom I see in his seat now, and who I believe is a member of the Committee on Territories, why the Ordinance of 1787 is not incorporated in this bill? [Laughter.] I should like to know whether he or the committee were intimidated on account of the platforms of 1852. [Laughter.] The gentleman pretends to be something of an Anti-Slavery man; at least I have understood so.

Mr. GIDDINGS. With the permission of the gentleman from Illinois [Mr. Richardson], I will say to my friend that the south line of this territory is 36 deg. 30 min. The law authorizing the people of Missouri to form a state government, enacted in 1820, provides in express language—

"That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36 deg. 30 min. north latitude, not included within the limits of the state contemplated by that act (Missouri), slavery and involuntary servitude, otherwise than for crimes whereof the parties shall have been duly convicted, shall be, and is hereby for ever prohibited."

This law (said Mr. Giddings) stands perpetually, and I did not think that this act would receive any increased validity by a re-enactment. There I leave the matter. It is very clear that the territory included in that treaty must be for ever free, unless that law be repealed.

Mr. JOHN W. HOWE. I should like to know from the gentleman from Ohio, if he has not some recollection of a compromise made since that time?

Mr. GIDDINGS. That does not affect the question.

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In the Senate, on the 3d of March, 1853, Mr. Douglas having reported the House Bill back, without amendment, it was laid on the table, on motion of Mr. Weller, by yeas and nays as follows:—

YEAS.—Messrs. Adams of Miss., Bayard of Del., Bell of Tex., Borland of Ark., Brodhead of Pa., Butler of S. C., Davis of Mass., Dawson of Ga., De Saussure of S. C., Downs of La., Fish of N. Y., Fitzpatrick of Ala., Houston of Tex., Hunter of Va., Mallory of Fla., Morton of Fla., Phelps of Vt., Rusk of Tex., Sebastian of Ark., Smith of Conn., Soule of La., Spruance of Del., Underwood of Ky.—23.

NAYS.—Messrs. Atchison of Mo., Bright of Ind., Cooper of Pa., Dodge of Wis., Dodge of Ia., Douglas of Ill., Felch of Mich., Foot of Vt., Geyer of Mo., Hamlin of Me., Jones of Ia., Norris of N. H., Shields of Ill., Toucey of Conn., Wade of O., Walker of Wis., Weller of Cal.—17.

During the debate on this question the following remarks were made:—

Mr. ATCHISON. (Mr. Foot in the chair.) I did not expect opposition to this measure from the quarter from which it comes—from Texas and from Mississippi. I had thought that Arkansas, Missouri, and Iowa, were more particularly interested in this question.

Mr. President, I will now state to the Senate the views which induced me to oppose this proposition in the early part of the session.

I had two objections to it. One was that the Indian title in that territory had not been extinguished, or at least a very small portion of it had been. Another was the Missouri compromise, or, as it is commonly called, the slavery restriction. It was my opinion at that time—and I am not now very clear on that subject—that the law of Congress, when the state of Missouri was admitted into the Union, excluding slavery from the territory of Louisiana north of 36 deg. 30 min., would be enforced in that territory unless it was specially rescinded; and, whether that law was in accordance with the Constitution of the United States or not, it would do its work, and that work would be to preclude slaveholders from going into that territory. But when I came to look into that question, I found that there was no prospect, no hope of a repeal of the Missouri Compromise, excluding slavery from that territory. Now, sir, I am free to admit that at this moment, at this hour, and for all time to come, I should oppose the organization or the settlement of that territory unless my constituents and the constituents of the whole South, of the slave states of the Union, could go into it upon the same footing, with equal rights and equal privileges, carrying that species of property with them as other people of this Union. Yes, sir, I acknowledge that that would have governed me, but I have no hope that the restriction will ever be repealed.

I have always been of opinion that the first great error committed in the political history of this country was the ordinance of 1787, rendering the Northwest Territory free territory. The next great error was the Missouri compromise. But they are both irremediable. There is no remedy for them. We must submit to them. I am prepared to do it. It is evident that the Missouri compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this territory now as next year, or five or ten years hence.

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In the Senate of the United States, January 4, 1856, Mr. Douglas, from the Committee on Territories,* to whom had been referred a bill introduced by Mr. Dodge of Iowa, to organize the Territory of Nebraska, reported back the same with amendments accompanied by a report, as follows:—

The principal amendments which your committee deem it their duty to commend to the favorable action of the Senate, in a special report, are those in which the principles established by the compromise measures of 1850, so far as they are applicable to territorial organizations, are proposed to be affirmed and carried

* The committee on territories of the Senate consisted of Messrs. Douglas of Ill., Houston of Tex., Johnson of Ark., Bell of Tenn., Jones of Ia., and Everett of Mass.

into practical operation within the limits of the new territory.

The wisdom of those measures is attested, not less by their salutary and beneficial effects, in allaying sectional agitation and restoring peace and harmony to an irritated and distracted people, than by the cordial and almost universal approbation with which they have been received and sanctioned by the whole country. In the judgment of your committee, those measures were intended to have a far more comprehensive and enduring effect than the mere adjustment of the difficulties arising out of the recent acquisition of Mexican territory. They were designed to establish certain great principles, which would not only furnish adequate remedies for existing evils, but, in all time to come, avoid the perils of a similar agitation, by withdrawing the question of slavery from the halls of Congress and the political arena, and committing it to the arbitrament of those who were immediately interested in, and alone responsible for its consequences. With the view of conforming their action to what they regard the settled policy of the government, sanctioned by the approving voice of the American people, your committee have deemed it their duty to incorporate and perpetuate, in their territorial bill, the principles and spirit of those measures. If any other consideration were necessary, to render the propriety of this course imperative upon the committee, they may be found in the fact, that the Nebraska country occupies the same relative position to the slavery question, as did New Mexico and Utah, when those territories were organized.

It was a disputed point, whether slavery was prohibited by law in the country acquired from Mexico. On the one hand it was contended, as a legal proposition, that slavery having been prohibited by the enactments of Mexico, according to the laws of nations, we received the country with all its local laws and domestic institutions attached to the soil, so far as they did not conflict with the Constitution of the United States; and that a law, either protecting or prohibiting slavery, was not repugnant to that instrument, as was evidenced by the fact, that one-half of the states of the Union tolerated, while the other half prohibited, the institution of slavery. On the other hand it was insisted, that by virtue of the Constitution of the United States, every citizen had a right to remove to any territory of the Union, and carry his property with him under the protection of law, whether that property consisted in persons or things. The difficulties arising from this diversity of opinion were greatly aggravated by the fact, that there were many persons on both sides of the legal controversy who were unwilling to abide the decision of the courts on the legal matters in dispute; thus, among those who claimed that the Mexican laws were still in force, and consequently that slavery was already prohibited in those territories by valid enactment, there were many who insisted upon Congress making the matter certain, by enacting another prohibition. In like manner, some of those who argued that the Mexican laws had ceased to have any binding force, and that the Constitution tolerated and protected slave property in those territories, were unwilling to trust the decision of the courts upon that point, and insisted that Congress should, by direct enactment, remove all legal obstacles to the introduction of slaves into those territories.

Such being the character of the controversy, in respect to the territory acquired from Mexico, a similar question has arisen in regard to the right to hold slaves in the proposed territory of Nebraska when the Indian laws shall be withdrawn, and the country thrown open to emigration and settlement. By the 8th section of "an act to authorize the people of the Missouri territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and to prohibit slavery in certain territories," approved March 6, 1820, it was provided: "That, in all that territory ceded by France to the United States under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid."

Under this section, as in the case of the Mexican law in New Mexico and Utah, it is a disputed point whether slavery is prohibited in the Nebraska country by *valid* enactment. The decision of this question involves the constitutional power of Congress to pass laws prescribing and regulating the domestic institutions of the various territories of the Union. In the opinion of those eminent statesmen, who hold that Congress is invested with no rightful authority to legislate upon the subject of slavery in the territories, the 8th section of the act preparatory to the admission of Missouri is null and void; while the prevailing sentiment in large portions of the Union sustains the doctrine that the Constitution of the United States secures to every citizen an inalienable right to move into any of the territories with his property, of whatever kind and description, and to hold and enjoy the same under the sanction of law. Your committee do not feel themselves called upon to enter into the discussion of these controverted questions. They involve the same grave issues which produced the agitation, the sectional strife, and the fearful struggle of 1850. As Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the Constitution and the extent

of the protection afforded by it to slave property in the territories, so your committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the 8th section of the Missouri act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute.

Your committee deem it fortunate for the peace of the country and the security of the Union, that the controversy then resulted in the adoption of the compromise measures, which the two great political parties, with singular unanimity, have affirmed as a cardinal article of their faith, and proclaimed to the world, as a final settlement of the controversy and an end of the agitation. A due respect, therefore, for the avowed opinions of senators, as well as a proper sense of patriotic duty, enjoins upon your committee the propriety and necessity of a strict adherence to the principles, and even a literal adoption of the enactments of that adjustment in all their territorial bills, so far as the same are not locally inapplicable. Those enactments embrace, among other things less material to the matters under consideration, the following provisions:

"When admitted as a state, the said territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."

"That the legislative power and authority of said territory shall be vested in the governor and a legislative assembly."

"That the legislative power of said territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents."

"Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars, except only that, in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said supreme court, without regard to the value of the matter, property, or title in controversy; and except, also, that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decisions of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of habeas corpus involving the question of personal freedom; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the Circuit and District Courts of the United States; and the said supreme and district courts of the said territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia."

To which may be added the following proposition affirmed by the act of 1850, known as the fugitive slave law:—

That the provisions of the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February 12, 1793, and the provisions of the "act to amend and supplementary to the aforesaid act, approved September 18, 1850, shall extend to, and be in force, in all the organized territories," as well as in the various states of the Union.

From these provisions it is apparent that the compromise measures of 1850 affirm and rest upon the following propositions:—

First: That all questions pertaining to slavery in the territories, and in the new states to be formed therefrom, are to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose.

Second: That "all cases involving title to slaves" and "questions of personal freedom," are referred to the adjudication of the local tribunals, with the right of appeal to the Supreme Court of the United States.

Third: That the provisions of the Constitution of the United States, in respect to fugitives from service, is to be carried into faithful execution in all "the organized territories" the same as in the states. The substitute for the bill which your committee have prepared, and which is commended to the favorable action of the Senate, proposes to carry these propositions and principles into practical operation, in the precise language of the compromise measures of 1850.

Mr. Dodge's bill, for which Judge Douglas reported a substitute, was silent on the subject of slavery.

The substitute of the Committee on Territories, accompanying the foregoing report, contained the following provision:—

Be it enacted, &c., that all that part of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit: Beginning at the southwest corner of the state of Missouri, thence running west on the line of thirty-six degrees and thirty minutes of north latitude, until it intersects the one hundred and third meridian of longitude west of Greenwich; thence north, on the said meridian, until it intersects the thirty-eighth parallel of north latitude; thence west, on the said parallel of latitude to the summit of the Rocky Mountains; thence northward along and upon the

summit of said range of mountains to the forty-ninth parallel of north latitude; thence eastward on said parallel to the western boundary of the territory of Minnesota; thence southward, on and with said boundary, to the Missouri river; thence down the centre of the main channel of said river to the state of Missouri; thence south, on and with the western boundary of said state, to the place of beginning, be and the same is hereby created into a temporary government by the name of the territory of Nebraska, and when admitted as a state or states, the said territory, *or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission.*

—

On the 16th of Jan., 1854, Mr. Dixon of Ky. gave notice to the Senate that when the bill to establish a territorial government for the territory of Nebraska should come up, he would offer the following amendment:—

"That so much of the 8th section of an act approved March 6, 1820, entitled 'An act to authorize the people of Missouri territory, &c., &c., as declares that, in all that territory ceded by France to the United States under the name of Louisiana, which lies north of thirty-six degrees thirty minutes north latitude, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be for ever prohibited,' shall not be so construed as to apply to the territory contemplated by this act, or to any other territory of the United States; but that the citizens of the several states or territories shall be at liberty to take and hold their slaves within any of the territories of the United States, or of the states to be formed therefrom, as if the said act entitled as aforesaid, and approved as aforesaid, had never been passed."

On the 17th of Jan. Mr. Sumner gave notice of an amendment, providing that the Missouri compromise should remain in full force.

On the 23d of Jan. Mr. Douglas stated, that the Committee on Territories had determined to offer amendments to the bill, so as to divide it into two territories (Nebraska and Kansas) instead of one, amending the same by declaring that the Missouri compromise act was superseded by the principles of the compromise measures of 1850, and is hereby declared inoperative.

On the 30th of Jan. Mr. Douglas addressed the Senate in favor of his bill.

On the 3d of Feb. Mr. Chase proposed an amendment to strike out the words, "was superseded by the principles of the legislation of 1850, commonly called the compromise measures," so that the clause would then directly declare the Missouri restriction inoperative. Mr. Chase then addressed the Senate in opposition to the repeal of the Missouri compromise.

On the 4th of Feb. Mr. Dixon of Ky. replied to Mr. Chase.

On the 6th of Feb. Mr. Wade of Ohio, spoke in favor of the amendment of Mr. Chase, and was followed by Mr. Jones of Tenn. in defence of the bill.

The motion to adopt this amendment was then voted upon, and negatived; after which Mr. Douglas stated his intention to propose some change in the phraseology of that portion of the bill relating to the compromise measures of 1850, &c., and further consideration was postponed.

Feb. 7, Tuesday.—Mr. Douglas presented his proposed amendment to section 14, viz., striking out the words—

——"which [the Missouri Compromise Act] was superseded by the principles of the legislation of 1850, commonly called the Compromise measures, and is hereby declared inoperative;"

and inserting—

——"which, being inconsistent with the principles of non-intervention by Congress with slavery in the states and territories, as recognised by the legislation of 1850, commonly called the Compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States;"

which was ordered to be printed.

On motion of Mr. Sebastian, the 19th, 20th, 39th, and 40th sections were struck out, and an additional section inserted, which provides for the continuance of the present policy of the government towards the Indians. On motion of Mr. Douglas, all appropriations were stricken out.

Feb. 8, Wednesday.—Mr. Everett continued the debate in opposition to the bill.

Feb. 9, Thursday.—Mr. Smith addressed the Senate in opposition to the bill.

Feb. 13, Monday.—Mr. Weller spoke for nearly an hour in support of the bill.

Feb. 14, Tuesday.—Mr. Houston addressed the Senate in opposition to the bill, on the ground that it violated the rights of the Indians who are in possession of that territory, and the good faith of this government on which the Indians relied when they treated to remove to it.

Feb. 15, Wednesday.—Mr. Houston concluded his speech, and Mr. Douglas's amendment was adopted, as follows:—

YEAS.—Messrs. *Adams* of Miss., *Atchison* of Mo., *Bayard* of Del., Bell of Tenn., Benjamin of La., *Brown* of Miss., *Butler* of S. C., *Cass* of Mich., Clayton of Del., Dawson of Geo., Dixon of Ky., *Dodge* of Io., *Douglas* of Ill., *Evans* of S. C., *Fitzpatrick* of Ala., Geyer of Mo., *Gwin* of Cal., *Hunter* of Va., *Johnson* of Ark., *Jones* of Io., *Jones* of Tenn., *Mason* of Va., Morton of Fla., *Norris* of N. H., Pearce of Md., *Pettit* of Ind., Pratt of Md., *Sebastian* of Arks., *Slidell* of La., *Stuart* of Mich., Thompson of Ky., *Toombs* of Geo., *Weller* of Cal., and *Williams* of N. H.—35.

NAYS.—Messrs. *Allen* of R. I., Chase of O., *Dodge* of Wis., Everett of Mass., Fish of N. Y., Foot of Vt., *Houston* of Tex., Seward of N. Y., Sumner of Mass., and Wade of O.—10.

Mr. Chase then moved to amend the section by adding thereto the following words:—

"Under which the people of the territories, through their appropriate representatives, may, if they see fit, prohibit slavery therein;"

which caused some debate.

Feb. 16, Thursday.—Mr. Badger spoke at length in favor of the bill.

Feb. 17, Friday.—Mr. Seward having presented the resolutions of the legislature of New York requesting its senators and representatives to oppose the bill, addressed the Senate for three hours in opposition to the bill. Mr. Pettit moved a postponement to Monday, which was carried.

Feb. 20, Monday.—A very large number

of petitions and remonstrances against the bill were presented by Senators Seward, Chase, Sumner, and others. Mr. Dodge of Iowa presented the memorial of Hadley D. Johnson, delegate from the territory of Nebraska, claiming for the people of that territory the right to legislate for themselves on the subject of slavery, and that Congress should leave the question to the decision of their own choice; which was ordered to lie on the table and be printed. When the consideration of the bill was resumed, Mr. Pettit spoke for three hours in favor of the bill, and Mr. Cass briefly responded to some personal remarks made by Mr. Pettit.

Feb. 21.—Mr. Sumner temporarily yielded the floor to Mr. Cass, who spoke briefly on the power of Congress to establish governments for the territories. Mr. Sumner then spoke at length against the bill.

Feb. 23, Thursday.—Mr. Toombs spoke for one and a half hours in defence of the bill, showing its constitutionality, and just disposition of the slavery question.

Feb. 24.—The resolutions of the legislature of Massachusetts protesting against the bill were presented. Mr. Douglas said that the friends of the bill desired to take the vote upon its passage on the next Wednesday. Mr. Chase said he should have several amendments to offer. Mr. Hunter spoke one and a half hours in support of the bill; and was followed on the same side by Mr. Butler.

Feb. 25.—Mr. Butler concluded his speech, and Messrs. Brown of Mass., and Dodge of Iowa, continued the debate in favor of the bill.

Feb. 27.—Mr. Cass spoke at length in favor of the bill, and was followed by Mr. Cooper of Pa. against it.

Feb. 28.—Messrs. Brodhead of Pa., and Thompson of N. J., defended the bill.

On the 1st of March, 1820, Mr. Clayton of Del. addressed the Senate.

On the 2d of March, Mr. Clayton concluded his speech.

A running debate then ensued on a memorial presented by Mr. Chase, from a public meeting in Ohio, severely animadverting upon senators.

Mr. Chase's amendment of February 15, was lost by a vote of yeas 10, nays 36.

The affirmative vote was as follows:—

Messrs. CHASE of O., *Dodge* of Wis., Fessenden of Me., Fish of N. Y., Foot of Vt., *Hamlin* of Me., Seward of N. Y., Smith of Conn., SUMNER of Mass., Wade of O.—10.

Mr. Badger moved to amend by inserting,—Provided, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th March, 1820, either protecting, establishing, prohibiting, or abolishing slavery.

The amendment was adopted as follows:—

YEAS.—Messrs. *Atchison* of Mo., Badger of N. C., Bell of Tenn., Benjamin of La., *Brodhead* of Pa., *Butler* of S. C., *Clay* of Ala., Dawson of Ga., Dixon of Ky., *Dodge* of Ia., *Douglas* of Ill., *Evans* of S. C., Fish of N. Y., *Fitzpatrick* of Ala., Foot of Vt., *Gwin* of Cal., *Hamlin* of Me., *Houston* of Tex., *Hunter* of Va., *Jones* of Ia., Jones of Tenn., *Mason* of Va., Morton of Fla., *Norris* of N. H., *Pettit* of Ind., Pratt of Md., Seward of N. Y., *Shields* of Ill., *Slidell* of La., Smith of Conn., *Stuart* of Mich., *Toucey* of Conn., *Walker* of Wis., *Weller* of Cal., *Williams* of N. H.—35.

NAYS.—Messrs. *Adams* of Miss., *Brown* of Miss., *Dodge* of Wis., *Johnson* of Ark., *Rusk* of Tex., *Sebastian* of Ark.—6.

Mr. Clayton then moved his amendment* prohibiting "Alien Suffrage," and it was agreed to as follows:—

YEAS.—Messrs. *Adams*, *Atchison*, Badger, Bell, Benjamin, *Brodhead*, *Brown*, *Butler*, *Clay*, Clayton, Dawson, Dixon, *Evans*, *Fitzpatrick*, *Houston*, *Hunter*, *Johnson*, Jones of Tenn., *Mason*, Morton, Pratt, *Sebastian*, *Slidell*.—23.

NAYS.—Messrs. CHASE, *Dodge* of Wis., *Dodge* of Ia., *Douglas*, Fessenden, Fish, Foot, *Gwin*, *Hamlin*, *Jones* of Ia., *Norris*, *Pettit*, Seward, *Shields*, Smith, *Stuart*, SUMNER, *Toucey*, Wade, *Walker*, *Williams*.—21.

The boundary provisions were so amended as not to interfere with those of Utah.

The bill was ordered to be engrossed and read a third time, by a vote of yeas 29, nays 12.

March 3, a long debate ensued. The Senate continued its session through the night until the morning of the 4th, Mr. Douglas speaking in defence of the bill until half-past three in the morning. Mr. Houston replied until near five. The bill was then passed by yeas and nays as follows:—

YEAS.—Messrs. *Adams* of Miss., *Atchison* of Mo., Badger of N. C., *Bayard* of Del., Benjamin of La., *Brodhead* of Pa., *Brown* of Miss., *Butler* of S. C., *Cass* of Mich., *Clay* of Ala., Dawson of Geo., Dixon of Ky., *Dodge* of Ia., *Douglas* of Ill., *Evans* of S. C., *Fitzpatrick* of Ala., Geyer of Mo., *Gwin* of Cal., *Hunter* of Va., *Johnson* of Ark., *Jones* of Ia., Jones of Tenn., *Mason* of Va., Morton of Fla., *Norris* of N. H., *Pettit* of Ind., Pratt of Md., *Rusk* of Tex., *Sebastian* of Ark., *Shields* of Ill., *Slidell* of La., *Stuart* of Mich., Thompson of Ky., *Thompson* of N. J., *Toucey* of Conn., *Weller* of Cal., *Williams* of N. H.—37.

NAYS.—Messrs. Bell of Tenn., CHASE of O., *Dodge* of Wis., Fessenden of Me., Fish of N. Y., Foot of Vt., *Hamlin* of Me., *Houston* of Tex., *James* of R. I., Seward of N. Y., Smith of Conn., SUMNER of Mass., Wade of O., *Walker* of Wis.—14.

Satisfactory reasons were given for the absence of Senators Bright, Toombs, and Allen.

On the 7th of March Messrs. Clayton and Everett stated, if they had been present they would have voted against the bill.

March 14, Tuesday.—Mr. Everett presented the mammoth memorial,† signed by 3050 clergymen of New England, of different religious denominations, protesting against the passage of the bill. Subsequently, Mr. Douglas called for its reading, and a debate ensued; in which Messrs. Douglas, Mason, Butler, Pettit, Adams, and Badger, condemned the tenor of the memorial, and Messrs. Everett, Houston, and Seward, defended it; and the subject was then laid upon the table.

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House of Representatives, 1853, December 12, Monday.—The Speaker announced the appointment of the standing committees, and the Committee on Territories was constituted of Messrs. W. A. Richardson (chairman), of Ill., John McQueen of S. C., John L. Taylor of Ohio, D. I. Bailey of Ga., Wm. Smith of Va., E. W. Farley of Md., W. H. English

*The vote on this amendment was omitted by mistake from under the head of "Alien Suffrage."

† For copy of this memorial see under head of "MINISTERS OF THE GOSPEL."

of Ind., P. Phillips of Ala., and A. W. Lamb of Mo.

Dec. 20.—Mr. Phelps presented the memorial of Thomas Johnson, praying to be admitted as a delegate in Congress from the territory of Nebraska; which was referred to Committee on Territories.

Dec. 21.—On motion by Mr. Richardson, the Committee on Territories was discharged from further consideration of the memorial of Thomas Johnson, praying to be admitted as a delegate, &c.; and the same was referred to Committee on Elections.

Dec. 22.—Mr. Henn (on privileged question) presented the credentials of Hadley D. Johnson, delegate from Nebraska territory; and on his motion they were referred to committee on elections. Mr Miller of Mo., in pursuance of previous notice, introduced "a bill to organize the territory of Nebraska," which was read a first and second time by its title, and referred to Committee on Territories.

1854, Jan. 23, Monday.—Mr. Phelps presented the memorial of Thomas Johnson and Hadley D. Johnson, praying for the establishment of two territorial governments, and the extinguishment of Indian titles to the territory lying west of the states of Wisconsin and Iowa.

Jan. 30.—The resolutions of the legislature of Rhode Island, against the repeal of the Missouri compromise, were presented. Mr. Pringle of N. Y. offered a resolution, instructing the committee on territories to report at an early day a bill, similar to that which passed the House last session, providing for the organization of the territory of Nebraska; but, an objection rising, the resolution went over.

Jan. 31.—Mr. Richardson, from Committee on Territories, reported "A bill for organizing the territories of Nebraska and Kansas." (H. R., No. 236.) Mr. English said, that a minority of the committee were opposed to a part of the bill as reported; and submitted his views, with proposed amendments. Mr. Richardson resumed, and moved that it be referred to the Committee of the Whole on the State of the Union, and printed. An exciting running debate ensued, but the motion was carried, and the minority report also ordered to be printed. The House bill is the same as the original bill of the Senate, excepting a very few lines regarding the boundaries, &c.

Feb. 1.—The first petition against the bill was presented, and thenceforward their number steadily increased.

Feb. 14.—Mr. Mace of Ind. spoke for an hour on the Nebraska bill, and against the repeal of the Missouri compromise; and was followed by Mr. Skelton of N. J. on the same side.

Feb. 17.—The Homestead bill being under consideration, Mr. Meacham got the floor, spoke against the bill and the proposed repeal of the Missouri compromise.

Feb. 17.—The resolutions of the legislature of New York were presented. In Committee of the Whole, lengthy speeches on the bill were made, by Messrs. Stephens, Campbell, and Kerr.

Feb. 20.—In Committee of the Whole, Mr. Ewing spoke on the history of the Missouri compromise, &c.

Feb. 21.—The Homestead bill being still under consideration, Mr. James C. Allen* of Ill., delivered a lengthy speech on the compromises of 1820 and 1850, and the general Nebraska-Kansas question.

Feb. 24, Friday.—The resolutions of the legislature of Massachusetts, against the bill, were presented, which were ordered to lie on the table and be printed.

March 6, Monday.—The resolutions of the legislature of Maine on the bill were presented.

March 14.—Mr. Appleton asked leave to present a remonstrance against the repeal of the Missouri compromise, signed by 3050 clergymen (Protestant) of New England (the same as presented to the Senate, 200 feet long, the paper backed with cambric). Mr. Boyce objected; and as the rule requires unanimous consent, this remonstrance was removed from the hall.

March 15, Friday.—In Committee of the Whole on the new Deficiency bill, speeches were made in favor of the Nebraska-Kansas bill, by Messrs. Bridges of Pa., and Brooks of S. C.

March 20.—Resolutions from the legislatures of Georgia and Mississippi, in favor of the bill, were read and ordered to be printed.

March 21, Tuesday.—There was an unusually full attendance of members, indicating the consideration of subjects of more than ordinary interest. Mr. Richardson moved that the House go into Committee of the Whole on the state of the Union, with the design of reaching, as early as possible, the House bill on the calendar to organize territorial governments for Nebraska and Kansas: and after some remarks this was negatived—yeas 84, nays 108. On motion of Mr. Cutting, the House proceeded to consider and dispose of the business on the Speaker's table, on which was the Senate bill on Nebraska and Kansas. When this was reached (being the fourth in order), it was twice read by its title; and Mr. Richardson moved that it be referred to the Committee on Territories. Mr. Cutting moved its reference to the Committee of the Whole on the state of the Union. Mr. Richardson, not yielding the floor, said, that he desired to have the bill referred to the Committee on Territories, for the purpose of amending it in some particulars; and that to refer it to the Committee of the Whole would be to kill it by indirection, as it was not likely that it would then (so low on the calendar) be reached during the present session. Mr. Cutting again made his motion, remarking that this was for the purpose of giving it deliberate consideration; that he was favorable to the principle of popu-

* Mr. Allen's speech was the first speech from the North in the House made in favor of the bill.

lar sovereignty, opposed to the proviso of Senator Badger, and had objections to the restriction on the right of suffrage; that it was eminently favorable to the North (which is more interested in it than the South), and that a full discussion would prove it to be so, &c. Mr. Richardson suggested that the bill be made a special order; but Mr. Cutting replied that this would require a vote of two-thirds; and (after further remarks between him and Mr. R.) he demanded the previous question. Many members asked Mr. Cutting to withdraw the demand, but he declined; and it having been seconded (yeas 113), the main question was then put, and resulted, yeas 110, nays 95; so the bill was accordingly referred to the Committee of the Whole House on the state of the Union, with an order to be printed, and was placed in order upon the calendar.

Mr. Cutting moved to reconsider the vote just made, and to lay the motion to reconsider on the table, which was agreed to—yeas 110, nays 96; and the House adjourned. The progress of the vote on the main question was watched by the House and galleries with great anxiety and doubt, as the decision on the commitment of the bill was viewed somewhat as a test of its strength in the House.

March 23, Thursday.—Speeches were delivered on the Nebraska bill. Mr. Millson of Va. opposed it as received from the Senate, especially Mr. Badger's amendment, and saying that it was unjust to the South. Mr. Hunt of La. also took decided grounds against the bill, arguing that the repeal of the Missouri restriction would be a breach of good faith. Mr. Breckenridge of Ky. made a stirring speech in its support, and reviewed the objections which had been urged. He took strong grounds against the course pursued by Mr. Cutting and other professed friends of the bill, and intimated that Mr. C. had sought, under the guise of friendship, to utterly defeat the bill. The discussion throughout commanded the earnest attention of the House and galleries, and was considered amongst the ablest of the session.

March 27, Monday.—The House having gone into Committee of the Whole on the Civil and Diplomatic Appropriation bill, Mr. Cutting addressed the committee in relation to his procedure on the Nebraska-Kansas bill. The remainder of this day's session was occupied by the spirited debate which then ensued between Messrs. Cutting and Breckenridge, and which was characterized by bitter and sarcastic personalities.

March 28.—Mr. Yates of Ill. and Mr. Franklin of Md. spoke in opposition to the Nebraska-Kansas bill.

March 29.—Two speeches were delivered on the Nebraska-Kansas bill; Mr. Barksdale of Miss. in its favor, and Mr. Norton of Ill. against it.

March 30.—Mr. Keitt of S. C. spoke for an hour, showing that the Missouri restriction had been injurious, that the ordinance of 1787 was unconstitutional, in defence of slavery, &c.

April 4, Tuesday.—The General Appropriation bill was taken up; but the sitting of the committee was occupied by three spirited and lengthy speeches on the Nebraska-Kansas bill. Messrs. Clingman of N. C. and Wright of Pa. argued in favor of the Senate bill, each excepting only Mr. Clayton's amendment; and Mr. Matteson of N. Y. spoke against it.

April 5.—Messrs. Chandler of Pa., Nicholas of Ohio, and Washburn of Ill., opposed the bill, and mainly on the ground that it proposed the repeal of the Missouri compromise.

Mr. Smith of Tenn. supported the measure, because it asserts the principle of self-government in accordance with the Constitution.

April 6.—When the General Appropriation bill was taken up, Mr. Preston of Ky. spoke in favor of the Nebraska-Kansas bill, but was for striking out Mr. Clayton's amendment; and he was followed by Mr. Gerrit Smith of N. Y. against the bill.

April 7.—Mr. Caruthers spoke on the Nebraska-Kansas bill, in its favor, showing the inconsistency of the North on the Missouri restriction, and that the passage of the bill would end all legislation in Congress on slavery, and give perpetual peace to the country. Mr. Washburn of Me. then spoke in opposition to the bill, arguing the constitutionality of the Act of 1820, claiming that Congress had the power, and that it was its duty to restrict slavery in the territories.

April 10.—When the House went into Committee of the Whole on the General Appropriation bill, Mr. McDonald of Me. spoke in favor of the Nebraska-Kansas bill, denouncing its fanatical opponents, and arguing that it asserted the great right of the people to govern themselves. Mr. Faulkner of Va. followed on the same side, and then the House adjourned.

April 11.—Mr. Cullom of Tenn. spoke for an hour in denouncing the Nebraska-Kansas project, its author, and its friends and in defence of the act of 1820.

On the 8th of May, 1854, the friends of the bill proceeded in Committee of the Whole to reach the Senate bill, which had been referred thereto on motion of Mr. Cutting, and which occupied a position very low on the calendar. To accomplish this each bill before it thereon, was laid aside by a separate motion and vote until the Senate bill was finally reached.

The debate was continued by the following gentlemen until the 19th of May, 1854:—

In favor of the bill, by Messrs. Harris of Miss., Smith of Va., Barry of Miss., Zollicoffer of Tenn., English of Ind., Cox of Ky., Taylor of N. Y., Bayly of Va., Seward of Geo., Elliott of Ky., Dowdell of Ala., Tweed of N. Y., Colquitt of Geo., Maxwell of Fla., Ready of Tenn., Oliver of Mo., Straub of Pa., Miller of Mo., Churchwell of Tenn., Walsh of N. Y., Hamilton of Md., Goode of Va., Dun-

ham of Ind., Caskie of Va., Greenwood of Ark., Stanton of Tenn., Henn of Ia., Witte of Pa., and Chastain of Geo.

Against the bill, by Messrs. Heister of Pa., Taylor of O., Hughes of N. Y., Sapp of Ohio, Walley of Mass., Simmons of N. Y., Davis of R. I., Ball of O., Grow of Pa., Perkins of N. Y., Elliott of Mass., Carpenter of N. Y., Farley of Me., Hamson of O., Upham of Mass., Mayall of Me., Flagler of N. Y., Giddings of O., Etheridge of Tenn., Bennett of N. Y., Wade of O., Banks of Mass., Parker of Ind., Peckham of N. Y., Taylor of Tenn., Wentworth of Mass., Dean of N. Y., Wheeler of N. Y., Benton of Mo., Knox of Ill., Pringle of N. Y., Howe of Pa., Seymour of Conn., Edmands of Mass., Pennington of N. J., and Sage of N. Y.

Mr. Richardson of Ill., who reported the bill, closed the debate on it in Committee of the Whole, on the 19th of May, 1854.

Mr. Stephens of Ga. moved to strike out the enacting clause of the Senate bill, so as to bring it before the House, which motion was carried.

The Committee then rose, and its chairman (Mr. Olds of O.,) reported to the House its action in striking out the enacting clause.

The House refused to concur in the action of the Committee in striking out the enacting clause. (This was the result the friends of the bill engineered to reach. The bill being then before the House perfect for its action.)

On the 22d of May, Mr. Richardson moved to substitute the House bill therefor. This bill was the same as the Senate bill, omitting the Clayton amendment.

For the vote on substituting the same, which was carried, see under head of "ALIEN SUFFRAGE."

The bill as amended, passed the House on the 22d of May, 1854, by yeas and nays as follows :—

YEAS.—Messrs. *Abercrombie* of Ala., James C. Allen of Ill., Willis Allen of Ill., Ashe of N. C., David J. Bailey of Ga., Thomas H. Bayly of Va., Barksdale of Miss., Barry of Miss., Bell of Tex., Bocock of Va., Boyce of S. C., Breckenridge of Ky., Bridges of Pa., Brooks of S. C., Caskie of Va., Chastain of Ga., Chrisman of Ky., Churchwell of Tenn., Clark of Mich., Clingman of N. C., Cobb of Ala., Colquitt of Ga., Cox of Ky., Craige of N. C., Cumming of N. Y., Cutting of N. Y., John G. Davis of Ind., Dawson of Pa., Disney of O., Dowdell of Ala., Dunbar of La., Dunham of Ind., Eddy of Ind., Edmundson of Va., John M. Elliott of Ky., English of Ind., Faulkner of Va., Florence of Pa., Goode of Va., Green of O., Greenwood of Ark., *Grey* of Ky., Hamilton of Md., Sampson W. Harris of Ala., Hendricks of Ind., Henn of Ia., Hibbard of N. H., *Hill* of Ky., Hillyer of Ga., Houston of Ala., Ingersoll of Conn., George W. Jones of Tenn., J. Glancy Jones of Pa., Roland Jones of La., *Kerr* of N. C., Kidwell of Va., Kurtz of Pa., Lamb of Mo., Lane of Ind., Latham of Cal., Letcher of Va., Lilly of N. J., *Lindley* of Mo., Macdonald of Me., McDougall of Cal., McNair of Pa., Maxwell of Fla., May of Md., *John G. Miller* of Mo., Miller of Ind., Olds of O., *Mordecai Oliver* of Mo., Orr of S. C., Packer of Pa., John Perkins of La., Phelps of Mo., Philips of Ala., Powell of Va., *Preston* of Ky., *Ready* of Tenn., *Reese* of Ga., Richardson of Ill., Riddle of Del., Robbins of Pa., Rowe of N. Y., Ruffin of N. C., Shannon of O., Shaw of N. C., Shower of Md., Singleton of Miss., Samuel A. Smith of Tenn., William Smith of Va., William R. Smith of Ala., George W. Smyth of Tex., Snodgrass of Va., Frederick P. Stanton of Tenn., Richard H. Stanton of Ky., Alexander H. Stephens of Ga., Straub of Pa., Stuart of Mich., John J. Taylor of N. Y., Tweed of N. Y., Vail of N. J., Vansant of Md., Walbridge of N. Y., Walker of N. Y., Walsh of N. Y., Warren of Ark., Westbrook of N. Y., Witte of Pa., Daniel B. Wright of Miss., Hendrick B. Wright of Pa., *Zollicoffer* of Tenn.—113.

NAYS.—Messrs. *Ball* of O., Banks of Mass., Belcher of Conn., *Bennett* of N. Y., *Benson* of Me., Benton of Mo., *Brigg* of Tenn., *Campbell* of O., *Carpenter* of N. Y., *Chandler* of Pa., *Crocker* of Mass., *Cullom* of Tenn., Curtis of Pa., Thomas Davis of R. I., Dean of N. Y., *De Witt* of Mass., *Dick* of Pa., *Dickinson* of Mass., Drum of Pa., Eastman of Wis., Edgerton of O., *Edmands* of Mass., *Thomas D. Eliot* of Mass., Ellison of O., *Etheridge* of Tenn., *Everhart* of Pa., *Furley* of Me., Fenton of N. Y., *Flagler* of N. Y., Fuller of Me., Gamble of Pa., GIDDINGS of O., *Goodrich* of Mass., Grow of Pa., *Aaron Harlan* of O., Andrew J. Harlan of Ind., *Harrison* of O., Hastings of N. Y., *Haven* of N. Y., *Heister* of Pa., *Howe* of Pa., Hughes of N. Y., *Hunt* of La., Johnson of O., Jones of N. Y., Kittredge of N. H., *Knox* of Ill., *Lindsley* of O., Lyon of N. Y., *McCulloch* of Pa., Mace of Ind., *Matteson* of N. Y., Mayall of Me., *Meacham* of Vt., *Middleswarth* of Pa., Millson of Va., *Morgan* of N. Y., Morrison of N. H., Murray of N. Y., Nichols of O., Noble of Mich., *Norton* of Ill., Andrew Oliver of N. Y., *Parker* of Ind., Peck of N. Y., *Peckham* of N. Y., *Pennington* of N. J., Perkins of N. Y., Pratt of Conn., *Pringle* of N. Y., *Puryear* of N. C., *Daniel Ritchie* of Pa., Thos. Ritchey of O., *Rogers* of N. C., *Russell* of Pa., *Sabin* of Vt., *Sage* of N. Y., *Sapp* of O., Seymour of Conn., *Simmons* of N. Y., Skelton of N. J., GERRIT SMITH of N. Y., Hestor L. Stevens of Mich., Stratton of N. J., Andrew Stuart of O., *John L. Taylor* of O., *Nathaniel G. Taylor* of Tenn., Thurston of R. I., *Tracy* of Vt., Trout of Pa., *Upham* of Mass., *Wade* of O., *Watley* of Mass., *Elihu B. Washburne* of Ill., *Israel Washburne* of Me., Wells of Wis., John Wentworth of Ill., *Wentworth* of Mass., Wheeler of N. Y., *Yates* of Ill.—100.

Democrats in roman, Whigs in *italic*, Abolitionists in SMALL CAPS.

The action in the Senate upon its return, was to concur in the amendment of the House striking out the Clayton amendment, which vote, upon the motion of Mr. Pearce to renew the Clayton amendment, will be found under the head of "ALIEN SUFFRAGE."

The vote on the final passage of the Senate bill, as amended by the House, was yeas 35, nays 13, as follows :—

YEAS.—Messrs. *Atchison*, Badger, Benjamin, *Brodhead*, *Brown*, *Butler*, *Cass*, *Clay*, Dawson, *Douglas*, *Fitzpatrick*, *Gwin*, *Hunter*, *Johnson*, *Jones* of Ia., Jones of Tenn., *Mallory*, *Mason*, Morton, *Norris*, Pearce, *Pettit*, Pratt, *Rusk*, *Sebastian*, *Shields*, *Slidell*, *Stuart*, Thompson of Ky., *Thompson* of N. J., *Toombs*, *Toucey*, *Wilder*, *Williams*, *Wright*.—35.

NAYS.—Messrs. *Allen*, Bell, CHASE, Clayton, Fish, Foot, Gillette, *Hamlin*, *James*, Seward, SUMNER, Wade, *Walker*.—13.

On the 20th of Dec., 1854, the Hon. John H. Whitfield, delegate elect from the territory of Kansas, was sworn in and admitted to a seat in the House. It had been alleged that his election was carried by the importation of Missourians into the territory ; but no contest was made upon his right, and he held his position during the remainder of the thirty-third Congress.

During the recess between the 4th of March and the 1st of Dec. 1855, the history of Kansas was marked by events fully elaborated in official documents hereinafter contained, which preclude the necessity of a detail of them here.

The removal of the seat of government by the territorial legislature from the place which had been fixed by Gov. Reeder, was deemed by the latter to have made void ab initio all acts enacted by them subsequent to such removal, on the ground that the power to locate the same was vested in him.

The Free State party backed up Gov. Reeder, whilst the Pro-Slavery party, as they are respectively called, endorsed the action of the legislature.

Gov. Reeder, in the mean time, was removed as governor.

The Free State party met at Big Springs,

and resolved to repudiate the acts of the territorial legislature, and organize a state government.

A convention was accordingly called, and held by them, at Topeka, on the fourth Tuesday of October, and framed what was called the Topeka Constitution, and set on foot a state government which, figuratively speaking, was put in motion, and bringing the officers elected under it in conflict with the regularly constituted authorities, resulted in the indictments against them for treason which followed.

In the mean time General Whitfield was elected delegate to the 34th Congress without opposition, under the act of the territorial legislature prescribing the mode and manner of holding elections, &c. The free state men asserted said election to be null, held, as it was, under a law passed by a legislature which was, as they contended, in itself no legislature, but an assumption. They accordingly, on the 9th of October, held an election of their own, and polled their votes for Gov. Reeder as delegate.

The President, in his annual message, referred to the condition of affairs in Kansas; but they assumed so frightful a mien during January, 1856, that he made them the subject of a special message to Congress, before yet the House had been organized.

That message was read to both Houses on the 24th of Jan., 1856, and is as follows:—

To the Senate and House of Representatives:—

Circumstances have occurred to disturb the course of governmental organization in the territory of Kansas, and produce there a condition of things which renders it incumbent on me to call your attention to the subject, and urgently to recommend the adoption by you of such measures of legislation as the grave exigencies of the case appear to require.

A brief exposition of the circumstances referred to, and of their causes, will be necessary to the full understanding of the recommendation which it is proposed to submit.

The act to organize the territories of Nebraska and Kansas was a manifestation of the legislative opinion of Congress on two great points of constitutional construction: one, that the designation of the boundaries of a new territory, and provision for its political organization and administration as a territory, are measures which of right fall within the powers of the general government; and the other, that the inhabitants of any such territory considered as an inchoate state are entitled, in the exercise of self-government, to determine for themselves what shall be their own domestic institutions, subject only to the Constitution and the laws duly enacted by Congress under it, and to the power of the existing states to decide, according to the provisions and principles of the Constitution, at what time the territory shall be received as a state into the Union. Such are the great political rights which are solemnly declared and affirmed by that act.

Based upon this theory, the act of Congress defined for each territory the outlines of republican government, distributing public authority among lawfully created agents—executive, judicial, and legislative—to be appointed either by the general government or by the territory. The legislative functions were intrusted to a Council and a House of Representatives, duly elected, and empowered to enact all the local laws which they might deem essential to their prosperity, happiness, and good government. Acting in the same spirit, Congress also defined the persons who were in the first instance to be considered as the people of each territory; enacting that every free white male inhabitant of the same above the age of twenty-one years, being an actual resident thereof, and possessing the qualifications hereafter described, should be entitled to vote at the first election, and be eligible to any office within the territory; but that the qualifications of voters and holding office at all subsequent elections should be such as might be prescribed by the Legislative Assembly: Provided, however, that the right of suffrage and of holding office should be exercised only by citizens of the United States, and those who should have declared on oath their intention to become such, and have taken an oath to support the Constitution of the United States and the provisions of the act: And provided further, that no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in their service, should be allowed to vote or hold office in either territory by reason of being on service therein.

Such of the public officers of the territories as, by the provisions of the act, were to be appointed by the general government, including the governors, were appointed and commissioned in due season; the law having been enacted on the 30th of May, 1854, and the commission of the governor of the territory of Nebraska being dated on the 2d day of August, 1854, and of the territory of Kansas on the 29th day of June, 1854.

Among the duties imposed by the act on the governors was that of directing and superintending the political organization of the respective territories. The Governor of Kansas was required to cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he might designate and appoint; to appoint and direct the time and places of holding the first elections, and the manner of conducting them, both as to the persons to superintend such elections and the returns thereof; to declare the number of the members of the Council and House of Representatives for each county or district; to declare what persons might appear to be duly elected; and to appoint the time and place of the first meeting of the Legislative Assembly. In sub-

stance, the same duties were devolved on the Governor of Nebraska.

While by this act, the principle of constitution for each of the territories was one and the same, and the details of organic legislation regarding both were as nearly as could be identical, and while the territory of Nebraska was tranquilly and successfully organized in the due course of law, and its first Legislative Assembly met on the 16th of Jan. 1855, the organization of Kansas was long delayed, and has been attended with serious difficulties and embarrassments, partly the consequence of local mal-administration, and partly of the unjustifiable interference of the inhabitants of some of the states foreign by residence, interests, and rights to the territory.

The governor of the territory of Kansas, commissioned, as before stated, on the 29th of June, 1854, did not reach the designated seat of his government until the 7th of the ensuing October; and even then failed to make the first step in its legal organization—that of ordering the census or enumeration of its inhabitants—until so late a day that the election of the members of the Legislative Assembly did not take place until the 30th of March, 1855, nor its meeting until the 2d of July, 1855. So that for a year after the territory was constituted by the act of Congress and the officers to be appointed by the federal executive had been commissioned, it was without a complete government, without any legislative authority, without local law, and of course without the ordinary guarantees of peace and public order.

In other respects, the governor, instead of exercising constant vigilance, and putting forth all his energies to prevent or counteract the tendencies to illegality which are prone to exist in all imperfectly organized and newly associated communities, allowed his attention to be diverted from official obligation by other objects, and himself set an example of the violation of law in the performance of acts which rendered it my duty, in the sequel, to remove him from the office of chief executive magistrate of the territory.

Before the requisite preparation was accomplished for election of a territorial legislature, an election of delegate to Congress had been held in the territory on the 29th day of November, 1854, and the delegate took his seat in the House of Representatives without challenge. If arrangements had been perfected by the governor so that the election for members of the Legislative Assembly might be held in the several precincts at the same time as for delegate to Congress, any question appertaining to the qualification of the persons voting as people of the territory would have passed necessarily and at once under the supervision of Congress, as the judge of the validity of the return of the delegate, and would have been determined before conflicting passions had become inflamed by time, and before opportunity could have been afforded for systematic interference of the people of individual states.

This interference, in so far as concerns its primary causes and its immediate commencement, was one of the incidents of that pernicious agitation on the subject of the condition of the colored persons held to service in some of the states which has so long disturbed the repose of our country, and excited individuals, otherwise patriotic and law-abiding, to toil with misdirected zeal in the attempt to propagate their social theories by the perversion and abuse of the powers of Congress. The persons and the parties whom the tenor of the act to organize the territories of Nebraska and Kansas thwarted in the endeavor to impose, through the agency of Congress, their particular views of social organization on the people of the future new states, now perceiving that the policy of leaving the inhabitants of each state to judge for themselves in this respect was ineradically rooted in the convictions of the people of the Union, then had recourse, in the pursuit of their general object, to the extraordinary measure of propagandist colonization of the territory of Kansas, to prevent the free and natural action of its inhabitants in its internal organization, and thus to anticipate or to force the determination of that question in this inchoate state.

With such views, associations were organized in some of the states, and their purposes were proclaimed through the press in language extremely irritating and offensive to those of whom the colonists were to become the neighbors. Those designs and acts had the necessary consequence to awaken emotions of intense indignation in states near to the territory of Kansas, and especially in the adjoining state of Missouri, whose domestic peace was thus the most directly endangered; but they are far from justifying the illegal and reprehensible counter movements which ensued.

Under these inauspicious circumstances the primary elections for members of the Legislative Assembly were held in most, if not all, of the precincts at the time and the places, and by the persons designated and appointed by the governor according to law.

Angry accusations that illegal votes had been polled abounded on all sides, and imputations were made both of fraud and violence. But the governor, in the exercise of the power and the discharge of the duty conferred and imposed by law on him alone, officially received and considered the returns; declared a large majority of the members of the Council and the House of Representatives "duly elected;" withheld certificates from others because of alleged illegality of votes; appointed a new election to supply the place of the persons not certified; and thus at length, in all the forms of statute, and with his own official authentication, complete legality was given to the first Legislative Assembly of the territory.

Those decisions of the returning officers and of the governor are final, except that, by the

parliamentary usage of the country applied to the organic law, it may be conceded that each House of the Assembly must have been competent to determine, in the last resort, the qualifications and the election of its members. The subject was, by its nature, one appertaining exclusively to the jurisdiction of the local authorities of the territory. Whatever irregularities may have occurred in the elections, it seems too late now to raise that question. At all events, it is a question as to which, neither now, nor at any previous time, has the least possible legal authority been possessed by the President of the United States. For all present purposes the legislative body, thus constituted and elected, was the legitimate Assembly of the territory.

Accordingly, the governor, by proclamation, convened the Assembly thus elected to meet at a place called Pawnee City; the two houses met and were duly organized in the ordinary parliamentary form; each sent to, and received from, the governor the official communications usual on such occasions; an elaborate message opening the session was communicated by the governor; and the general business of legislation was entered upon by the Legislative Assembly.

But, after a few days, the Assembly resolved to adjourn to another place in the territory. A law was accordingly passed, against the consent of the governor, but in due form otherwise, to remove the seat of government temporarily to the "Shawnee Manual Labor School," (or Mission,) and thither the Assembly proceeded. After this, receiving a bill for the establishment of a ferry at the town of Kickapoo, the governor refused to sign it, and, by special message, assigned for reason of refusal, not anything objectionable in the bill itself, nor any pretence of the illegality or incompetency of the Assembly as such, but only the fact that the Assembly had by its act transferred the seat of government temporarily from Pawnee City to Shawnee Mission. For the same reason he continued to refuse to sign other bills, until, in the course of a few days, he, by official message, communicated to the Assembly the fact that he had received notification of the termination of his functions as governor, and that the duties of the office were legally devolved on the secretary of the territory; thus to the last recognising the body as a duly elected and constituted Legislative Assembly.

It will be perceived that, if any constitutional defect attached to the legislative acts of the Assembly, it is not pretended to consist in irregularity of election, or want of qualification of the members, but only in the change of its place of session. However trivial this objection may seem to be, it requires to be considered, because upon it is founded all that superstructure of acts, plainly against law, which now threatens the peace, not only of the territory of Kansas, but of the Union.

Such an objection to the proceedings of the Legislative Assembly was of exceptionable origin, for the reason that, by the express terms of the organic law, the seat of government of the territory was "located temporarily at Fort Leavenworth," and yet the governor himself remained there less than two months, and of his own discretion transferred the seat of government to the Shawnee Mission, where it in fact was at the time the Assembly were called to meet at Pawnee City. If the governor had any such right to change temporarily the seat of government, still more had the Legislative Assembly. The objection is of exceptionable origin for the further reason that the place indicated by the governor, without having any exclusive claim of preference in itself, was a proposed town site only, which he and others were attempting to locate unlawfully upon land within a military reservation, and for participation in which illegal act the commandant of the post—a superior officer of the army—has been dismissed by sentence of court-martial.

Nor is it easy to see why the Legislative Assembly might not with propriety pass the territorial act transferring its sittings to the Shawnee Mission. If it could not, that must be on account of some prohibitory or incompatible provision of act of Congress. But no such provision exists. The organic act, as already quoted, says, "the seat of government is hereby located temporarily at Fort Leavenworth," and it then provides that certain of the public buildings there "may be occupied and used under the direction of the governor and Legislative Assembly." These expressions might possibly be construed to imply that when in a previous section of the act it was enacted that "the first Legislative Assembly shall meet at such place and on such day as the governor shall appoint," the word "place" means place at Fort Leavenworth, not place anywhere in the territory. If so, the governor would have been the first to err in this matter, not only in himself having removed the seat of government to the Shawnee Mission, but in again removing it to Pawnee City. If there was any departure from the letter of the law, therefore, it was his in both instances.

But, however this may be, it is most unreasonable to suppose that by the terms of the organic act Congress intended to do impliedly what it has not done expressly—that is, to forbid to the Legislative Assembly the power to choose any place it might see fit as the temporary seat of its deliberations. That is proved by the significant language of one of the subsequent acts of Congress on the subject, that of March 3, 1855, which, in making appropriation for public buildings of the territory, enacts that the same shall not be expended "until the legislature of said territory shall have fixed by law the permanent seat of government." Congress, in these expressions, does not profess to be granting the power to fix the permanent seat of government, but recognises the power as one already

granted. But how? Undoubtedly by the comprehensive provision of the organic act itself, which declares that "the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." If, in view of this act, the Legislative Assembly had the large power to fix the permanent seat of government at any place in its discretion, of course, by the same enactment, it had the less and the included power to fix it temporarily.

Nevertheless, the allegation that the acts of the Legislative Assembly were illegal by reason of this removal of its place of session was brought forward to justify the first great movement in disregard of law within the territory. One of the acts of the Legislative Assembly provided for the election of a delegate to the present Congress, and a delegate was elected under that law. But, subsequently to this, a portion of the people of the territory proceeded without authority of law to elect another delegate.

Following upon this movement was another and more important one of the same general character. Persons confessedly not constituting the body politic, or all the inhabitants, but merely a party of the inhabitants, and without law, have undertaken to summon a convention for the purpose of transferring the territory into a state, and have framed a constitution, adopted it, and under it elected a governor and other officers, and a representative to Congress.

In extenuation of these illegal acts, it is alleged that the states of California, Michigan, and others, were self-organized, and, as such, were admitted into the Union without a previous enabling act of Congress. It is true that, while, in a majority of cases, a previous act of Congress has been passed to authorize the territory to present itself as a state, and that this is deemed the most regular course, yet such an act has not been held to be indispensable, and, in some cases, the territory has proceeded without it, and has nevertheless been admitted into the Union as a state. It lies with Congress to authorize beforehand, or to confirm afterwards, in its discretion. But in no instance has a state been admitted upon the application of persons acting against authorities duly constituted by act of Congress. In every case it is the people of the territory, not a party among them, who have the power to form a constitution, and ask for admission as a state. No principle of public law, no practice or precedent under the Constitution of the United States, no rule of reason, right, or common sense, confers any such power as that now claimed by a mere party in the territory. In fact, what has been done is of revolutionary character. It is avowedly so in motive and in aim as respects the local law of the territory. It will become treasonable insurrection if it reach the length of organized resistance by force to the fundamental or any other federal law, and to the authority of the general government.

In such an event, the path of duty for the executive is plain. The Constitution requiring him to take care that the laws of the United States be faithfully executed, if they be opposed in the territory of Kansas, he may and should place at the disposal of the marshal any public force of the United States which happens to be within the jurisdiction, to be used as a portion of the *posse comitatus;* and, if that do not suffice to maintain order, then he may call forth the militia of one or more states for that object, or employ for the same object any part of the land or naval force of the United States. So, also, if the obstruction be to the laws of the territory, and it be duly presented to him as a case of insurrection, he may employ for its suppression the militia of any state, or the land or naval force of the United States. And if the territory be invaded by the citizens of other states, whether for the purpose of deciding elections or for any other, and the local authorities find themselves unable to repel or withstand it, they will be entitled to, and upon the fact being fully ascertained they shall most certainly receive, the aid of the general government.

But it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections either in a state or territory. To do so would be subversive of public freedom. And whether a law be wise or unwise, just or unjust, is not a question for him to judge. If it be constitutional—that is, if it be the law of the land—it is his duty to cause it to be executed, or to sustain the authorities of any state or territory in executing it in opposition to all insurrectionary movements.

Our system affords no justification of revolutionary acts; for the constitutional means of relieving the people of unjust administration and laws, by a change of public agent and by repeal, are ample, and more prompt and effective than illegal violence. These constitutional means must be scrupulously guarded—this great prerogative of popular sovereignty sacredly respected.

It is the undoubted right of the peaceable and orderly people of the territory of Kansas to elect their own legislative body, make their own laws, and regulate their own social institutions, without foreign or domestic molestation. Interference, on the one hand, to procure the abolition or prohibition of slave labor in the territory, has produced mischievous interference; on the other for its maintenance or introduction. One wrong begets another. Statements entirely unfounded, or grossly exaggerated, concerning events within the territory, are sedulously diffused through remote states to feed the flame of sectional animosity there; and the agitators there exert themselves indefatigably in return to encourage and stimulate strife within the territory.

The inflammatory agitation, of which the

present is but a part, has for twenty years produced nothing save unmitigated evil, North and South. But for it the character of the domestic institutions of the future new state would have been a matter of too little interest to the inhabitants of the contiguous states, personally or collectively, to produce among them any political emotion. Climate, soil, production, hopes of rapid advancement, and the pursuit of happiness on the part of the settlers themselves, with good wishes, but with no interference from without, would have quietly determined the question which is at this time of such disturbing character.

But we are constrained to turn our attention to the circumstances of embarrassment as they now exist. It is the duty of the people of Kansas to discountenance every act or purpose of resistance to its laws. Above all, the emergency appeals to the citizens of the states, and especially of those contiguous to the territory, neither by intervention of non-residents in elections, nor by unauthorized military force, to attempt to encroach upon or usurp the authority of the inhabitants of the territory.

No citizen of our country should permit himself to forget that he is a part of its government, and entitled to be heard in the determination of its policy and its measures, and that, therefore, the highest considerations of personal honor and patriotism require him to maintain, by whatever of power or influence he may possess, the integrity of the laws of the republic.

Entertaining these views, it will be my imperative duty to exert the whole power of the federal executive to support public order in the territory; to vindicate its laws, whether federal or local, against all attempts of organized resistance; and so to protect its people in the establishment of their own institutions, undisturbed by encroachment from without, and in the full enjoyment of the rights of self-government assured to them by the Constitution and the organic act of Congress.

Although serious and threatening disturbances in the territory of Kansas, announced to me by the governor in December last, were speedily quieted, without the effusion of blood, and in a satisfactory manner, there is, I regret to say, reason to apprehend that disorders will continue to occur there, with increasing tendency to violence, until some decisive measures be taken to dispose of the question itself, which constitutes the inducement or occasion of internal agitation and of external interference.

This, it seems to me, can best be accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a state, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus to prepare, through regular and lawful means, for its admission into the Union as a state.

I respectfully recommend the enactment of a law to that effect.

I recommend, also, that a special appropriation be made to defray any expense which may become requisite in the execution of the laws or the maintenance of public order in the territory of Kansas.

FRANKLIN PIERCE.

Washington, Jan. 24, 1856.

It was referred in the Senate to the Committee on Territories, and in the House to the Committee of the Whole on the State of the Union.

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On the 11th of February the President issued a proclamation setting forth that:—

Whereas, indications exist that public tranquillity and the supremacy of law in the territory of Kansas are endangered by the reprehensible acts or purposes of persons, both within and without the same, who propose to direct and control its political organization by force: It appearing that combinations have been formed therein to resist the execution of the territorial laws, and thus, in effect, subvert by violence all present constitutional and legal authority: It also appearing that persons residing without the territory, but near to its borders, contemplate armed intervention in the affairs thereof: It also appearing that other persons, inhabitants of remote states, are collecting money, engaging men, and providing arms for the same purpose: And it further appearing that combinations within the territory are endeavoring, by the agency of emissaries and otherwise, to induce individual states of the Union to intervene in the affairs thereof, in violation of the Constitution of the United States:

And whereas all such plans for the determination of the future institutions of the territory, if carried into action from within the same, will constitute the fact of insurrection, and, if from without, that of invasive aggression, and will, in either case, justify and require the forcible interposition of the whole power of the general government, as well to maintain the laws of the territory as those of the Union, &c.: Warning all unlawful combinations to retire peaceably to their respective abodes, or he would use the power of the local militia and the available forces of the United States to disperse them, &c., &c.

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On the 14th of Feb., 1856, Mr. Florence of Pa. presented in the House the memorial of A. H. Reeder, contesting the seat of John W. Whitfield, delegate from Kansas, which was referred to the Committee on Elections.

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On the 12th of March, Mr. Douglas, from the Committee on Territories, submitted to the Senate the following report:—

Your committee deem this an appropriate occasion to state briefly, but distinctly, the principles upon which new states may be admitted and territories organized under the authority of the Constitution of the United States.

The Constitution (section 3, article 4) provides that "new states may be admitted by the Congress into this Union."

Section 8, Article 1: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof."

10th amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

A state of the Federal Union is a sovereign power, limited only by the Constitution of the United States.

The limitations which that instrument has imposed are few, specific, and uniform—applicable alike to all the states, old and new. There is no authority for putting a restriction upon the sovereignty of a new state, which the Constitution has not placed on the original states. Indeed, if such a restriction could be imposed on any state, it would instantly cease to be a state within the meaning of the Federal Constitution, and, in consequence of the inequality, would assimilate to the condition of a province or dependency. Hence, equality among all the states of the Union is a fundamental principle in our federative system—a principle embodied in the Constitution, as the basis upon which the American Union rests.

African slavery existed in all the colonies, under the sanction of the British government, prior to the Declaration of Independence. When the Constitution of the United States was adopted, it became the supreme law and bond of union between twelve slaveholding states and one non-slaveholding state; each state reserved the right to decide the question of slavery for itself—to continue it as a domestic institution so long as it pleased, and to abolish it when it chose.

In pursuance of this reserved right, six of the original slaveholding states have since abolished and prohibited slavery within their limits respectively, without consulting Congress or their sister states, while the other six have retained and sustained it as a domestic institution, which, in their opinion, had become so firmly engrafted on their social systems, that the relation between the master and slave could not be dissolved with safety to either. In the mean time, eighteen new states have been admitted into the Union, in obedience to the Federal Constitution, on an equal footing with the original states, including, of course, the right of each to decide the question of slavery for itself. In deciding this question, it has so happened that nine of these new states have abolished and prohibited slavery, while the other nine have retained and regulated it. That these new states had at the time of their admission, and still retain, an equal right, under the Federal Constitution, with the original states, to decide all questions of domestic policy for themselves, including that of African slavery, ought not to be seriously questioned, and certainly cannot be successfully controverted.

They are all subject to the same supreme law, which, by the consent of each, constitutes the only limitation upon their sovereign authority.

Since we find the right to admit new states enumerated among the powers expressly delegated in the Constitution, the question arises, whence does Congress derive authority to organize temporary governments for the territories preparatory to their admission into the Union on an equal footing with the original states? Your committee are not prepared to adopt the reasoning which deduces the power from that other clause of the Constitution which says:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The language of this clause is much more appropriate when applied to property than to persons. It would seem to have been employed for the purpose of conferring upon Congress the power of disposing of the public lands and other property belonging to the United States, and to make all needful rules and regulations for that purpose, rather than to govern the people who might purchase those lands from the United States and become residents thereon. The word "territory" was an appropriate expression to designate that large area of public lands of which the United States had become the owner by virtue of the Revolution and the cession by the several states. The additional words "or other property belonging to the United States" clearly show that the term "territory" was used in its ordinary geographical sense to designate the public domain, and not as descriptive of the whole body of the people, constituting a distinct political community, who have no representation in Congress, and consequently no voice in making the laws upon which all their rights and liberties would depend, if it were conceded that Congress had the general and unlimited power to make all "needful rules and regulations concerning" their internal affairs and domestic concerns. It is under this clause of the Constitution, and from this alone, that Congress derives authority to provide for the surveys of the public lands, for securing pre-emption rights to actual settlers, for the establishment of land offices in the several states and territories, for exposing the lands to private and public sale, for issuing patents and confirming titles, and, in short, for making all needful rules and regulations for protecting and disposing of the public domain and other property belonging to the United States.

These needful rules and regulations may be embraced, and usually are found, in general laws applicable alike to states and territories, wherever the United States may be the owner of the lands or other property to be regulated or disposed of. It can make no difference, under this clause of the Constitution, whether the "territory, or other property, belonging to the United States," shall be situated in

Ohio or Kansas, in Alabama or Minnesota, in California or Oregon; the power of Congress to make needful rules and regulations is the same in the states and territories, to the extent that the title is vested in the United States. Inasmuch as the right of legislation in such cases rests exclusively upon the fact of ownership, it is obvious it can extend only to the tracts of land to which the United States possess the title, and must cease in respect to each tract the instant it becomes private property by purchase from the United States. It will scarcely be contended that Congress possesses the power to legislate for the people of those states in which public lands may be located, in respect to their internal affairs and domestic concerns, merely because the United States may be so fortunate as to own a portion of the territory and other property within the limits of those states. Yet it should be borne in mind that this clause of the Constitution confers upon Congress the same power to make needful rules and regulations in the states as it does in the territories, concerning the territory or other property belonging to the United States.

In view of these considerations, your committee are not prepared to affirm that Congress derives authority to institute governments for the people of the territories from that clause of the Constitution which confers the right to make needful rules and regulations concerning the territory or other property belonging to the United States; much less can we deduce the power from any supposed necessity, arising outside of the Constitution, and not provided for in that instrument. The federal government is one of delegated and limited powers, clothed with no rightful authority which does not result directly and necessarily from the Constitution. Necessity, when experience shall have clearly demonstrated its existence, may furnish satisfactory reasons for enlarging the authority of the federal government, by amendments to the Constitution, in the mode prescribed in that instrument; but cannot afford the slightest excuse for the assumption of powers not delegated, and which, by the tenth amendment, are expressly "reserved to the states respectively or to the people." Hence, before the power can be safely exercised, the right of Congress to organize territories, by instituting temporary governments, must be traced directly to some provision of the Constitution conferring the authority in express terms, or as a means necessary and proper to carry into effect some one or more of the powers which are specifically delegated. Is not the organization of a territory eminently necessary and proper as a means of enabling the people thereof to form and mould their local and domestic institutions and establish a state government under the authority of the Constitution, preparatory to its admission into the Union? If so, the right of Congress to pass the organic act for the temporary government is clearly included in the provision which authorizes the admission of new states. This power, however, being an incident to an express grant, and resulting from it by necessary implication, as an appropriate means for carrying it into effect, must be exercised in harmony with the nature and objects of the grant from which it is deduced. The organic act of the territory, deriving its validity from the power of Congress to admit new states, must contain no provision or restriction which would destroy or impair the equality of the proposed state with the original states, or impose any limitation upon its sovereignty which the Constitution has not placed on all the states. So far as the organization of a territory may be necessary and proper as a means of carrying into effect the provision of the Constitution for the admission of new states, and when exercised with reference only to that end, the power of Congress is clear and explicit; but beyond that point the authority cannot extend, for the reason that all "powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." In other words, the organic act of the territory, conforming to the spirit of the grant from which it receives its validity, must leave the people entirely free to form and regulate their domestic institutions and internal concerns in their own way, subject only to the Constitution of the United States, to the end that when they attain the requisite population, and establish a state government in conformity to the Federal Constitution, they may be admitted into the Union on an equal footing with the original states in all respects whatsoever.

The act of Congress for the organization of the territories of Kansas and Nebraska was designed to conform to the spirit and letter of the Federal Constitution, by preserving and maintaining the fundamental principle of equality among all the states of the Union, notwithstanding the restriction contained in the 8th section of the act of March 6, 1820 (preparatory to the admission of Missouri into the Union), which assumed to deny to the people for ever the right to settle the question of slavery for themselves, provided they should make their homes and organize states north of thirty-six degrees and thirty minutes north latitude. Conforming to the cardinal principles of state equality and self-government, in obedience to the Constitution, the Kansas-Nebraska act declared, in the precise language of the compromise measures of 1850, that, "when admitted as a state, the said territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitutions may prescribe at the time of their admission." Again, after declaring the said 8th section of the Missouri act (sometimes called the Missouri compromise, or Missouri restriction) inoperative and void, as being repugnant to these principles, the purpose of Congress, in passing the act, is declared in these words:—

"It being the true intent and meaning of this act not to legislate slavery into any state or territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new states and territories of the right of state equality and self-government under the Constitution, than to allow them to decide the slavery question for themselves, as every state of the Union had done, and must retain the undeniable right to do so, so long as the Constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the halls of Congress and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those territories and future states, through the machinery of emigrant aid societies. In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the legislature of the state of Massachusetts, in which it was provided, in the first section, that twenty persons therein named, and their "associates, successors, and assigns, are hereby made a corporation, by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the West; and for this purpose they shall have all the powers and privileges, and be subject to all the duties, restrictions, and liabilities set forth in the 38th and 44th chapters of the revised statutes" of Massachusetts.

The committee here entered into a detail of the Massachusetts Emigrant Aid Society and remark:—

"When a powerful corporation, with a capital of five millions of dollars invested in houses and lands, in merchandise and mills, in cannon and rifles, in powder and lead—in all the implements of art, agriculture and war, and employing a corresponding number of men, all under the management and control of non-resident directors and stockholders, who are authorized by their charter to vote by proxy to the extent of fifty votes each, enters a distant and sparsely-settled territory with the fixed purpose of wielding all its power to control the domestic institutions and political destinies of the territory, it becomes a question of fearful import how far the operations of the company are compatible with the rights and liberties of the people. Whatever may be the extent or limit of Congressional authority over the territories, it is clear that no individual state has the right to pass any law or authorize any act concerning or affecting the territories, which it might not enact in reference to any other state.

"It is a well-settled principle of constitutional law in this country, that while all the states of the Union are united in one for certain purposes, yet each state, in respect to everything which affects its domestic policy and internal concerns, stands in the relation of a foreign power to every other state.

"Hence no state has a right to pass any law, or do or authorize any act, with a view to influence or change the domestic policy of any other state or territory of the Union, more than it would with reference to France or England, or any other foreign state with which we are at peace. Indeed, every state of this Union is under higher obligations to observe a friendly forbearance and generous comity towards each other member of the confederacy than the laws of nations can impose on foreign states.

"If our obligations arising under the laws of nations are so imperative as to make it our duty to enact neutrality laws, and to exert the whole power and authority of the executive branch of the government, including the army and navy, to enforce them, in restraining our citizens from interfering with the internal concerns of foreign states, can the obligations of each state and territory of this Union be less imperative under the Federal Constitution to observe entire neutrality in respect to the domestic institutions of the several states and territories?"

The committee then entered into a history of General Whitfield's election to Congress on the 29th of Nov., 1854, which was secured, says the report, by the votes of men of all parties who were in favor of the principles of the Kansas-Nebraska act, and opposed to placing the political destinies of the territory in the keeping of the Abolition party of the Northern states, to be managed through the machinery of their emigrant aid companies. No sooner was the result of the election known, than the defeated party proclaimed, throughout the length and breadth of the republic, that it had been produced by the invasion of the territory by a Missouri mob, which had overawed and outnumbered and outvoted the bona-fide settlers of the territory.

This election, the report shows, was held in pursuance of a proclamation issued by Gov. Reeder, prescribing the manner and mode of holding the same.

It nowhere appears that General Whitfield's right to a seat by virtue of that election was ever contested. It does not appear that "ten qualified voters of the territory" were ever found who were willing to make the "written statement directed to the governor, with an affidavit" of one or more qualified voters to the "truth of the facts therein stated," to "dispute the fairness or correctness of the returns," or to "set forth specific cause of complaint or errors in the conducting or returning of the election" in any one of the seventeen districts of the territory. Certain it is, that there could not have been a system of fraud and violence such as has been charged by the agents and supporters of the emigrant aid societies, unless the governor and judges of

election were parties to it; and your committee are not prepared to assume a fact, so disreputable to them, and so improbable upon the state of facts presented, without specific charges and direct proof. In the absence of all proof and probable truth, the charge that the Missourians had invaded the territory and controlled the Congressional election by fraud and violence, was circulated throughout the free states, and made the basis of the most inflammatory appeals to all men opposed to the principles of the Kansas-Nebraska act to emigrate or send emigrants to Kansas for the purpose of repelling the invaders, and assisting their friends who were then in the territory in putting down the slave power, and prohibiting slavery in Kansas, with the view of making it a free state. Exaggerated accounts of the large number of emigrants on their way under the auspices of the emigrant aid companies with the view of controlling the election for members of the territorial legislature, which was to take place on the 30th of March, 1855, were published and circulated. These accounts being republished and believed in Missouri, where the excitement had already been inflamed to a fearful intensity, induced a corresponding effort to send at least an equal number, to counteract the apprehended result of this new importation.

The election was held in obedience to the proclamation of the governor of the territory, which prescribed the mode of proceeding, the form of the oath and returns, the precautionary safeguards against illegal voting, and the mode of contesting the election, which were, in substance, the same as those already referred to in connexion with the Congressional election. When the period arrived for the governor to canvass the returns, and issue certificates to the persons elected, it appeared that protests had been filed against the fairness of the proceedings and the correctness of the returns, in seven out of the eighteen election districts into which the territory had been divided, for election purposes, alleging fraudulent and illegal voting by persons who were not actual settlers and qualified voters of the territory. It also appears that in some of these contested cases the form of the oath administered to the judges, and of the returns made by them, were not in conformity to the proclamation of the governor. After a careful investigation of the facts of each case, as presented by the returns of the judges, and the protests and allegations of all persons who disputed the fairness of the election and the correctness of the returns, the governor came to the conclusion that it was his duty to set aside the election in these seven disputed districts, the effect of which was, to create two vacancies in the Council, and nine in the House of Representatives of the territory, to be filled by a new election; and to change the result so far as to cause the certificate for one councilman and one representative to issue to different persons than those returned as elected by the judges. Accordingly the governor issued his writs for special elections, to be held on the 24th of May, to fill those vacancies, and, at the same time, granted certificates of election to eleven councilmen and seventeen representatives, whose election had not been contested, and whom he adjudged to have been fairly elected. At the special election to fill these vacancies, three of the persons whose election on the 30th of March had been set aside for the reasons already stated, were re-elected, and in the other districts different persons were returned; and the governor having adjudged them to have been duly elected, accordingly granted them certificates of election; thus making the full complement of thirteen councilmen and twenty-six representatives, of whom, by the organic law of the territory, the legislature was to be composed. On the 17th day of April the governor issued his proclamation, summoning these thirteen councilmen and twenty-six representatives, whom he had commissioned as having been fairly elected, to assemble at Pawnee City on the 2d day of July, and organize as the legislature of the territory of Kansas.

It appears from the journal that the two houses did assemble, in obedience to the governor's proclamation, at the time and place appointed by him, and, after the oath of office had been duly administered by one of the judges of the Supreme Court of the territory to each of the members who held the governor's certificate, proceeded to organize their respective houses by the election of their officers; and each notified the other, by resolution, that they were thus duly organized. Also, by joint resolution, appointed a committee who waited on the governor, and informed him that "the two houses of the Kansas legislature are organized, and are now ready to proceed to business, and to receive" such communication as he may deem necessary.

In response to this joint resolution, "a message from the governor, by Mr. Higgins, his private secretary, transmitting his message, was received, and ordered to be read."

The message commences thus:—"To the Honorable the Council and House of Representatives of the Territory of Kansas," &c., &c.

From this message, as well as from all the official acts of the governor preceding it, having reference to the election and return of the members and the convening of the two houses for legislative business, the conclusion is irresistible, that up to this period of time the governor had never conceived the idea—if, indeed, he has since entertained it—that the two houses were spurious and fraudulent assemblies, having no rightful authority to pass laws which would be binding upon the people of Kansas. On the first day of the session, and immediately after the organization of the house was effected, the following resolution was adopted:

"Resolved, That all persons who may desire to contest the seats of any persons now holding certificates of election as members of this house, may present their protests to the committee on credentials, and that notice thereof shall be given to the persons holding such certificates."

[The committee then entered into a history of the contested seats in the legislature, and the difference between that body and the governor, as to which was the judge of the qualification of the members.

The removal of the seat of government to the Shawnee Manual Labor School, showing that Governor Reeder in all his disputes with the legislature, whilst denying their right to do thus and so, never regarded them as otherwise than as the regularly constituted legislature of Kansas.

The suspension of intercourse between Governor Reeder and the legislature after their removal to the Shawnee Mission, on the ground that they were not a valid legislature in session, as it was in a place in which he contended it had no right to sit, is then treated in the Report.]

On the 16th of August, the journal of the House of Representatives says:

"The following message was received from Governor A. H. Reeder, by Mr. Lowry, his private secretary:

"To the honorable the members of the Council and House of Representatives of the Territory of Kansas.

"GENTLEMEN: Although, in my message to your bodies under date of the 21st instant, [ult.,] I stated that I was unable to convince myself of the legality of your session at this place, for reasons then given, and although that opinion still remains unchanged, yet, inasmuch as my reasons were not satisfactory to your body, and the bills passed by your houses have been up to this time sent to me for approval, it is proper that I should inform you that after your adjournment of yesterday I received official notification that my functions as Governor of the Territory of Kansas were terminated. No successor having arrived, Secretary Woodson will of course perform the duties of the office as acting governor. A. H. REEDER."

Inasmuch as Governor Reeder dissolved his official relations with the legislature, and denied the validity of their acts, solely upon the ground that they were enacted in the wrong place, it becomes material to inquire whether it was competent for them, under the organic act, to remove the seat of government temporarily from "Pawnee City" to the Shawnee Mission. The 24th section of the organic act provides "that the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act."

That the location of the seat of government, and the changing of the same whenever the public interests and convenience may require it, is a "rightful subject of legislation," is too plain to admit of argument; hence the power is clearly included in this general grant, and may be exercised at pleasure by the legislature, unless it shall be made to appear that Congress, by some other provision, has imposed restrictions or conditions upon its exercise.

The thirty-first section of the organic act provides "that the temporary seat of government of said territory is hereby located at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the governor and Legislative Assembly, for such public purposes as may be required under the provisions of this act;" and the twenty-second section of the same act provides that "the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the governor shall appoint" for the first meeting. These two provisions, being parts of the same act, and having reference to the same subject-matter, must be taken together, and receive such a construction as will give full effect to each, and not render either nugatory. While, therefore, the governor was authorized to convene the legislature, in the first instance, at such place as he should appoint, still he was required, by that provision which made Fort Leavenworth the temporary seat of government, with the view of using some of the public buildings, to designate as the place some one of the public buildings within the military reservation of Fort Leavenworth. Had not Congress, in the meantime, interposed and changed the law, as here presented, the governor would not have been authorized to have convened the legislature at "Pawnee City," or at any other place in the territory than some one of the public buildings at Fort Leavenworth, as provided in the organic act.

In view of the fact that the Secretary of War had intimated an opinion that all of the public buildings at Fort Leavenworth were needed for military purposes, and that the location of the seat of government, even temporarily, within the lines of a military reservation, where the military law must necessarily prevail, would be inconvenient if not injurious to the public service, the following provision was adopted in the appropriation bill of the 5th of Aug., 1854, for the purpose of enabling the governor to erect buildings for the temporary seat of government at some more suitable and convenient point in the territory:—

"That in the event that the Secretary of War shall deem it inconsistent with the interest of the military service to furnish a sufficient portion of the military buildings at Fort Leavenworth for the use of the territorial government of Kansas, the sum of twenty-five thousand dollars shall be, and in that contingency is hereby appropriated, for the erection of public buildings for the use of the legislature of the territory of Kansas, to be expended under the direction of the governor of said territory."

Under this provision, taken in connexion with that clause of the organic act which authorized the governor to convene the legislature at such place as he should appoint, he would have had the right to establish the temporary seat of government and erect the public buildings at Pawnee City, or any other place he might have selected in the territory, instead of Fort Leavenworth, but for the fact that on the 3d of March, 1855, and before any portion of the money had been expended, or even the site selected, Congress made a further appropriation of twenty-five thousand dollars for public buildings, with the proviso "that said money, or any part thereof, or any portion of the money heretofore appropriated for this purpose, shall not be expended until the legislature of said territory shall have fixed by law the permanent seat of govern-

ment." This provision did not confer upon the legislature any power in respect to the location of the seat of government, either temporarily or permanently, which it did not previously possess; for the general grant, extending to all "rightful objects of legislation," necessarily included the right to determine the place of holding its sessions. The object as well as legal effect of this provision, was to restrain the governor from expending the appropriation until the voice of the people of Kansas should be expressed, through their legislature, in the selection of the place, leaving the governor to perform his whole duty under the 22d section of the organic act, by appointing the place and day of the first meeting of the legislature, and of expending the money appropriated by Congress for the erection of public buildings, at such place as the legislature should designate for the permanent seat of government of the territory.

Under this view of the subject, it is evident that the legislature was clothed with legitimate authority to enact the law in obedience to which its session was adjourned from Pawnee City to Shawnee Mission, and that its enactments, made at the latter place, must have the same force and validity that they would have possessed had not the removal taken place.

Your committee have not considered it any part of their duty to examine and review each enactment and provision of the large volume of laws adopted by the legislature of Kansas upon almost every rightful subject of legislation, and affecting nearly every relation and interest in life, with a view either to their approval or disapproval by Congress, for the reason that they are local laws, confined in their operation to the internal concerns of the territory, the control and management of which, by the principles of the Federal Constitution, as well as by the very terms of the Kansas-Nebraska act, are confided to the people of the territory, to be determined by themselves through their representatives in their local legislature, and not by the Congress, in which they have no representatives, to give or withhold their assent to the laws upon which their rights and liberties may all depend. Under these laws marriages have taken place, children have been born, deaths have occurred, estates have been distributed, contracts have been made, and rights have accrued which it is not competent for Congress to divest. If there can be a doubt in respect to the validity of these laws, growing out of the alleged irregularity of the election of the members of the legislature, or the lawfulness of the place where its sessions were held, which it is competent for any tribunal to inquire into, with a view to its decision at this day, and after the series of events which have ensued, it must be a judicial question, over which Congress can have no control, and which can be determined only by the courts of justice, under the protection and sanction of the Constitution.

When it was proposed in the last Congress to annul the acts of the Legislative Assembly of Minnesota, incorporating certain railroad companies, this committee reported against the proposition, and, instead of annulling the local legislation of the territory, recommended the repeal of that clause of the organic act of Minnesota which reserves to Congress the right to disapprove its laws. That recommendation was based on the theory that the people of the territory, being citizens of the United States, were entitled to the privilege of self-government in obedience to the Constitution; and if, in the exercise of this right, they had made wise and just laws, they ought to be permitted to enjoy all the advantages resulting from them: while, on the contrary, if they had made unwise and unjust laws, they should abide the consequences of their own acts until they discovered, acknowledged, and corrected their errors.

It has been alleged that gross misrepresentations have been made in respect to the character of the laws enacted by the legislature of Kansas, calculated, if not designed, to prejudice the public mind at a distance against those who enacted them, and to create the impression that it was the duty of Congress to interfere and annul them. In view of the violent and insurrectionary measures which were being taken to resist the laws of the territory, a convention of delegates, representing almost every portion of the territory of Kansas, was held at the city of Leavenworth on the 14th of Nov., 1855, at which men of all shades of political opinions, "Whigs, Democrats, Pro-slavery men, and Free-state men, all met and harmonized together, and forgot their former differences in the common danger that seemed to threaten the peace, good order, and prosperity of this community." This convention was presided over by the governor of the territory, assisted by a majority of the judges of the Supreme Court; and the address to the citizens of the United States, among other distinguished names, bears the signatures of the United States district attorney and marshal for the territory.

[The committee then quote from an address of said meeting in explanation of said laws.]

A few days after Governor Reeder dissolved his official relations with the legislature, on account of the removal of the seat of government, and while that body was still in session, a meeting was called by "many voters," to assemble at Lawrence on the 14th or 15th of August, 1855, "to take into consideration the propriety of calling a territorial convention, preliminary to the formation of a state government, and other subjects of public interest." At that meeting the following preamble and resolutions were adopted with but one dissenting voice:—

"Whereas the people of Kansas territory have been since its settlement, and now are, without any law-making power: therefore,

"Be it resolved, That we, the people of Kansas territory, in mass meeting assembled, irrespective of party distinctions, influenced by a common necessity, and greatly desirous of

promoting the common good, do hereby call upon and request all *bona fide* citizens of Kansas territory, of whatever political views or predilections, to consult together in their respective election districts, and, in mass convention or otherwise, elect three delegates for each representative of the Legislative Assembly, by proclamation of Governor Reeder of date 10th March, 1855; said delegates to assemble in convention at the town of Topeka, on the 19th day of September, 1855, then and there to consider and determine upon all subjects of public interest, and particularly upon that having reference to the speedy formation of a state constitution, with an intention of an immediate application to be admitted as a state into the Union of the United States of America."

This meeting, so far as your committee have been able to ascertain, was the first step in that series of proceedings which resulted in the adoption of a constitution and state government, to be put in operation on the 4th of the present month, in subversion of the territorial government established under the authority of Congress. The right to set up the state government in defiance of the constituted authorities of the territory, is based on the assumption "that the people of Kansas territory have been since its settlement, and now are, without any law-making power;" in the face of the well known fact, that the territorial legislature were then in session, in pursuance of the proclamation of Governor Reeder and the organic law of the territory. On the 5th of September, a "territorial delegate convention" assembled at the Big Springs, "to take into consideration the present exigencies of political affairs," at which, among others, the following resolutions were adopted:—

"Resolved, That this convention, in view of its recent repudiation of the acts of the so-called Kansas Legislative Assembly, respond most heartily to the call made by the people's convention of the 14th ultimo, for a delegate convention of the people of Kansas, to be held at Topeka on the 19th instant, to consider the propriety of the formation of a state constitution, and such matters as may legitimately come before it.

"Resolved, That we owe no allegiance or obedience to the tyrannical enactments of this spurious legislature; that their laws have no validity or binding force upon the people of Kansas; and that every freeman among us is at full liberty, consistently with his obligations as a citizen and a man, to defy and resist them if he choose so to do.

"Resolved, That we will endure and submit to these laws no longer than the best interests of the territory require, as the least of two evils, and will resist them to a bloody issue as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success; and that in the meantime we recommend to our friends throughout the territory the organization and discipline of volunteer companies, and the procurement and preparation of arms."

With the view to a distinct understanding of the meaning of so much of this resolution as relates to the "organization and discipline of volunteer companies, and the procurement and preparation of arms," it may be necessary to state that there was at that time existing in the territory a secret military organization, which had been formed for political objects prior to the alleged invasion, at the election on the 30th of March, and which held its first "grand encampment at Lawrence, Feb. 8, 1855." Your committee have been put in possession of a small printed pamphlet, containing the "constitution and ritual of the grand encampment and regiment; of the Kansas legion of Kansas territory, adopted April 4, 1855," which, during the recent disturbances in that territory, was taken on the person of one George Warren, who attempted to conceal and destroy the same by thrusting it into his mouth, and biting and chewing it. Although somewhat mutilated by the "tooth prints," it bears internal evidence of being a genuine document, authenticated by the original signatures of "G. W. Hutchinson, grand general," and "J. K. Goodwin, grand quartermaster." On the last page was a charter of the Kansas legion, authorizing the said George Warren, from whose mouth the document was taken, to form a new regiment.

[The committee here quote from the charter largely. Amongst other things, is] the process of initiating new recruits, who are properly vouched for by members of the order, the preliminary obligations to observe secrecy, the catechism to which the candidate is subjected, and the explanations of the colonel in respect to the objects of the order, which are thus stated:

"First, to secure to Kansas the blessing and prosperity of being a free state; and, secondly, to protect the ballot-box from the leprous touch of unprincipled men."

These and all other questions being satisfactorily answered, the final oath is thus administered:

"With these explanations upon our part, we shall ask of you that you take with us an obligation placing yourself in the same attitude as before.

"OBLIGATION.

"I, ——— ———, in the most solemn manner, here, in the presence of Heaven and these witnesses, bind myself that I will never reveal, nor cause to be revealed, either by word, look, or sign, by writing, printing, engraving, painting, or in any manner whatsoever, anything pertaining to this institution, save to persons duly qualified to receive the same. I will never reveal the nature of the organization, the place of meeting, the fact that any person is a member of the same, or even the existence of the organization, except to persons legally qualified to receive the same. Should I at any time withdraw, or be suspended or expelled from this organization, I will keep this obligation to the end of life. If any books, papers, or moneys belonging to this organization be intrusted to my care or keeping, I will faithfully and completely deliver up the same to my successor in office, or any one legally authorized to receive them. I will never knowingly propose a person for membership in this order who is not in favor of making *Kansas a free state*, and who I feel satisfied will exert his entire influence to bring about this result. I will support, maintain, and abide by any honorable movement made by the organization to secure this great end, which will not conflict with the laws of the country and the Constitution of the United States. I will unflinchingly vote for and support the candidates nominated by this organization in preference to any and all others.

"To all of this obligation I do most solemnly promise and affirm, binding myself under the penalty of being expelled from this organization, of having my name published to the several territorial encampments as a perjurer before Heaven and a traitor to my country, of passing through life scorned and reviled by man, frowned on by devils, forsaken by angels, and abandoned by God."

The "closing ceremony" is as follows:

"*[Colonel.]* Fellow-soldiers: I trust this review has been both pleasant and profitable to all. We met as friends; let us part as brothers, remembering that we seek no wrong to any; and our bond of union in battling for the right must tend to make us better men, better neighbors, and better citizens. We thank you for your kindness and attention, and invite you all to be present at our next review, to be holden at ——, on —— next, at —— o'clock, P. M. Sentinels, you will open the doors, that our soldiers may retire pleasantly and in order."

Your committee have deemed it important to give this outline of the "constitution and ritual of the grand encampment and regiments of the Kansas legion," as constituting the secret organization, political and military, in obedience to which the public demonstrations

have been made to subvert the authority of the territorial government established by Congress, by setting up a state government, either with or without the assent of Congress, as circumstances should determine. The endorsement of this military organization, and the recommendation by the Big Springs convention for "the procurement and preparation of arms," accompanied with the distinct declaration that we "will resist them [the laws enacted by the Kansas legislature] to a bloody issue, as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success," would seem to admit of no other interpretation than that, in the event that the courts of justice shall sustain the validity of those laws, and Congress shall refuse to admit Kansas as a state with the constitution to be formed at Topeka, they will set up an independent government in defiance of the federal authority.

The same purpose is clearly indicated by the other proceedings of this convention, in which it is declared that "we with scorn repudiate the election law, so called," and they nominate Governor Reeder for Congress, to be voted for on a different day from that authorized by law, at an election to be held by judges and clerks not appointed in pursuance of any legal authority, and not to be sworn by any person authorized by law to administer oaths; and the returns to be made, and result proclaimed, and certificate granted, in a mode and by persons not permitted to perform these acts by any law, in or out of the territory.

In accepting the nomination, Governor Reeder addressed the convention as follows; and among other things, said:

"He urged the Free-State men of Kansas to forget all minor issues, and pursue determinedly the one great object, never swerving, but steadily pressing on, as did the wise men who followed the star to the manger, looking back only for fresh encouragement. He counselled that peaceful resistance be made to the tyrannical and unjust laws of the spurious legislature; that appeals to the courts, to the ballot-box, and to Congress, be made for relief from this oppressive load; that violence should be deprecated as long as a single hope of peaceable redress remained; but if, at last, all these should fail—if, in the proper tribunals, there is no hope for our dearest rights, outraged and profaned—if we are still to suffer, that corrupt men may reap harvests watered by our tears—then there is one more chance for justice. God has provided, in the eternal frame of things, redress for every wrong; and there remains to us still the steady eye and the strong arm, and we must conquer, or mingle the bodies of the oppressors with those of the oppressed upon the soil which the Declaration of Independence no longer protects. But he was not at all apprehensive that such a crisis would ever arrive. He believed that justice might be found far short of so dreadful an extremity; and, even should an appeal to arms come, it was his opinion, that if we are well prepared, that moment the victory is won."

In pursuance of the recommendation of the mass meeting held at Lawrence on the 14th of August, and endorsed by the convention held at the Big Springs on the 5th and 6th of September, a convention was held at Topeka on the 19th and 20th of September, at which it was determined to hold another convention at the same place on the fourth Tuesday of October, for the purpose of forming a constitution and state government; and to this end such proceedings were had as were deemed necessary for giving the notices conducting the election of delegates, making the returns, and assembling the convention. With regard to the regularity of these proceedings, your committee see no necessity for further criticism other than is to be found in the fact that it was the movement of a political party instead of the whole body of the people of Kansas, conducted without the sanction of law, and in defiance of the constituted authorities, for the avowed purpose of overthrowing the territorial government established by Congress.

The constitutional convention met at Topeka on the fourth Tuesday of October, and organized by electing Colonel J. H. Lane president, who, in returning his acknowledgments for the honor, repudiated the validity of the territorial legislature and its acts in these words:

"Gentlemen of the convention: For the position assigned me, accept my thanks. You have met, gentlemen, on no ordinary occasion, to accomplish no ordinary purpose. You are the first legal representatives the real settlers of Kansas have ever had. You comprise the first legally elected representative body ever assembled in the territory," &c.

Mr. Emery said: "Now, Mr. Chairman, what does this resolution contemplate? What is proposed to be done? It first proposes to supersede the present weak and inefficient territorial government, and hence it enunciates the fundamental idea of the constitutional movement. Ay, it does more. It proposes to prove into a fact the leading idea of the Declaration of Independence, the highest human authority in American politics, which is this: whenever any form of government becomes destructive of the ends for which it was instituted, it is the right of the people to alter or abolish it, and to institute a new government. It proposes to force theories of human rights into facts, to practically apply this great principle to the wants and the necessities of the down-trodden people of Kansas. I do not question this right of the people, and certainly no gentleman on this floor will disagree with me. If he does, he occupies a most extraordinary position, and consistency would suggest that he withdraw from this body. No, when we say that we will take measures to supersede and render unnecessary that *thing* now extended over us called a territorial government—when we say and maintain that we have a right, guarantied by the Constitution, to have a form of government resting on our own consent and free will, we are doing what, as American citizens, we have a right to do; we only propose to carry out the doctrine, much abused and grossly misrepresented as it has been—I mean the doctrine of squatter sovereignty, under which we are assembled here to-day, and in pursuance of the principles of which we hope to extricate ourselves from our present unhappy condition."

In reply to the advocates of immediate state organization, Mr. Delahay, of Leavenworth, said:

"Under the defined rights of squatter sovereignty, as enunciated by the Kansas-Nebraska act, it seems reasonable that the people have the right to take upon themselves the burdens of a government; but I question the right of the people of Kansas to organize a new government created by Congress. The gentleman from Lawrence [Colonel Lane] has assumed as a fundamental position, in advocating an immediate state organization, that neither government nor local law exists in this territory. Sir, I must dissent from that position. I deny, Mr. Chairman, that a territorial government can be legally abolished by the election of another government. I hold, on the contrary, and I think that my position would be supported by our highest legal authorities, that the power of a territorial government ceases only by the enactment of the body which created it; in other words, that the government and laws of Kansas can be abolished by Congress alone, and are beyond the reach of this territory, or any other power. I do not pretend to deny that, as all civil power is derived from the people, they have the moral right to abolish unjust laws, or to overthrow obnoxious governments by force; but I do question the expediency of effecting a reform in Kansas by any overt act of rebellion. For I must confess, Mr. Chairman, while I cast not the shadow of suspicion on the motives of the advocates of this measure, that from the point of view from which I regard this question, it appears to me to be an act of rebellion."

Your committee have made these voluminous

extracts from the best authenticated reports which they have been able to obtain of the proceedings of the convention, for the purpose of showing that it was distinctly understood on all sides that the adoption of the proposition for organizing the state government before the assent of Congress for the admission of the state should be obtained, was a decision in favor of repudiating the laws and overthrowing the territorial government, in defiance of the authority of Congress. By this decision, as incorporated into the schedule to the constitution, the vote on the ratification to the constitution was to be held on the 15th of December, 1855, and the election for all state officers on the third Tuesday of January, 1856. The third section of the schedule is as follows:

"The General Assembly shall meet on the 4th day of March, A. D. 1856, at the city of Topeka, at 12 m., at which time and place the governor, lieutenant-governor, secretary of state, judges of the supreme court, treasurer, auditor, state printer, reporter and clerk of supreme court, and attorney-general, shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution; and shall continue in office in the same manner, and during the same period, they would have done had they been elected on the first Monday of August, A. D. 1856."

The elections for all these officers were held at the times specified; and on the fourth day of the present month the new government was to have been put in operation, in conflict with the territorial government established by Congress, and for the avowed purpose of subverting and overthrowing the same, without reference to the action of Congress upon their application for admission into the Union.

Your committee are not aware of any case in the history of our own country which can be fairly cited as an example, much less a justification, for these extraordinary proceedings. Cases have occurred in which the inhabitants of particular territories have been permitted to form constitutions, and take the initiatory steps for the organization of state governments, preparatory to their admission into the Union, without obtaining the previous assent of Congress; but in every instance, the proceeding has originated with, and been conducted in subordination to, the authority of the local governments established or recognised by the government of the United States. Michigan, Arkansas, Florida, and California, are sometimes cited as cases in point. Michigan was erected into a territory in pursuance of the ordinance of the 13th of July, 1787, as recognised and carried into effect by acts of Congress subsequent to the adoption of the Federal Constitution. In that ordinance, it was provided that the territory northwest of the Ohio river should be divided into not less than three nor more than five states; "and whenever any of said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original states in all respects whatever, and shall be at liberty to form a permanent constitution and state government."

In pursuance of this provision of their organic law, the legislature of the territory of Michigan passed an act providing for a convention of the people to form a constitution and state government, which was accordingly done in obedience to the laws and constituted authorities of the territory. The legislature of the territory of Arkansas, having ascertained by a census that the territory contained about 51,800 inhabitants, at a time when the ratio of representation in Congress awarded one representative to each 47,700 inhabitants, passed an act authorizing the people to form a constitution and ask for admission into the Union, as they supposed they had a right to do under the treaty acquiring the territory from France, which guarantied their admission as soon as may be consistent with the Federal Constitution. Upon this point your committee adopt the legal opinion of the Attorney General of the United States (B. F. Butler), as expressed in the following extract:—

"But I am not prepared to say that all proceedings on this subject, on the part of the citizens of Arkansas, will be illegal. They undoubtedly possess the ordinary privileges and immunities of citizens of the United States. Among these is the right to assemble and to petition the government for the redress of grievances; in the exercise of this right, the inhabitants of Arkansas may peaceably meet together in primary assemblies, or in conventions chosen by such assemblies, for the purpose of petitioning Congress to abrogate the territorial government, and to admit them into the Union as an independent state. The particular form which they may give to their petition cannot be material, so long as they confine themselves to the mere right of petitioning, and conduct all their proceedings in a peaceable manner. And as the power of Congress over the whole subject is plenary and unlimited, they may accept any constitution, however framed, which in their judgment meets the sense of the people to be affected by it. If, therefore, the citizens of Arkansas think proper to accompany their petition with a written constitution, framed and agreed on by their primary assemblies, or by a convention of delegates chosen by such assemblies, I perceive no legal objection to their power to do so, nor to any measures which may be taken to collect the sense of the people in respect to it; provided, always, that such measures be commenced and prosecuted in a peaceable manner, in strict subordination to the existing territorial government, and in entire subserviency to the power of Congress to adopt, reject, or disregard them at their pleasure.

"It is, however, very obvious, that all measures commenced and prosecuted with a design to subvert the territorial government, and to establish and put in force in its place a new government, without the consent of Congress, will be unlawful. The laws establishing the territorial government must continue in force until abrogated by Congress; and, in the mean time, it will be the duty of the governor, and of all the territorial officers, as well as of the President, to take care that they are faithfully executed."

On the 11th day of January, 1839, a committee of the constitutional convention of Florida addressed a memorial to Congress, in which they state that in 1837 the territorial council passed a law submitting to the people the question of "state" or "territory," to be decided at the election of delegate to Congress in the month of May of that year; that a decided majority of the suffrages given at that election was in favor of "state;" that the legislative council of 1838, in obedience to the expressed wishes of the people, enacted a law authorizing the holding of a convention to form and adopt a state constitution; that the convention assembled on the 3d of December, 1838, and continued in session until the 11th of January, 1839; and that, on behalf of the

people of Florida, they transmit the "constitution, or form of government," and ask for admission into the Union. It is also stated in the memorial that in 1838 a census of the territory was taken, in obedience to a law passed by the territorial council, and that this census, although taken during the ravages of Indian hostilities, when a large portion of the inhabitants could not be found at home, showed an aggregate population of 48,223 persons, which the memorialists insisted furnished satisfactory assurance of a sufficient population to entitle them to admission, according to the treaty acquiring the country from Spain, and the then ratio of representation, which awarded a member of Congress to each 47,700 inhabitants. Congress failing to yield its assent to the admission of Florida for more than six years after this constitution was formed and application made, the people of Florida during all that period remained loyal to the territorial government and obedient to its laws, and did not assume the right to supersede the existing government by putting into operation a state government until the assent of Congress was obtained in 1845.

The circumstances connected with the formation of the constitution and state government of California are peculiar. During the Mexican war the country was conquered and occupied by our troops, and the civil government was administered by the military authorities under the war power. According to an official communication of General Persifor F. Smith, acting governor of California, to a committtee of citizens of San Francisco, under date of March 27, 1849, withholding his "recognition and concurrenee" in their proposition "to organize a Legislative Assembly, and to appoint judges and other ministerial officers, and to enact suitable laws to establish principles of justice and equity, and to give protection to life, liberty, and property," it appears that the President of the United States (Mr. Polk) and his cabinet officially promulgated the following opinions as the decision of the executive on the points stated:—

1. That at the conclusion of the treaty with Mexico, on the 30th of May, 1848, the military government existing in California was a government de facto.

2. That it, of necessity, continue until Congress provide another; because, if it cease, anarchy must ensue: thus inferring that no power but Congress can establish any government.

It also appears, from the proclamation of General Riley, acting governor, to the people of California, dated June 3, 1849, that a government de facto was constituted as follows:—

"A brief summary of the organization of the present government may not be uninteresting. It consists—First, of a governor appointed by the supreme government; in default of such appointment, the office is temporarily vested in the commanding military officer of the department. The powers and duties of the governor are of a limited character, but fully defined and pointed out by the laws. Second, a secretary, whose duties and powers are also properly defined. Third, a territorial or departmental legislature, with limited powers to pass laws of a local character. Fourth, a superior court (tribunal superior) of the territory, consisting of four judges and a fiscal. Fifth, a prefect and sub-prefects for each district, who are charged with the preservation of the public order and the execution of the laws; their duties correspond, in a great measure, with those of district marshals and sheriffs. Sixth, a judge of first instance, for each district. This office is, by a custom not inconsistent with the laws, vested in the first alcalde of the district. Seventh, alcaldes, who have concurrent jurisdiction among themselves in the same district, but are subordinate to the higher judicial tribunals. Eighth, local justices of the peace. Ninth, ayuntamientos, or town councils. The powers and functions of all these officers are fully defined in the laws of the country, and are almost identical with those of the corresponding officers in the Atlantic and Western States."

On the 3d of April, 1849, President Taylor appointed Thomas Butler King agent, for the purpose of conveying important instructions to our military and naval commanders who were intrusted with the administration of the civil government de facto in California, and to make known to the people his opinions and wishes in respect to the formation of a constitution and state government preparatory to their admission into the Union. What these opinions and wishes were, are distinctly stated by the President in the following extract from his special message to Congress on the 23d of January, 1850:—

"I did not hesitate to express to the people of those territories my desire that each territory should, if prepared to comply with the requisitions of the Constitution of the United States, form a plan of a state constitution, and submit the same to Congress, with a prayer for admission into the Union as a state; but I did not anticipate, suggest, or authorize the establishment of any such government without the assent of Congress; nor did I authorize any government agent or officer to interfere with or exercise any influence or control over the election of delegates, or over any convention, in making or modifying their domestic institutions, or any of the provisions of their proposed constitution. On the contrary, the instructions by my orders were, that all measures of domestic policy adopted by the people of California must originate solely with themselves; that, while the Executive of the United States was desirous to protect them in the formation of any government republican in its character, to be at the proper time submitted to Congress, yet it was to be distinctly understood that the plan of such a government must, at the same time, be the result of their own deliberate choice, and originate with themselves, without the interference of the Executive."

On the 30th of June, 1850, General Riley, in his capacity as civil governor of California, reports to the government at Washington that—

"On the 3d instant I issued my proclamation to the people of California, defining what was understood to be the legal position of affairs here, and pointing out the course it was deemed advisable to pursue in order to procure a new political organization, better adapted to the character and present condition of the country. The course indicated in my proclamation will be adopted by the people, almost unanimously; and there is now little or no doubt that the convention will meet on the first of September next, and form a state constitution, to be submitted to Congress in the early part of the coming session.

"A few prefer a territorial organization, but I think a majority will be in favor of a state government, so as to avoid all further difficulties respecting the question of slavery. This question will probably be submitted, together with the constitution, to a direct vote of the people, in order that the wishes of the people of California may be clearly and fully expressed. Of course, the constitution or plan of a territorial government formed by this convention can have no legal force till approved by Congress."

On the 12th day of October, General Riley, acting governor, issued the following proclamation:—

"*To the People of California.*

"The delegates of the people, assembled in convention, have formed a constitution which is now presented for your ratification. The time and manner of voting on this constitution, and of holding the first general election, are

clearly set forth in the schedule. The whole subject is therefore left for your unbiassed and deliberate consideration.

"The prefect (or person exercising the functions of that office) of each district will designate the places for opening the polls, and give due notice of the election, in accordance with the provisions of the constitution and schedule.

"The people are now called upon to form a government for themselves, and to designate such officers as they desire to make and execute the laws. That their choice may be wisely made, and that the government so organized may secure the permanent welfare and happiness of the people of the new state, is the sincere and earnest wish of the present executive, who, if the constitution be ratified, will with pleasure surrender his powers to whomsoever the people may designate as his successor.

"Given at Monterey, California, this twelfth day of October, in the year of our Lord eighteen hundred and forty-nine.

"B. RILEY,
"Brevet Brig. Gen. U. S. A., and Governor of California.
"Official: "H. W. HALLECK,
"Brevet Captain and Secretary of State."

These facts and official papers prove conclusively that the proposition to the people of California to hold a convention and organize a state government originated with, and that all the proceedings were had in subordination to, the authority and supremacy of the existing local government of the territory, under the advice and with the approval of the executive government of the United States. Hence the action of the people of California in forming their constitution and state government, and of Congress in admitting the state into the Union, cannot be cited, with the least show of justice or fairness, in justification or palliation of the revolutionary movements to subvert the government which Congress has established in Kansas.

Nor can the insurgents derive aid or comfort from the position assumed by either party to the unfortunate controversy which arose in the state of Rhode Island a few years ago, when an effort was made to change the organic law, and set up a state government in opposition to the one then in existence, under the charter granted by Charles the Second of England. Those who were engaged in that unsuccessful struggle assumed, as fundamental truths in our system of government, that Rhode Island was a sovereign state in all that pertained to her internal affairs; that the right to change their organic law was an essential attribute of sovereignty; that, inasmuch as the charter under which the existing government was organized contained no provision for changing or amending the same, and the people had not delegated that right to the legislature or any other tribunal, it followed, as a matter of course, that they had retained it, and were at liberty to exercise it in such manner as to them should seem wise, just, and proper.

Without deeming it necessary to express any opinion on this occasion in reference to the merits of that controversy, it is evident that the principles upon which it was conducted are not involved in the revolutionary struggle now going on in Kansas; for the reason, that the sovereignty of a territory remains in abeyance, suspended in the United States, in trust for the people, until they shall be admitted into the Union as a state. In the mean time they are entitled to enjoy and exercise all the privileges and rights of self-government, in subordination to the Constitution of the United States, and in obedience to their organic law passed by Congress in pursuance of that instrument. These rights and privileges are all derived from the constitution through the act of Congress, and must be exercised and enjoyed in subjection to all the limitations and restrictions which that constitution imposes. Hence, it is clear that the people of the territory have no inherent sovereign right under the Constitution of the United States to annul the laws and resist the authority of the territorial government which Congress has established in obedience to the Constitution.

It now only remains for your committee to respond to the two specific recommendations of the President in his special message. They are as follows:—

"This, it seems to me, can be best accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a state, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus prepare, through regular and lawful means, for its admission into the Union as a state. I respectfully recommend the enactment of a law to that effect.

"I recommend, also, that a special appropriation be made to defray any expense which may become requisite in the execution of the laws or the maintenance of public order in the territory of Kansas."

In compliance with the first recommendation, your committee ask leave to report a bill authorizing the legislature of the territory to provide by law for the election of delegates by the people, and the assembling of a convention to form a constitution and state government, preparatory to their admission into the Union on an equal footing with the original states, as soon as it shall appear, by a census to be taken under the direction of the governor, by the authority of the legislature, that the territory contains ninety-three thousand four hundred and twenty inhabitants—that being the number required by the present ratio of representation for a member of Congress.

In compliance with the other recommendation, your committee propose to offer to the appropriation bill an amendment appropriating such sum as shall be found necessary, by the estimates to be obtained, for the purpose indicated in the recommendation of the President.

All of which is respectfully submitted to the Senate by your committee.

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Minority Report of the Senate Committee on Territories, made March 12, 1856, by Judge COLLAMER, of Vermont.

Views of the minority of the Committee on Territories, to whom was referred so much of the annual message of the President as relates to territorial affairs, the message of the President of 24th January in relation to Kansas territory, and the message of the President of the 18th February, in answer to the resolution of the Senate of the 4th February, relative to the affairs in Kansas.

Thirteen of the present prosperous states of this Union passed through the period of apprenticeship or pupilage of territorial training, under the guardianship of Congress, pre-

paratory to assuming their proud rank of manhood as sovereign and independent states. This period of their pupilage was, in every case, a period of the good offices of parent and child, in the kind relationship sustained between the national and the territorial government, and may be remembered with feelings of gratitude and pride. We have fallen on different times. A territory of our government is now convulsed with violence and discord, and the whole family of our nation is in a state of excitement and anxiety. The national executive power is put in motion, the army in requisition, and Congress is invoked for interference.

In this case, as in all others of difficulty, it becomes necessary to inquire what is the true *cause* of existing trouble, in order to apply effectual cure. It is but temporary palliatives to deal with the external and more obvious manifestations and developments, while the real, procuring cause lies unattended to, and uncorrected, and unremoved.

It is said that organized opposition to law exists in Kansas. That, if existing, may probably be suppressed by the President, by the use of the army; and so, too, may invasions by armed bodies from Missouri, if the executive be sincere in its efforts; but when this is done, while the cause of trouble remains, the results will continue with renewed and increased developments of danger.

Let us, then, look fairly and undisguisedly at this subject, in its true character and history. Wherein does this Kansas territory differ from all our other territories, which have been so peacefully and successfully carried through, and been developed into the manhood of independent states? Can that difference account for existing troubles? Can that difference, as a cause of trouble, be removed?

The first and great point of difference between the territorial government of Kansas and that of the thirteen territorial governments before mentioned, consists in the subject of slavery, the undoubted cause of present trouble.

The action of Congress in relation to all those thirteen territories was conducted on a uniform and prudent principle, to wit: To settle, by a clear provision, the law in relation to the subject of slavery to be operative in the territory, while it remained such; not leaving it in any one of those cases to be a subject of controversy within the same, while in the plastic gristle of its youth. This was done by Congress in the exercise of the same power which moulded the form of their organic laws, and appointed their executive and judiciary, and sometimes their legislative officers. It was the power provided in the Constitution, in these words: "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." Settling the subject of slavery while the country remained a territory, was no higher exercise of power in Congress than the regulation of the functions of the territorial government, and actually appointing its principal functionaries. This practice commenced with this national government, and was continued, with uninterrupted uniformity, for more than sixty years. This practical contemporaneous construction of the constitutional power of this government is too clear to leave room for doubt, or opportunity for scepticism. The peace, prosperity, and success, which attended this course, and the results which have ensued, in the formation and admission of the thirteen states therefrom, are most conclusive and satisfactory evidence, also, of the wisdom and prudence with which this power was exercised. Deluded must be that people who, in the pursuit of plausible theories, become deaf to the lessons and blind to the results of their own experience.

Let us next inquire by what rule of uniformity Congress was governed, in the exercise of this power of determining the condition of each territory as to slavery, while remaining a territory, as manifested in those thirteen instances. An examination of our history will show that this was not done from time to time by agitation and local or party triumphs in Congress. The rule pursued was uniform and clear; and whoever may have lost by it, peace and prosperity have been gained. That rule was this:

Where slavery was actually existing in a country to any considerable or general extent, it was (though somewhat modified as to further importation in some instances, as in Mississippi and Orleans territories) suffered to remain. The fact that it had been taken and existed there was taken as an indication of its adaptation and local utility. Where slavery did not in fact exist to any appreciable extent, the same was, by Congress, expressly prohibited; so that in either case the country settled up without difficulty or doubt as to the character of its institutions. In no instance was this difficult and disturbing subject left to the people who had and who might settle in the territory, to be there an everlasting bone of contention, so long as the territorial government should continue. It was ever regarded, too, as a subject in which the whole country had an interest, and, therefore, improper for local legislation.

And though, whenever the people of a territory come to form their own organic law, as an independent state, they would, either before or after their admission as a state, form and mould their institutions, as a sovereign state, in their own way, yet it must be expected, and has always proved true, that the state has taken the character her pupilage has prepared her for, as well in respect to slavery as in other respects. Hence, six of the thirteen states are free states, because slavery was prohibited in them by Congress while territories, to wit: Ohio, Indiana, Illinois, Michigan, Wisconsin, and Iowa. Seven of the thirteen are slaveholding states, because slavery was allowed in them by Congress

while they were territories, to wit: Tennessee, Alabama, Mississippi, Florida, Louisiana, Arkansas, and Missouri.

On the 6th of March, A. D. 1820, was passed by Congress the act preparatory to the admission of the state of Missouri into the Union. Much controversy and discussion arose on the question whether a prohibition of slavery within said state should be inserted, and it resulted in this: that said state should be admitted without such prohibition, but that slavery should be for ever prohibited in the rest of that country ceded to us by France lying north of 36° 30′ north latitude, and it was so done. This contract is known as the Missouri compromise. Under this arrangement, Missouri was admitted as a slaveholding state, the same having been a slaveholding territory. Arkansas, south of the line, was formed into a territory, and slavery allowed therein, and afterwards admitted as a slaveholding state. Iowa was made a territory, north of the line, and, under the operation of the law, was settled up without slaves, and admitted as a free state. The country now making the territories of Kansas and Nebraska, in 1820, was almost or entirely uninhabited, and lay north of said line, and whatever settlers entered the same before 1854 did so under that law, for ever forbidding slavery therein.

In 1854, Congress passed an act establishing two new territories—Nebraska and Kansas—in this region of country, where slavery had been prohibited for more than thirty years; and, instead of leaving said laws against slavery in operation, or prohibiting or expressly allowing or establishing slavery, Congress left the subject in said territories to be discussed, agitated, and legislated on, from time to time, and the elections in said territories to be conducted with reference to that subject, from year to year, so long as they should remain territories; for, whatever laws might be passed by the territorial legislatures on this subject, must be subject to change or repeal by those of the succeeding years. In most former territorial governments, it was provided by law that their laws were subject to the revision of Congress, so that they would be made with caution. In these territories, that was omitted.

The provision in relation to slavery in Nebraska and Kansas, is as follows: "The eighth section of the act preparatory to the admission of Missouri into the Union (which being inconsistent with the principle of non-intervention by Congress with slavery in the states and territories, as required by the legislation of 1850, commonly called the Compromise Measures) is hereby declared inoperative and void; it being the true intent and meaning of this act, not to legislate slavery into said territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: Provided, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

Thus it was promulgated to the people of this whole country, that here was a clear field for competition—an open course for the race of rivalship; the goal of which was, the ultimate establishment of a sovereign state; and the prize, the reward of everlasting liberty and its institutions on the one hand, or the perpetuity of slavery and its concomitants on the other. It is the obvious duty of this government, while this law continues, to see this manifesto faithfully and honorably and honestly performed, even though its particular supporters may see cause of a result unfavorable to their hopes.

It is further to be observed, that in the performance of this novel experiment, it was provided that all white men who became inhabitants in Kansas were entitled to vote, without regard to their time of residence, usually provided in other territories. Nor was this right of voting confined to American citizens, but included all such aliens as had declared, or would declare, on oath, their intention to become citizens. Thus was the proclamation to the world to become inhabitants of Kansas, and enlist in this great enterprise, by the force of numbers, by vote, to decide for it the great question. Was it to be expected that this great proclamation for the political tournament would be listened to with indifference and apathy? Was it prepared and presented in that spirit? Did it relate to a subject on which the people were cool or indifferent? A large part of the people of this country look on domestic slavery as "only evil, and that continually," alike to master and to slave, and to the community; to be left alone to the management or enjoyment of the people of the states where it exists, but not to be extended, more especially as it gives, or may give, political supremacy to a minority of the people of this country in the United States government. On the other hand, many of the people of another part of the United States regard slavery, if not in the abstract a blessing, at least as now existing, a condition of society best for both white and black, while they exist together; while others regard it as no evil, but as the highest state of social condition. These consider that they cannot, with safety to their interests, permit political ascendancy to be largely in the hands of those unfriendly to this peculiar institution. From these conflicting views, long and violent has been the controversy, and experience seems to show it interminable.

Many, and probably a large majority of this nation, lovers of quiet, entertained the hope that, after 1850, the so-called compromise measures, even though not satisfactory to the free states, would be kept by their supporters, and made by them what they were professed to be, a finality on the subject of the extent

and limitations of slave territory; more especially, after the assurances contained in the inaugural address of President Pierce. This hope was fortified with the consideration that at that time Congress had, by different provisions, settled by law the condition of freedom or slavery for all the territory of the United States. These hopes have been disappointed, and, from this very provision for repose has been extracted a principle for disturbing the condition of things on which its foundation of finality rested—that is, the permanence and continuance of the then existing condition of legal provisions. The establishment of the territorial governments for Utah and New Mexico, without a prohibition of slavery, was sustained by many, on the ground that no such provision was required for its exclusion, as the condition of the country and its laws were a sufficient barrier; and therefore they sustained them, because it would complete the series, and finish the provisions as to slavery in all our territory, and make an end of controversy on that subject; yet, in 1854, it was insisted by the friends and supporters of the laws of 1850, and it is actually asserted in the law establishing the territorial government of Kansas, that the laws for New Mexico and Utah being of the compromise measures, adopt and contain a principle utterly at war with their great and professed object of finality; and that, instead of completing and ending the provisions of Congressional action for the territories as to slavery, it really declared a principle which unsettled all those where slavery had been prohibited, and rendered it proper, and only proper, to declare such prohibitions all "inoperative and void." The spirit and feeling which thus perverted those compromise laws, and made them the direct instrument of renewed disturbance, could not be expected then to leave the result to the decision of the people of Kansas with entire inactivity and indifference.

The slaveholding states in 1820 secured the admission of Missouri as a slaveholding state, and all the region south of 36° 30′, to the same purpose, by agreeing and enacting that all north of that line should be for ever free; and by this they obtained only a sufficient number of votes from the free states, as counted with theirs, to adopt it. In 1850, they agreed that if New Mexico and Utah were made territories, without a prohibition of slavery, it would, with the laws already made for the rest of our territory, settle for ever the whole subject. This proposition, for such a termination, also secured votes from the free states, enough, with their own from the slaveholding states, to adopt it. In 1854, in utter disregard of these repeated contracts, both these arrangements were broken, and both these compromises disregarded, and all their provisions for freedom declared inoperative and void, by the vote of the slaveholding states, with a very few honorable exceptions, and a minority of the votes of the free states. After this extraordinary and inexcusable proceeding, it was not to be expected that the people of the slaveholding states would take no active measures to secure a favorable result by votes in the territory of Kansas. Neither could it be expected that the people of the free states, who regarded the act of 1854 as a double breach of faith, would sit down and make no effort, by legal means, to correct it.

It has been said that the repeal of this provision of the Missouri compromise, and breach of the compromise of 1850, should not be regarded as a measure of the slaveholding states, because it was presented by a senator from a free state.

The actions or votes of one or more individual men cannot give character to or be regarded as fixing a measure on their section or party. The only true or honest mode of determining whether any measure is that of any section or party is, to ascertain whether the majority of that section or party voted for it. Now, a large majority—indeed, the whole, with a few rare exceptions—of the representatives from the slaveholding states voted for that repeal. On the other hand, a majority of the representatives from the free states voted against it.

This subject of slavery in the territories, which has violently agitated the country for many years, and which has been attempted to be settled twice by compromise, as before stated, does not remain settled. The Missouri compromise and the supposed finality by the acts of 1850 are scattered and dissolved by the vote of the slaveholding states; and it is not to be disguised that this uncalled-for and disturbing measure has produced a spirit of resentment, from a feeling of its injustice, which, while the cause continues, will be difficult to allay.

This subject, then, which Congress has been unable to settle in any such way as the slave states will sustain, is now turned over to those who have or shall become inhabitants of Kansas to arrange; and all men are invited to participate in the experiment, regardless of their character, political or religious views, or place of nativity.

Now, what is the right and the duty of the people of this country in relation to this matter? Is it not the right of all who believe in the blessings of slaveholding, and regard it as the best condition of society, either to go to Kansas as inhabitants, and by their votes to help settle this good condition of that territory; or, if they cannot so go and settle, is it not their duty, by all lawful means in their power, to promote this object by inducing others like-minded to go? This right becomes a duty to all who follow their convictions. All who regard an establishment of slavery in Kansas as best for that territory, or as necessary to their own safety by the political weight it gives in the national government, should use all lawful means to secure that result; and, clearly, the inducing men to go there to become permanent inhabitants and voters, and to vote as often as the elections occur in favor

of the establishment of slavery, and thus control the elections, and preserve it a slave state for ever, is neither unlawful nor censurable. It is and would be highly praiseworthy and commendable, because it is using lawful means to carry forward honest convictions of public good. All lawfully associated effort to that end is equally commendable. Nor will the application of opprobrious epithets, and calling it propagandism, change its moral or legal character, from whatever quarter or source, official or otherwise, such epithets may come. Neither should they deter any man from peaceably performing his duty by following his honest convictions.

On the other hand, all those who have seen and realized the blessings of universal liberty, and believe that it can only be secured and promoted by the prohibition of domestic slavery, and that the elevation of honest industry can never succeed where servitude makes labor degrading, should, as in duty bound, put forth all reasonable exertions to advance this great object by lawful means, whenever permitted by the laws of their country.

When, therefore, Kansas was presented, by law, as an open field for this experiment, and all were invited to enter, it became the right and duty of all such as desired, to go there as inhabitants for the purpose, by their numbers and by their votes, lawfully cast, from time to time, to carry or control, in a legal way, the elections there for this object. This could only be lawfully effected by permanent residence, and continued and repeated effort, during the continuance of the territorial government, and permanently remaining there to form and preserve a free state constitution. All those who entertained the same sentiments, but were not disposed themselves to go, had the right and duty to use all lawful means to encourage and promote the object. If the purpose could be best effected by united efforts, by voluntary associations or corporations, or by state assistance, as proposed in some southern states, it was all equally lawful and laudable. This was not the officious intermeddling with the internal affairs of another nation, or state, or the territory of another people. The territory is the property of the nation, and is, professedly, open to the settlement and the institutions of every part of the United States. If lawful means, so extensive as to be effectual, were used to people it with a majority of inhabitants opposed to slavery, is now considered as a violation of, or an opposition to, the law establishing the territory, then the declarations and provisions of that law were but a premeditated delusion, which not only allowed such measures, but actually invited them, by enacting that the largest number of the settlers should determine the condition of the country; thus inviting efforts for numbers. Such an invitation must have been expected to produce such efforts on both sides.

It now becomes necessary to inquire what has in fact taken place. If violence has taken place, as the natural, and perhaps unavoidable, consequence of the nature of the experiment, bringing into dangerous contact and collision inflammable elements, it was the vice of a mistaken law, and immediate measures should be taken by Congress to correct such law. If force and violence have been substituted for peaceful measures there, legal provisions should be made and executed to correct all the wrong such violence has produced, and to prevent their recurrence, and thus secure a fair fulfilment of the experiment by peaceful means, as originally professed and presented in the law.

A succinct statement of the exercise and progress of the material events in Kansas is this: After the passage of this law, establishing the territory of Kansas, a large body of settlers rapidly entered into said territory, with a view to permanent inhabitancy therein. Most of these were from the free states of the West and North, who probably intended by their votes and influence to establish there a free state, agreeably to the law which invited them. Some part of those from the northern states had been encouraged and aided in this enterprise by the Emigrant Aid Society, formed in Massachusetts, which put forth some exertions in this laudable object by open and public measures, in providing facilities for transportation to all peaceable citizens who desired to become permanent settlers in said territory, and providing therein hotels, mills, &c., for the public accommodation of that new country.

The Governor of Kansas having, in pursuance of law, divided the territory into districts, and procured a census thereof, issued his proclamation for the election of a Legislative Assembly therein, to take place on the 30th day of March, 1855, and directed how the same should be conducted, and the returns made to him, agreeably to the law establishing said territory. On the day of election, large bodies of armed men from the state of Missouri appeared at the polls in most of the districts, and by most violent and tumultuous carriage and demeanor overawed the defenceless inhabitants, and by their own votes elected a large majority of the members of both Houses of said Assembly. On the returns of said election being made to the governor, protests and objections were made to him in relation to a part of said districts; and as to them, he set aside such, and such only, as by the returns appeared to be bad. In relation to others, covering, in all, a majority of the two Houses, equally vicious in fact, but apparently good by formal returns, the inhabitants thereof, borne down by said violence and intimidation, scattered and discouraged, and laboring under apprehensions of personal violence, refrained and desisted from presenting any protest to the governor in relation thereto; and he, then uninformed in relation thereto, issued certificates to the members who appeared by said formal returns to have been elected.

In relation to those districts which the governor so set aside, orders were by him issued for new elections. In one of these districts, the same proceedings were repeated by men from Missouri, and in others not, and certificates were issued to the persons elected.

This Legislative Assembly, so elected, assembled at Pawnee, on the 2d day of July, 1855, that being the time and place for holding said meeting, as fixed by the governor, by authority of law. On assembling, the said Houses proceeded to set aside and reject those members so elected on said second election, except in the district where the men from Missouri had, at said election, chosen the same persons they had elected at the said first election, and to admit all of the said first-elected members.

A Legislative Assembly, so created by military force, by a foreign invasion, in violation of the organic law, was but a usurpation. No act of its own, no act or neglect of the governor, could legalize or sanctify it. Its own decisions as to its own legality are, like its laws, but the fruits of its own usurpation, which no governor could legitimate.

They passed an act altering the place of the temporary seat of government to the Shawnee Mission, on the border, and in near proximity to Missouri. This act the governor regarded as a violation of the organic law establishing the territory, which fixed the temporary seat of government, and prohibited the Legislative Assembly from doing anything inconsistent with said act. He, therefore, and for that cause, vetoed said bill; but said Assembly repassed the same by a two-thirds majority, notwithstanding said veto, and removed to said Shawnee Mission. They then proceeded to pass laws, and the governor, in writing, declined further to recognise them as a legitimate Assembly, sitting at that place. They continued passing laws there, from the 16th day of July to the 31st day of August, 1855.

On the 15th day of August last, the governor of said territory was dismissed from office, and the duties devolved upon the secretary of the territory; and how many of the laws passed with his official approbation does not appear, the laws as now presented being without date or authentication.

As by the law of Congress organizing said territory, it was expressly provided that the people of the territory were to be "left perfectly free to form and regulate their domestic institutions in their own way," and among these institutions slavery is included, it was, of course, implied that that subject was to be open and free to public and private discussion, in all its bearings, rights, and relationships. Among these must, of course, be the question, What was the state of the existing laws, and the modifications that might be required on that subject? The law had declared that its "true intent and meaning was not to legislate slavery into the territory, or exclude it therefrom." This would, of course, leave to that people the inquiry, What, then, are the existing rights under the Constitution? Can slaves be holden, in the absence of any law on the subject? This question, about which so much difference of opinion exists, and which Congress and the courts have never settled, was thus turned over to the people there, to discuss and settle for themselves.

This territorial legislature, so created by force from Missouri, utterly refused to permit discussion on the subject; but, assuming that slavery already existed there, and that neither Congress nor the people in the territory, under the authority of Congress, had or could prohibit it, passed a law which, if enforced, utterly prohibits all discussion of the question. The eleventh and twelfth sections of that act are as follows:—

"Sec. 11. If any person print, write, introduce into, publish, or circulate, or cause to be brought into, printed, written, published, or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating, within this territory, any book, paper, pamphlet, magazine, handbill, or circular, containing any statements, arguments, opinions, sentiments, doctrines, advice, or innuendo, calculated to promote a disorderly, dangerous, or rebellious disaffection among the slaves in this territory, or to induce such slaves to escape from the service of their masters, or to resist their authority, he shall be guilty of a felony, and be punished by imprisonment and hard labor for a term not less than five years.

"Sec. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this territory, or shall introduce into this territory, print, publish, write, circulate, or cause to be introduced into this territory, written, printed, published, or circulated, in this territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years." And further providing, that no person "conscientiously opposed to holding slaves" shall sit as a juror in the trial of any cause founded on a breach of the foregoing law. They further provided, that all officers and attorneys should be sworn not only to support the Constitution of the United States, but also to support and sustain the organic law of the territory and the fugitive slave laws; and that any person offering to vote shall be presumed to be entitled to vote until the contrary is shown; and if any one, when required, shall refuse to take oath to sustain the fugitive slave laws, he shall not be permitted to vote. Although they passed a law that none but an inhabitant, who had paid a tax, should vote, yet they required no *time of residence* necessary, and provided for the immediate payment of a poll-tax; so providing, in effect, that on the eve of an election the people of a neighboring state could come in, in unlimited numbers, and, by taking up a

residence of a day or an hour, pay a poll-tax, and thus become legal voters, and then, after voting, return to their own state. They thus, in practical effect, provided for the people of Missouri to control elections at their pleasure, and permitted such only of the real inhabitants of the territory to vote as are friendly to the holding of slaves.

They permitted no election of any of the officers in the territory to be made by the people thereof, but created the offices, and filled them, or appointed officers to fill them, for long periods, and provided that the next annual election should be holden in October, 1856, and the Assembly to meet in January, 1857; so that none of these laws could be changed until the lower House might be changed, in 1856; but the Council, which is elected for two years, could not be changed, so as to allow a change of the laws or officers, until the session of 1858, however much the inhabitants of the territory might desire it.

These laws, made by an Assembly created by a foreign force, are but a manifestation of the spirit of oppression which was the parent of the whole transaction. No excuse can be found for it in the pretence that the inhabitants had carried with them into said territory a quantity of Sharpe's rifles—first, because that, if true, formed no excuse; secondly, it is untrue, as their Sharpe's rifles were only obtained afterwards, and entirely for the purpose of self-defence, the necessity for which this invasion and other acts of violence and threats clearly demonstrated. These laws were obviously made to oppress and drive out all who were inclined to the exclusion of slavery; and if they remained, to silence them on this subject, and subject them to the will and control of the people of Missouri. These are the laws which, the President says, must be enforced by the army and whole power of the nation.

The people of Kansas, thus invaded, subdued, oppressed and insulted, seeing their territorial government (such only in form) perverted into an engine to crush them in the dust, and to defeat and destroy the professed object of their organic law, by depriving them of the "*perfect freedom*" therein provided; and finding no ground to hope for rights in that organization, they proceeded, under the guarantee of the United States Constitution, "peaceably to assemble to petition the government for the redress of (their) grievances." They saw no earthly source of relief, but in the formation of a state government by the people, and the acceptance and ratification thereof by Congress.

It is true that in several instances in our political history, the people of a territory have been authorized by an act of Congress to form a state constitution, and, after so doing, were admitted by Congress. It is quite obvious that no such authority could be given by the act of the territorial government. That clearly has no power to create another government, paramount to itself. It is equally true, that, in numerous instances in our history, the people of a territory have, without any previous act of Congress, proceeded to call a convention of the people by their delegates; have formed a state constitution, which has been adopted by the people, and a state legislature assembled under it, and chosen Senators to Congress, and then have presented said constitution to Congress, which has approved the same, and received the Senators and members of Congress who were chosen under it before Congress had approved the same. Such was the case of Tennessee; such was the case of Michigan, where the people not only formed a state constitution without an act of Congress, but they actually put their state government into full operation and passed laws, and it was approved by Congress by receiving it as a state. The people of Florida formed their constitution without any act of Congress therefor, six years before they were admitted into the Union. When the people of Arkansas were about forming a state constitution, without a previous act of Congress, in 1835, the territorial governor applied to the President on the subject, who referred the matter to the Attorney-General, and his opinion, as then expressed and published, contained the following:—

"It is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to a convention to form a constitution and state government, nor to do any other act, directly or indirectly, to create such government. Every such law, even though it were approved by the governor of the territory, would be null and void; if passed by them notwithstanding his veto, by a vote of two-thirds of each branch, it would still be equally void." He further decided that it was not rebellious or insurrectionary, or even unlawful, for the people peaceably to proceed, even without an act of Congress, in forming a constitution, and that the so forming a state constitution, and so far organizing under the same as to choose the officers necessary for its representation in Congress, with a view to present the same to Congress for admission, was a power which fell clearly within the right of the people to assemble and petition for redress. The people of Arkansas proceeded without an act of Congress, and were received into the Union accordingly. If any rights were derived to the people of Arkansas from the terms of the French treaty of cession, they equally extended to the people of Kansas, it being a part of the same cession.

In this view of the subject, in the first part of August, 1855, a call was published in the public papers for a meeting of the citizens of Kansas, irrespective of party, to meet at Lawrence, in said territory, on the 15th of said August, to take into consideration the propriety of calling a convention of the people of the whole territory to consider that subject. That meeting was held on the 15th day of August last, and it proceeded to call such con-

vention of delegates to be elected, and to assemble at Topeka, in said territory, on the 19th day of September, 1855, not to form a constitution, but to consider the propriety of calling, formally, a convention for that purpose.

The minority report then gives a detailed history of the movements which brought about the Topeka Convention, and says:—

Delegates were elected, and they met at Topeka, on the fourth Tuesday in October, 1855, and formed a constitution, which was submitted to the people, and was ratified by them by vote in the districts. An election of state officers and members of the state legislature has been had, and a representative to Congress elected, and it is intended to proceed to the election of senators, with the view to present the same, with the constitution, to Congress, for admission into the Union.

Whatever views individuals may at times, or in meetings, have expressed, and whatever ultimate determination may have been entertained in the result of being spurned by Congress, and refused redress, is now entirely immaterial. That cannot condemn or give character to the proceedings thus far pursued.

Many may have honestly believed usurpation could make no law, and that if Congress made no further provisions, they were well justified in forming a law for themselves; but it is not now necessary to consider that matter, as it is to be hoped that Congress will not leave them to such a necessity.

Thus far, this effort of the people for redress is peaceful, constitutional, and right. Whether it will succeed, rests with Congress to determine; but clear it is that it should not be met and denounced as revolutionary, rebellious, insurrectionary, or unlawful, nor does it call for or justify the exercise of any force by any department of this government to check or control it.

It now becomes proper to inquire what should be done by Congress; for we are informed by the President, in substance, that he has no power to correct a usurpation, and that the laws, even though made by usurped authority, must be by him enforced and executed, even with military force. The measures of redress should be applied to the true cause of the difficulty. This obviously lies in the repeal of the clause for freedom in the act of 1820, and therefore the true remedy lies in the entire repeal of the act of 1854, which effected it. Let this be done with frankness and magnanimity, and Kansas be organized anew, as a free territory, and all will be put right.

But if Congress insist on proceeding with the experiment, then declare all the action by this spurious foreign Legislative Assembly utterly inoperative and void, and direct a reorganization, providing proper safeguard for legal voting and against foreign force.

There is, however, another way to put an end to all this trouble there, and in the nation, without retracing steps or continuing violence, or by force compelling obedience to tyrannical laws made by foreign force; and that is, by admitting that territory as a state, with her free constitution. True, indeed, her numbers are not such as gives her a right to demand admission, being, as the President informs us, probably only about twenty-five thousand. The Constitution fixes no number as necessary, and the importance of now settling this question may well justify Congress in admitting this as a state, at this time, especially as we have good reason to believe, that if admitted as a state, and controversy ended, it will immediately fill up with a numerous and successful population.

At any rate, it seems impossible to believe that Congress is to leave that people without redress, to have enforced upon them by the army of the nation these measures and laws of violence and oppression. Are they to be dragooned into submission? Is that an experiment pleasant to execute on our own free people?

The true character of this transaction is matter of extensive notoriety. Its essential features are too obvious to allow of any successful disguise or palliation, however complicated or ingenious may be the statements, or however special the pleadings, for that purpose. The case requires some quieting, kind, and prudent treatment, by the hand of Congress, to do justice and satisfy the nation. The people of this country are peacefully relying on Congress to provide the competent measures of redress which they have the undoubted power to administer.

The Attorney-General, in the case of Arkansas, says: "Congress may at pleasure repeal or modify the laws passed by the territorial legislature, and may at any time abrogate and remodel the legislature itself, and all the other departments of the territorial government."

Treating this grievance in Kansas with ingenious excuses, with neglect or contempt, or riding over the oppressed with an army, and dragooning them into submission, will make no satisfactory termination. Party success may at times be temporarily secured by adroit devices, plausible pretences, and partisan address; but the permanent preservation of this Union can be maintained only by frankness and integrity. Justice may be denied where it ought to be granted; power may perpetuate that vassalage which violence and usurpation have produced; the subjugation of white freemen may be necessary, that African slavery may succeed; but such a course must not be expected to produce peace and satisfaction in our country, so long as the people retain any proper sentiment of justice, liberty, and law.

J. COLLAMER.

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On the 27th of February, 1856, Mr. Grow reported from the Committee on Territories, a bill to annul certain acts of the territorial legislature of Kansas.

The bill coming up on the 29th of July, Mr. Dunn moved his celebrated amendment, which is referred to under the head of "DUNN'S AMENDMENT," and where the reader will find the action of the House passing the bill and amendment.

The title of the bill was then changed so as to make it An act to recognise the territory of Kansas and for other purposes.

When the bill reached the Senate, it was referred to the Committee on Territories. A report was made from that committee by Mr. Douglas on the 11th of Aug., 1856.

After discussing other portions of the bill, the report goes on to consider the 24th section of Mr. Dunn's celebrated amendment, of which it says :—

In the opinion of your committee there are various grave and serious objections to this section of the bill. In the first place it expressly repudiates and condemns the great fundamental principles of self-government and state equality which it was the paramount object of the Kansas-Nebraska act to maintain and perpetuate, as affirmed in the following provision : "It being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Not content with repealing this wise and just provision, and condemning the sound constitutional principles asserted in it, the bill proceeds to legalize and establish, for a limited time, hereditary slavery, not only in the territory of Kansas (where there is no other local or affirmative law protecting it than the enactments of the Kansas territorial legislature, which have been alleged to be illegal and void, and which the House of Representatives, by amendments to the appropriation bills, have instructed the President not to enforce), but also in all that part of New Mexico which it is proposed to incorporate in the territory of Kansas, and where slavery was prohibited by the Mexican law, and it is not pretended that there is any territorial enactment recognising or establishing it. Having thus asserted and exercised the power of introducing and establishing slavery in the territories by act of Congress, and declaring children hereafter born therein to be slaves for life and their posterity after them, provided they shall be removed therefrom within a specified period, the bill proceeds to affirm and exercise the power of prohibiting slavery in the same territories for ever from and after January 1, 1858, by enacting and putting in force the following provision, being the 8th section of the act passed March 6, 1820, to wit :—

"Sec. 8. And be it further enacted, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crime, whereof the parties shall have been duly convicted, shall be, and is hereby, for ever prohibited : Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

It will be observed that this 8th section of the Missouri act (commonly called the Missouri Compromise) by its terms only applied to the territory acquired from France, known as the Louisiana purchase, the western boundary of which was defined by the treaty with Spain in 1819, and subsequently by treaties with Mexico and Texas, to be the 100th meridian of longitude, while the bill under consideration, under the guise of reviving and restoring that provision, extends it more than seven degrees of longitude further westward, and applies it to that large extent of territory to which it had no application in its original enactment. Nor can it be said with fairness or truth that this provision was applied to any portion of the territory in question by the "joint resolution for annexing Texas to the United States," for the reason that the whole territory embraced within the limits of the republic of Texas was admitted into the Union as one state, with the privilege of forming not exceeding four other states out of the state of Texas, "by the consent of said state," with the condition that "in such state or states as should be formed out of said territory, north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

It was left discretionary with Texas to remain for ever one state, and to retain the whole of her territory as slave territory, or to consent to a division, in which case the prohibition would take effect, by virtue of the compact, from the date of the formation of a new state within the limits of the republic of Texas north of 36° 30′. If, on the contrary, Texas should determine to withhold her assent, no such new state could ever be formed, and hence the prohibition would never take effect. All difficulty, however, on this point, has been removed by the act of 1850, purchasing from Texas all that portion of her territory lying north of 36° 30′, and incorporating it in the territory of New Mexico, with the guarantee that "when admitted as a state, the said territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of admission." Hence all that territory, to which it is now proposed to apply the Missouri restriction for the first time, under the plea of restoring the Missouri compromise of the 6th of March, 1820, is protected from any such invasion of the rights of the inhabitants to form and regulate their own

domestic affairs in their own way, by the solemn guarantees contained in the compromise measures of 1850, which blotted out the geographical line as a dividing line between free territory and slave territory, and substituted for it the cardinal principle of self-government, in accordance with the Constitution.

But it will also be observed that the bill under consideration does not propose to limit the restriction to the territory acquired from Texas, nor the country on the east side of the Rio Grande, but extend it across that river over a portion of the territory acquired from Mexico, which was never claimed by Texas nor embraced within the Louisiana purchase, and to which there is no pretext for asserting that the Missouri compromise ever applied. If, in the application of the 8th section of the act of the 6th of March, 1820 (commonly called the Missouri compromise), over so large a district of country to which it never had any previous application, it be the policy of the House of Representatives to return to the "obsolete idea" of a geographical line as a dividing line in all time to come between slave territory and free territory, a perpetual barrier against the advancement of slavery on the one hand and free institutions on the other, the measure falls short of accomplishing the whole of their object in not extending the line to the Pacific Ocean. Your committee can perceive many weighty considerations founded in policy, although wanting the sanction of sound constitutional principles, which might be urged in favor of such a measure, inasmuch as the barrier once erected from ocean to ocean—permitting slavery on the one side and prohibiting it on the other—if universally acquiesced in and religiously observed as a patriotic offering upon the altar of our common country, would put an end to the controversy for ever, and form a bond of peace and brotherhood in the future. But, unfortunately, when this expedient was proposed by the Senate in 1848, it was indignantly repudiated by the House of Representatives, and as a consequence the whole country was plunged into a whirlpool of sectional strife and angry crimination, which alarmed the greatest and purest patriots of the land for the safety of the republic, and was only rescued from the impending perils by the adoption of the compromise measures of 1850, which abandoned the policy of a geographical line, and substituted for it the great principles of self-government and state equality, in obedience to the Federal Constitution. In view of the history of the past, your committee can perceive no safety in the future except in a strict and religious fidelity to the true principles of the Constitution as embodied in the adjustment of that unfortunate controversy, and adopted by the whole country as rules of action to be applied in all future time, when in the progress of events it should be necessary to organize territories or admit new states. The Kansas-Nebraska act was the logical sequence of the compromise measures of 1850, and rendered imperatively necessary in order to establish and perpetuate the principles of self-government and state equality in the organization of territories and admission of new states. For these reasons your committee cannot concur with the House of Representatives in the proposition to blot out from the organic act of Kansas and Nebraska those essential provisions and cardinal principles, the faithful observance of which can alone preserve the just rights of the inhabitants of the territories and maintain the peace, unity, and fraternity of the republic. The great object is to withdraw the slavery question from the halls of Congress and remand its decision to the people of the several states and territories, subject to no other conditions or restrictions than those imposed by the Constitution of the United States. Those provisions of the bill under consideration which introduce and establish slavery, together with those which abolish and prohibit it, are alike obnoxious on the score of principle, inasmuch as they assert and exercise the right of Congress to form and regulate the local affairs and domestic institutions of a distant and distinct people without their consent and regardless of their rights and wishes. To avoid all misconstruction, however, upon this point, your committee deem it proper to remark that their objections do not apply to that part of the bill which extends the provisions of the fugitive slave law to the territories of Kansas and Nebraska, and provides "that any person lawfully held to service in any other state or territory, and escaping into either the territory of Kansas or Nebraska, may be reclaimed and removed to the person or place where such service is due, under any law of the United States which shall be in force upon the subject." In this clause your committee are rejoiced to find a frank and conscientious acknowledgment of the duty of Congress to provide efficient laws for carrying into faithful execution the provision of the Constitution of the United States which provides for the rendition of fugitive slaves as well as all other obligations imposed by that instrument.

The preservation of our free institutions depends upon a faithful observance of the Constitution in all its parts; and the assurance thus furnished that the representatives of the people are ever ready to provide new and additional guarantees when supposed to be necessary for the faithful performance of that constitutional obligation, which has been the subject of the severest criticism in some portions of the country, cannot fail to gratify every true friend of the Union. In this case, however, no such legislation is necessary, inasmuch as the organic act of Kansas and Nebraska extended the provisions of the fugitive slave law to both of those territories.

In alluding to the 15th and 16th sections of the bill it says:—

It will be observed that these two sections recognise the validity and binding force of the

entire code of laws enacted at the Shawnee Mission, by the legislature of Kansas territory, and provide for the faithful execution of all those enactments except the criminal code. All justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, now in office, are required to continue to exercise and perform the duties of their respective offices. All these officers, with the exception of the governor, three judges, secretary, and marshal, and district-attorney, were elected or appointed under the laws enacted by the legislature of Kansas, while their powers, functions, and duties, are all prescribed by those laws and none others. These officers are all required to continue to perform the duties of their respective offices, by observing and enforcing all the laws enacted at the Shawnee Mission, except the criminal code. "All suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations which shall be pending and undetermined in the courts of the territory of Kansas or New Mexico, when this act shall take effect, shall remain in said courts where pending, to be heard, tried, prosecuted, and determined, in such courts, as though this act had not been passed." The election laws, and the laws concerning slaves and slavery, and all laws protecting the rights of persons and property, and affecting all the relations of life, are recognised as valid and required to be enforced, excepting criminal prosecutions, by information or indictment, for violating or disregarding the laws of the legislature of Kansas. All such prosecutions are required to be forthwith dismissed, and the prisoners set at liberty, and no new prosecutions are to be commenced for "any violation or disregard of said legislative enactments at any time." Such is the legislation provided for in these two sections of the bill. They recognise the validity of the laws enacted at Shawnee Mission, and provide for the enforcement of all of them except in cases of criminal prosecution. Your committee are unable to perceive how the passage of such a bill would restore peace, quiet, and security to the people of Kansas. It has been alleged that there are in that territory organized bands of lawless and desperate men, who are in the constant habit of perpetrating deeds of violence—murdering and plundering the inhabitants, stealing their property, burning their houses, and driving peaceable citizens from the polls on election day, and even from the territory. The remedy proposed in the bill is to grant to the perpetrators of these crimes a general amnesty for the past, and a full license in the future to continue their bloody work.

There is no law in force in Kansas by which murder, robbery, larceny, arson, and other crimes known to the criminal codes of all civilized states, can be punished, except under the code enacted by the legislature of Kansas at the Shawnee Mission. The provisions of "An act for the punishment of crimes against the United States," approved April 30, 1790, is, by its terms, confined in its application to such crimes as shall be committed "within any fort, arsenal, dock-yard, magazine, or any other place or district of country under the sole and exclusive jurisdiction of the United States," and "upon the high seas and navigable waters out of the jurisdiction of any particular state," but has never been held or construed to apply to the territories of the United States. The act of the 3d of March, 1817, "to provide for the punishment of crimes and offences committed within the Indian boundaries," extends the provisions of the said act of 1790 to the Indian country, but expressly restricts its application, as its title imports, to crimes committed "within any town, district, or territory *belonging to any nation or nations, tribe or tribes of Indians.*" Hence, the moment the Indian title is extinguished, and the country placed under the jurisdiction of a territorial government, it ceases to be "under the sole and exclusive jurisdiction of the United States," and is no longer subject to the provisions of either of the above cited acts. Thus it will be seen that if the bill from the House of Representatives should become a law with the provisions granting a general amnesty in respect to all past crimes, and unlimited license in the future to perpetrate such outrages as their own bad passions might instigate, there would be no law in force in Kansas to punish the guilty or protect the innocent.

Inasmuch as the House of Representatives, by the passage of the bill under consideration, and the Senate, by its bill for the admission of Kansas into the Union, have each recognised the validity of the laws enacted by the Kansas legislature at Shawnee Mission, so far as they are consistent with the Constitution and the organic act, and affirmed the propriety and duty of enforcing the same, except in certain specified cases, it becomes important to inquire into the extent of the differences of opinion between the House of Representatives and the Senate, in respect to the particular laws which ought not to be enforced. The Senate has already declared, in the bill for the admission of Kansas into the Union, that all laws and enactments in said territory which are repugnant to, or in conflict with, the great principles of liberty and justice, as guarantied by the Constitution of the United States and the organic act, and embodied in the 18th section of that bill, shall be null and void, and that none such shall ever be enforced or executed in said territory.

By the 18th section of the bill, which has twice passed the Senate, and now remains on the Speaker's table of the House of Representatives unacted upon, and only awaits the favorable action of the House to enable it to become a law with the President's approval, all the obnoxious laws, which have been the subject of so much censure and complaint, are swept out of existence, leaving none in force in said territory except such as are usual, proper, and necessary in all civilized communities for the protection of life, liberty, and property. Your

committee have not yet relinquished the hope that the House of Representatives will concur with the Senate in the passage of that bill, and thus restore peace and security to the people of Kansas, by declaring all those obnoxious laws null and void, and providing for the faithful enforcement of the Kansas code, the validity of which has thus been frankly and solemnly acknowledged by the votes and action of each House of Congress. The two Houses of Congress having, by their action, each arrived at the conclusion that the Kansas code is valid, and that the obnoxious laws referred to ought to be declared inoperative and void, as being repugnant to the principles of liberty and justice intended to be secured by the Constitution of the United States and the Kansas-Nebraska act, it would seem, that the most serious and material point of difference between the two Houses which remains to be adjusted, is whether that part of the Kansas code which provides for the punishment of murder, robbery, larceny, and other criminal offences shall be enforced, or, whether all persons guilty of those offences shall be turned loose to prey upon the community with legalized impunity. It is true that there is, apparently, another point of difference between the two Houses, arising out of the question whether the people of Kansas shall be authorized to elect delegates to a convention (with proper and satisfactory safe-guards against fraud, violence, and illegal voting) and form a constitution and state government preparatory to their admission into the Union, or whether the territory shall be reorganized in accordance with the provisions of the bill from the House and left, for some years to come, in that condition. While the House of Representatives has recently expressed its preference for the latter proposition, by the passage of the bill under consideration, your committee are not permitted to assume that they have insuperable objections to the admission of Kansas at this time, for the reason that a few weeks previous they passed a bill to admit that territory as a state, with the Topeka constitution. Hence the change of policy on the part of the House, in abandoning the state movement with the Topeka constitution, and substituting for it the proposition to reorganize the territory and leave it in that condition, must be taken only as a strong expression of a decided preference on the part of the House for the bill under consideration, and not conclusive evidence of insuperable objections to a fair bill, with proper and suitable guarantees against fraud and illegal voting, to authorize the people of Kansas to form a constitution and state government at this time.

While the Senate bill, now pending before the House, is fair and impartial in all its provisions, with ample and satisfactory safeguards against illegal and fraudulent voting, the bill from the House to reorganize the territory contains no such provisions and affords no such assurances. It leaves the qualifications of the voters at the first election the same as they were under the Kansas-Nebraska act, with this difference, that it denies the privilege of voting and holding office to all men of foreign birth who shall have declared on oath their intention to become citizens, and who shall have taken an oath to support the Constitution of the United States, but who shall have failed from any cause to have completed their naturalization. The provision is, "that any white male inhabitant, being a citizen of the United States, above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election." No penalties or punishments are provided for illegal voting; none for fraud in conducting the elections; none for violence at the polls; and none for destroying the ballot-boxes. All these things may be done with impunity; for, while the election must be held in pursuance of the existing laws of the territory, which are recognised as being in force, the bill expressly provides that no criminal prosecution shall hereafter be instituted in any of the courts of the United States or of said territory for any violation or disregard of said legislative enactment at any time. Under this bill any number of persons from Missouri or Iowa, from South Carolina or Massachusetts, or from any other part of the world, may enter the territory on election day and take possession of the polls, and vote as many times as they choose, and drive every legal voter from the polls with entire impunity; for the bill declares that no criminal prosecutions shall ever be instituted in the courts of the United States or of said territory for violating or disregarding the only law which provides penalties and punishments for such outrages in the territory of Kansas.

No measure can restore peace to Kansas which does not effectually protect the ballot-box against fraud and violence, and impart equal and exact justice to all the inhabitants. Under existing circumstances, your committee are unable to devise any measure which will more certainly accomplish these desirable objects than the bill which has twice passed the Senate, and now only awaits the concurrence of the House of Representatives, with the approval of the President, to become the law of the land.

For these reasons your committee recommend that the bill from the House of Representatives be laid on the table, as a test vote on its rejection, inasmuch as the objections apply to all the leading features and material provisions of the bill, and render it incapable of amendment without preparing an entire new bill.

The bill was laid on the table, with the distinct understanding that it should be deemed a test vote on the rejection of the bill. The vote was as follows:—

YEAS.—Messrs. ADAMS, *Allen*, BELL of Tenn., *Benjamin*, *Biggs*, *Bigler*, *Bright*, *Brodhead*, *Brown*, *Butler*, *Cass*, *Clay*, *Douglas*, *Evans*, *Fitzpatrick*, *Geyer*, HOUSTON, *Hunter*, *Iverson*, *Jones* of Tenn., *Mallory*, *Mason*, *Pratt*, *Pugh*, *Reid*, *Sebastian*, *Slidell*, *Stuart*, THOMPSON of Ky., *Thompson* of N. J., *Toombs*, *Toucey*, *Weller*, *Wright*, *Yulee*.—35.

NAYS.—Messrs. Bell of N. H., Collamer, Fessenden, Fish, Foot, Foster, Hale, Harlan, Seward, Trumbull, Wade, Wilson.—12.

On the 7th April, 1856, the memorial of the Senators and Representatives of the so-called state of Kansas, accompanied by the constitution of said state, adopted at Topeka, praying the admission of the same into the Union, was presented, and referred to the Committee on Territories.

Mr. Grow of Pa., on behalf of the majority of the Committee on Territories, consisting of himself, Messrs. Giddings of Ohio, Granger of N. Y., Purviance of Pa., Morrill of Vt., and Perry of Maine, reported a bill to admit Kansas as a state under the Topeka constitution.

Mr. Zollicoffer of Tenn. submitted a minority report from the same committee, with a bill providing for the formation of a constitution and state government, and the admission of Kansas as a state.

The bill of the majority of the committee admitting Kansas under the Topeka constitution, was rejected on the 30th of June, by yeas and nays as follows:—

YEAS.—Messrs. Albright, Allison, Ball, Barbour, Henry Bennett, Benson, Billinghurst, Bingham, Bishop, Bliss, Bradshaw, Brenton, Buffinton, Burlingame, J. H. Campbell, Lewis D. Campbell, Bayard Clarke, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Timothy Davis, Day, Dean, De Witt, Dick, Dickson, Dodd, Durfee, Edie, EDWARDS, Emrie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Robert B. Hall, Harlan, *Hickman*, Holloway, Thomas R. Horton, Valentine B. Horton, Howard, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Matteson, McCarty, Meacham, Killian Miller, Millward, MOORE, Morgan, Morrill, Murray, Nichols, Andrew Oliver, Parker, Pearce, Pelton, Pennington, Perry, Pettit, Pike, Purviance, Robbins, Roberts, Robison, Sabin, Sage, Sapp, Scott, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, Welch, Wood, Woodruff, Woodworth.—106.

NAYS.—Messrs. *Aiken*, *Allen*, Barclay, *Barksdale*, *Bell*, *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, *Brooks*, BROOM, *Burnett*, *Cadwalader*, JOHN P. CAMPBELL, CARLILE, *Caruthers*, *Caskie*, *Howell Cobb*, *Williamson R. W. Cobb*, COX, *Craige*, *Crawford*, CULLEN, *Davidson*, *Denver*, *Dowdell*, DUNN, *Edmundson*, *Elliot*, *English*, ETHERIDGE, EUSTIS, EVANS, *Faulkner*, *Florence*, FOSTER, *Thomas J. D. Fuller*, *Goode*, *Greenwood*, *Augustus Hall*, J. MORRISON HARRIS, *Sampson W. Harris*, HARRISON, HAVEN, *Herbert*, HOFFMAN, *Houston*, *Jewett*, *George W. Jones*, *J. Glancy Jones*, *Keitt*, *Kelly*, KENNETT, *Kidwell*, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullen*, *McQueen*, *Smith Miller*, *Millson*, *Mordecai Oliver*, *Orr*, *Packer*, PAINE, *Peck*, *Phelps*, PORTER, *Powell*, PURYEAR, *Quitman*, READY, RICAUD, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, *Seward*, *Shorter*, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, SNEED, *Stephens*, *Stewart*, SWOPE, *Talbott*, *Taylor*, TRIPPE, UNDERWOOD, VALK, *Walker*, *Warner*, *Watkins*, *Wheeler*, WHITNEY, *Williams*, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—107.

Mr. Barclay of Pa. moved to reconsider the vote.

The question was taken on the 3d of July, and carried, yeas 101, nays 99.

The question was then taken on the passage of the bill, and it was carried, yeas 106, nays 107.

The vote is so nearly like the other, that it is unnecessary to give it. It was the same, with the exception that several gentlemen had paired off, which decreases the vote on both sides, and Mr. Barclay changed his vote, which, with the addition of Messrs. Meacham and Pringle, who did not vote before, but voted ay on this vote, carried the bill.

—

This bill was referred in the Senate to the Committee on Territories, from which committee Mr. Douglas, on the 8th of July, 1856, reported back a substitute therefor, being the bill passed by the Senate and sent to the House, for the admission of Kansas.

The substitute of the committee was adopted on the same day, by the following vote:—

YEAS.—Messrs. ADAMS, *Bayard*, BELL of Tennessee, *Benjamin*, *Biggs*, *Bright*, *Brodhead*, *Brown*, *Butler*, *Cass*, *Clay*, CRITTENDEN, *Douglas*, *Fitzpatrick*, *Geyer*, *Hunter*, *Iverson*, *Johnson*, *Jones* of Iowa, *Mallory*, *Mason*, *Pearce*, *Pugh*, *Reid*, *Sebastian*, *Slidell*, *Stuart*, THOMPSON of Kentucky, *Toombs*, *Toucey*, *Weller*, *Fulee*.—32.

NAYS.—Messrs. Bell of New Hampshire, Collamer, *Dodge*, Durkee, Fessenden, Fish, Foot, Hale, Hamlin, Seward, Trumbull, Wade.—13.

The vote on the passage of the bill as amended was the same as above, with the exception that Messrs. Butler and Mason were absent on the second vote.

The bill was never acted on by the House.

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During the first session of the 34th Congress the following bills appertaining to Kansas were introduced in the Senate:—

"A bill to restore order and peace in Kansas;" "a bill supplementary to 'an act to organize the territories of Nebraska and Kansas,' and to provide for the faithful execution of the said act in the territory of Kansas, according to the true intent and meaning thereof;" and an "amendment proposed by Mr. Seward, to the bill (S. 172,) 'to authorize the people of the territory of Kansas to form a constitution and state government, preparatory to their admission into the Union, when they have the requisite population;'" and "an amendment" proposed by Mr. Toombs as a substitute for the last named bill, (S. 172.)

These bills, together with the bill reported from the Committee on Territories on the 12th of March, to authorize the people of Kansas to form a constitution and state government, preparatory to their admission into the Union, were referred together to the same committee. On the 30th of June, 1856, Mr. Douglas, from the said committee, made a report recommending the adoption of Mr. Toombs's bill for the admission of Kansas as a state, &c.

This bill being before the Senate on the 2d of July, 1856,

Mr. Trumbull, of Illinois, moved an amendment to the effect that, until the territorial legislature acts upon the subject, the owner of a slave has no authority to take his slave to Kansas and hold him as such therein, that every slave so taken for the purpose of settlement is free, unless there is some valid act of a duly constituted Legislative Assembly of said territory under which he may be held as a slave.

The amendment was rejected by a vote of yeas 9, nays 34.

The negative vote is as follows:—

MESSRS. ADAMS, *Allen*, *Bayard*, BELL of Tennessee, *Benjamin*, *Biggs*, *Bigler*, *Bright*, *Brodhead*, *Brown*, *Cass*, *Clay*, CRITTENDEN, *Dodge*, *Douglas*, *Evans*, *Fitzpatrick*, *Geyer*, *Hunter*, *Iverson*, *Johnson*, *Jones* of Iowa, *Mallory*, *Pratt*, *Pugh*, *Reid*, *Sebastian*, *Slidell*, THOMPSON of Ky., *Toombs*, *Toucey*, *Weller*, *Wright*, *Fulee*.

Mr. Trumbull then moved an amendment, That the provision in the Nebraska-Kansas act, declaring it to be the true intent and meaning thereof not to legislate slavery into Kansas, nor to exclude it therefrom, &c., was intended to and does confer power upon the people of Kansas through its territorial legislature to exclude slavery from said territory, or to recognise and regulate it therein.

Mr. Benjamin moved an amendment to the amendment, "subject only to the Constitution of the United States," which was adopted.

The amendment as amended was rejected, yeas 11, nays 34. The nays were as follows:—

Messrs, Adams, *Bayard*, *Benjamin*, *Biggs*, *Bigler*, *Bright*, *Brodhead*, *Brown*, *Cass*, *Clay*, Crittenden, *Dodge*, *Douglas*, *Evans*, *Fitzpatrick*, *Geyer*, *Hunter*, *Iverson*, *Johnson*, *Jones* of Ia., *Mallory*, *Mason*, *Pratt*, *Pugh*, *Reid*, *Sebastian*, *Slidell*, *Stuart*, Thompson of Ky., *Toombs*, *Toucey*, *Weller*, *Wright*, *Yulee*.

Mr. Trumbull introduced an amendment nullifying all the laws of the territorial legislature of Kansas, and prohibiting any persons from holding office under the authority thereof.

Rejected, yeas 11, nays 36.

Yeas—Messrs. Bell of New Hampshire, Collamer, Durkee, Fessenden, Foot, Foster, Hale, Seward, Trumbull, Wade, and Wilson.

Nays the same as negative vote in last amendment, with the addition of Messrs. Allen and Bell of Tenn.

Mr. Clayton introduced an amendment to the effect that no law shall be in force in said territory tending to interfere with the principle of the organic act, which leaves the people free to regulate their own domestic institutions, or which prohibits them from a free discussion of their institutions and interests, or whereby for affirming or denying the existence of, or propriety of, prohibiting or admitting slavery in the said territory, be visited or threatened with any penalty or punishment. Prohibiting a test oath from being required from any officer; insuring trial by jury, as at common law, and qualification of jurors according thereto; prohibiting the pre-payment of a tax as a qualification for a juror; preventing Indians not recognised by treaty from voting, and preventing prosecutions for treason, unless it be for levying war against the United States, or of adhering to their enemies, giving them aid and comfort.

Carried, yeas 40, nays 3.

The negative vote being Messrs. Brown, Fitzpatrick, and Mason.

Mr. Collamer moved an amendment, That, until the people of the said territory shall form a state government, slavery therein, except for crime, shall be prohibited. Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed in any state, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her service or labor as aforesaid.

Yeas 10, nays 35.

The affirmative vote is as follows: Messrs. Bell, Collamer, Fessenden, Foot, Foster, Hale, Seward, Trumbull, Wade, and Wilson.

Several other amendments were offered, when the bill was passed by yeas and nays as follows:—

Yeas.—Messrs. *Allen*, *Bayard*. Bell of Tenn., *Benjamin*, *Biggs*, *Bigler*, *Bright*, *Brodhead*, *Brown*, *Cass*, *Clay*, Crittenden, *Douglas*, *Evans*, *Fitzpatrick*, *Geyer*, *Hunter*, *Iverson*, *Johnson*, *Jones* of Ia., *Mallory*, *Pratt*, *Pugh*, *Reid*, *Sebastian*, *Slidell*, *Stuart*, Thompson of Ky., *Toombs*, *Toucey*, *Weller*, *Wright*, *Yulee*.

Nays.—Messrs. Bell of N. H., Collamer, *Dodge*, Durkee, Fessenden, Foot, Foster, Hale, Seward, Trumbull, Wade, Wilson.

The only action ever taken upon this bill in the House, except to print it, may be seen from the following proceedings therein on the 28th of July, 1856.

ADMISSION OF KANSAS.

Mr. Dunn. I ask, now, the indulgence of the House, to take up from the Speaker's table Senate bill No. 356, entitled an "Act to authorize the people of the territory of Kansas to form a constitution and state government, preparatory to their admission into the Union on an equal footing with the original states." I ask to have it taken up for the purpose of considering the question at this time; and I will state to gentlemen, that if the rules be suspended, or if no objection be made (as I trust there will not be), I will at once propose to strike out the Senate bill after the enacting clause, and insert an amendment of which I gave notice some days ago, and which has been printed and laid on the table of members.

Mr. Matteson objected.

Mr. Dunn. I move that the rules be suspended, so that the bill may be taken up and considered at this time, for the purpose I have named; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 102, nays 73; as follows:—

Yeas.—Messrs. *Aiken*, Allison, Ball, *Barksdale*, *Bell*, Henry Bennet, *Hendley S. Bennett*, Billinghurst, Bishop, *Branch*, *Burnett*, Lewis D. Campbell, *Caruthers*, *Caskie*, *Howell Cobb*, *Williamson R. W. Cobb*, Cox, *Craige*, *Crawford*, Cullen, *Davidson*, Henry Winter Davis, Day, Dunn, *Edmundson*, Edwards, *Elliott*, *English*, Eustis, *Florence*, Foster, *Thomas J. D. Fuller*, Giddings, *Goode*, *Greenwood*, J. Morrison Harris, *Sampson W. Harris*, *Thomas L. Harris*, Harrison, Haven, Hoffman, Valentine B. Horton, *Houston*, *Jewett*, *George W. Jones*, *J. Glancy Jones*, *Kidwell*, *Lumpkin*, Humphrey Marshall, *Samuel S. Marshall*, *Maxwell*, *McMullin*, Meacham, Killian Miller, *Smith Miller*, *Millson*, Moore, Morrill, Mott, Nichols, *Peck*, *Phelps*, Porter, *Powell*, Pringle, Puryear, *Quitman*, Reade, Ready, Ricaud, Ritchie, Rivers, *Ruffin*, Sabin, Sage, *Savage*, Scott, *Seward*, Sherman, *Samuel A. Smith*, *Wm. Smith*, William R. Smith, Sneed, Stanton, *Stephens*, *Stewart*, Stranahan, Swope, *Talbott*, Thorington, Trippe, Tyson, Underwood, *Vail*, Valk, *Warner*, *Watkins*, *Williams*, *Winslow*, *Daniel B. Wright*, *John V. Wright*, Zollicoffer.—102.

Nays.—Messrs. Barbour, Benson, Bishop, Bingham, Bliss, *Bowie*, Bradshaw, Brenton, Broom, Buffinton, Burlingame, Carlile, Chaffee, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Dickson, Dodd, Durfee, Emrie, Flagler, Galloway, Gilbert, Granger, Grow, Robert B. Hall, Harlan, Holloway, Thomas R. Horton, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Lake, Leiter, Matteson, McCarty, Morgan, Norton, Andrew Oliver, Parker, Perry, Pettit, Pike, Purviance, Robbins, Sapp, *Shorter*, Simmons, Spinner, Tappan, Thurston, Todd, Trafton, Wade, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, Welch, *Wells*, Whitney, Wood, Woodruff, Woodworth.—73.

On the 19th of March, 1856, a resolution being before the House to empower the Committee on Elections to send for persons and papers in the Kansas Contested Election case, Mr. Dunn of Indiana moved an amendment, which was adopted, providing for a committee of three members of the House to proceed to Kansas, and make a thorough investigation of all matters connected therewith, and report all the evidence collected to the House.

On the 24th of March, 1856, the Speaker appointed the following gentlemen the committee:—Messrs. Lewis D. Campbell of Ohio, William A. Howard of Mich., and Mordecai Oliver of Missouri.

Mr. Campbell afterwards declined, and Mr. John Sherman of Ohio was appointed in his stead.

The committee proceeded to Kansas and made their investigations, and returned with the testimony, which, with their report, was submitted to the House; that of the majority of the committee, Messrs. Howard and Sherman, on the 2d of July, and that of the minority, Mr. Oliver, on the 11th of July, 1856, and referred to the Committee on Elections.

It would be a senseless waste of space to attempt either to condense the reports or the testimony into a form admissible into this work. Nothing short of the entire story would satisfy, and that would occupy a volume twice the size of this. The details are so unsatisfactory and so contradictory, that, even if it was possible to embrace them herein, they would confuse rather than enlighten.

The majority report reached the following conclusions:—

First. That each election in the territory, held under the organic or alleged territorial law, has been carried by organized invasion from the state of Missouri, by which the people of the territory have been prevented from exercising the rights secured to them by the organic law.

Second. That the alleged territorial legislature was an illegally constituted body, and had no power to pass valid laws, and their enactments are therefore null and void.

Third. That these alleged laws have not, as a general thing, been used to protect persons and property, and to punish wrong, but for unlawful purposes.

Fourth. That the election under which the sitting delegate, John W. Whitfield, holds his seat, was not held in pursuance of any valid law, and that it should be regarded only as the expression of the choice of those resident citizens who voted for him.

Fifth. That the election, under which the contesting delegate, Andrew H. Reeder, claims his seat, was not held in pursuance of law, and that it should be regarded only as the expression of the resident citizens who voted for him.

Sixth. That Andrew H. Reeder received a greater number of votes of resident citizens than John W. Whitfield, for delegate.

Seventh. That in the present condition of the territory a fair election cannot be held without a new census, a stringent and well-guarded election law, the selection of impartial judges, and the presence of United States troops at every place of election.

Eighth. That the various elections held by the people of the territory, preliminary to the formation of the state government, have been as regular as the disturbed condition of the territory would allow; and that the constitution passed by the convention held in pursuance of said elections, embodies a will of a majority of the people.

The minority report concluded as follows:—

First. That at the first election held in the territory under the organic act, for delegate to Congress, General John W. Whitfield received a plurality of the legal votes cast, and was duly elected such delegate, as stated in the majority report.

Second. That the territorial legislature was a legally constituted body, and had power to pass valid laws, and their enactments are therefore valid.

Third. That these laws, when appealed to, have been used for the protection of life, liberty, and property, and for the maintenance of law and order in the territory.

Fourth. That the election under which the sitting delegate, John W. Whitfield, was held, was in pursuance of valid law, and should be regarded as a valid election.

Fifth. That as said Whitfield, at said election, received a large number of legal votes without opposition, he was duly elected as a delegate to this body, and is entitled to a seat on this floor as such.

Sixth. That the election under which the contesting delegate, Andrew H. Reeder, claims his seat, was not held under any law, but in contemptuous disregard of all law; and that it should only be regarded as the expression of a band of malcontents and revolutionists, and consequently should be wholly disregarded by the House.

Seventh. As to whether or not Andrew H. Reeder received a greater number of votes of resident citizens on the 9th, than J. W. Whitfield did on the 1st of October, 1855, no testimony was taken by the committee, so far as the undersigned knows, nor is it material to the issue.

On the 24th of July, 1856, Mr. Washburne presented a majority, and Mr. Stephens of Georgia, a minority, report from the Committee on Elections on the Kansas Contested Election case. Mr. Washburne concluded with the following resolutions:—

Resolved, That John W. Whitfield is not entitled to a seat in the House as a delegate from the territory of Kansas.

Resolved, That Andrew H. Reeder be admitted to a seat on this floor as a delegate from the territory of Kansas.

The resolutions were brought to a vote in the House on the 1st of August, 1856.

The first resolution, declaring Mr. Whitfield

not to be entitled to a seat, was carried by yeas and nays as follows:—

YEAS.—Messrs. Albright, Allison, Ball, Barbour, Barclay, Henry Benuett, Benson, Billinghurst, Bliss, Bradshaw, Brenton, BROOM, Buffinton, James H. Campbell, Lewis D. Campbell, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Day, Dean, Dick, Dodd, DUNN, Durfee, Edie, EDWARDS, Emrie, Flagler, HENRY M. FULLER, Galloway, Giddings, Gilbert, Granger, Grow, Robert B. Hall, Harlan, HARRISON, HAVEN, *Hickman*, Holloway, Thomas R. Horton, Valentine B. Horton, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Killian Miller, MOORE, Morgan, Morrill, Mott, Nichols, Norton, Andrew Oliver, *Packer*, Parker, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Sabin, Sage, Sapp, Scott, Sherman, Simmons, Spinner, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Tyson, VALK, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne. Watson, Welch, *Wells*, WHITNEY, *Williams*, Wood, Woodruff, Woodworth.—110.

NAYS.—Messrs. *Aiken*, *Barksdale*, *Bell*, *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, *Burnett*. *Cadwalader*, JOHN P. CAMPBELL. CARLILE, *Caruthers*, *Caskie*. *Howell Cobb*, *Williamson R. W. Cobb*, COX, *Craige*, *Crawford*, CULLEN, *Davidson*, HENRY WINTER DAVIS, *Denver*, *Dowdell*. *Edmundson*, *English*, EUSTIS, EVANS, *Faulkner*, *Florence*, FOSTER, *Thomas J. D. Fuller*, *Goode*, *Greenwood*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, *Herbert*, HOFFMAN, *Houston*, *George W. Jones*, KENNET, *Kidwell*, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullin*, *Smith Miller*, *Millson*, *Mordecai Oliver*, *Orr*, *Peck*, *Phelps*, PORTER, *Powell*, PURYEAR, *Quitman*, READE, READY, RICAUD, *Richardson*, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, *Seward*, *Shorter*, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, SNEED, *Stephens*, *Stewart*, SWOPE, *Talbott*, *Taylor*, TRIPPE, UNDERWOOD, *Vail*, *Walker*, *Warner*, *Watkins*, *Winslow*, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—92.

The second resolution, declaring Mr. Reeder to be entitled to a seat, was rejected by yeas and nays as follows:—

YEAS.—Messrs. Albright, Allison, Barbour, Barclay, Henry Bennett, Benson, Billinghurst, Bliss. Bradshaw, Brenton, Buffinton, James H. Campbell, Chaffee, Ezra Clark, Clawson, Colfax. Comins, Covode, Cragin, Cumback, Damrell, Day, Dean, Dick, Dickson, Dodd, Durfee, Edie, Emrie, Flagler, Galloway, Giddings, Gilbert, Grow, Robert B. Hall, Harlan, Holloway, Thomas R. Horton, Hughston, Kelsey, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Killian Miller, Morgan, Morrill, Mott, Nichols, Norton, Andrew Oliver, Parker, Pelton, Perry, Pettit, Pike, Pringle, Purviance, Robbins, Roberts, Sabin, Sage, Sapp, Sherman, Spinner, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, Welch, Wood, Woodruff, Woodworth. —88.

NAYS.—Messrs. *Aiken*, Ball, *Barksdale*. *Bell*. *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, BROOM, *Burnett*, *Cadwalader*, JOHN P. CAMPBELL, Lewis D. Campbell, CARLILE, *Caruthers*, *Caskie*, *Howell Cobb*, *Williamson R. W. Cobb*, COX, *Craige*, *Crawford*, CULLEN, *Davidson*, HENRY WINTER DAVIS, *Denver*, *Dowdell*, DUNN, *Edmundson*, EDWARDS, *English*, EUSTIS, EVANS, *Faulkner*, *Florence*, FOSTER, HENRY M. FULLER, *Thomas J. D. Fuller*, *Goode*, *Greenwood*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HARRISON, HAVEN, *Herbert*, *Hickman*, HOFFMAN, Valentine B. Horton, *Houston*, *George W. Jones*, KENNETT, *Kidwell*, KING, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullen*, *Smith Miller*, *Millson*, MOORE, *Mordecai Oliver*, *Orr*, *Peck*, Pennington, *Phelps*, PORTER, *Powell*, PURYEAR, *Quitman*, READE, READY, RICAUD, *Richardson*, Ritchie, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, Scott, *Seward*, *Shorter*, Simmons, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, SNEED, *Stephens*, *Stewart*, SWOPE, *Talbott*, *Taylor*, TRIPPE, Tyson, UNDERWOOD, *Vail*, VALK, *Walker*, *Warner*, *Watkins*, *Wells*. WHITNEY, *Williams*, *Winslow*, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—113.

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On the 6th of August, 1854, the Legislative, Executive, and Judicial Appropriation Bill being before the House, the following votes were had relative to the judiciary of Kansas.

The House proceeded to consider the following amendment, as a proviso to the appropriations for Kansas, on which a separate vote had been asked:—

Provided, That the money hereby appropriated shall not be drawn from the treasury, or any part thereof, and the same, or any part thereof, shall not be paid out of any other appropriation made by Congress, until all criminal prosecutions now pending in any court of the territory of Kansas against any person or persons charged with treason against the United States, and all criminal prosecutions by information or indictment against any person or persons for any alleged violation or disregard of the professed laws of a body of men who assembled at the Shawnee Mission in said territory, claiming to be the Legislative Assembly of the said territory, shall be dismissed by the court; and every person who is, or may be, restrained of his liberty by reason of such prosecution or prosecutions, shall be released from confinement.

The yeas and nays were called for, and ordered.

The question was taken, and it was decided in the affirmative—yeas 84, nays 69, as follows:—

YEAS.—Messrs. Albright, Allison, Ball, Barbour, Barclay, Henry Bennett, Benson, Billinghurst, Bishop, Bliss, Bradshaw, Brenton, Buffinton, James H. Campbell, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Dean, Dick, Dodd, Durfee, Emrie, Flagler, Galloway, Giddings. Granger, Grow, Harlan, Holloway, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Matteson, McCarty, Killian Miller, Millward, Morgan, Morrill, Mott, Murray, Norton, Andrew Oliver, Parker, Pearce, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Sabin, Sapp, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappau, Todd. Wade, Walbridge, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, Wood, Woodruff, Woodworth.—84.

NAYS.—Messrs. *Aiken*, *Bocock*, *Bowie*, *Branch*, *Cadwalader*, Lewis D. Campbell, CARLILE, *Caskie*, *Clingman*, *Williamson R. W. Cobb*, *Crawford*, HENRY WINTER DAVIS, *Dowdell*, DUNN, *Elliott*, *English*, EUSTIS, *Faulkner*, *Florence*, FOSTER, *Goode*, *Greenwood*, HAVEN, *Hickman*, Valentine B. Horton, *Houston*, *George W. Jones*, *J. Glancy Jones*, *Keitt*, *Kelly*, *Kidwell*, *Letcher*, *Lumpkin*, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullin*, *Smith Miller*, *Millson*, MOORE, *Phelps*, PORTER, *Quitman*, READE, *Richardson*, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, *Seward*, *Shorter*, *William Smith*, SNEED, *Stewart*, SWOPE, *Taylor*, Thurston, Tyson, UNDERWOOD, VALK, *Warner*, *Watkins*, WHITNEY, *Williams*, *Winslow*, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—69.

The next amendment was read, as follows:—

Add to the clause for defraying the expenses of the Supreme Court, &c., the following:—

Provided, however, That no part of the money hereby appropriated shall be expended for prosecuting or detaining any person or persons charged with treason, or any other political offence in the territory of Kansas.

Mr. Phelps demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 60, as follows:—

YEAS.—Messrs. Albright, Allison, Ball, Barbour, Barclay, Henry Bennett, Benson, Billinghurst, Bliss, Bradshaw, Brenton, Buffinton, James H. Campbell, Chaffee. Ezra Clark, Clawson. Colfax, Comins, Covode, Cragin, Cumback, Damrell, Dean, Dick, Dodd, DUNN, Emrie, Flagler. Giddings, Granger, Grow, Harlan, *Hickman*, Holloway, Valentine B. Horton, Hughston, Kelsey, King, Knight, Knowlton, Kunkel, Matteson, McCarty, Killian Miller, Millward, Morgan, Morrill, Mott, Murray, Norton, Andrew Oliver, Parker,

Pearce, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Sabin, Sapp, Simmons, Spinner, Stanton, Stranahan, Tappan, Thurston, Todd, Trafton, Wade, Walbridge, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Watson, Wood, Woodworth.—82.

NAYS.—Messrs. *Aiken, Hendley S. Bennett*, Bishop, *Bowie, Branch*, JOHN P. CAMPBELL, Lewis D. Campbell, CARLILE, *Cruthers, Caskie, Clingman, Williamson R. W. Cobb, Crawford*, HENRY WINTER DAVIS, *Dowdell, Edmundson, English, Florence*, FOSTER, *Goode, Greenwood, Thomas L. Harris*, HAVEN, *Houston, George W. Jones, J. Glancy Jones, Keitt, Kelly, Kidwell, Letcher, Lumpkin*, HUMPHREY MARSHALL, *Samuel S. Marshall, Maxwell, McMullin, Smith Miller, Millson, Phelps, Powell, Quitman, Richardson*, RIVERS, *Ruffin, Rust, Sandidge, Seward, Shorter, William Smith*, SNEED, *Stewart, Taylor*, Tyson, UNDERWOOD, *Warner, Watkins, Williams, Winslow, Daniel B. Wright, John V. Wright*, ZOLLICOFFER.—60.

So the amendment was agreed to.

The bill was passed as amended, the affirmative vote, on its passage, being the same as that on the last amendment, with the exception of Messrs. Bennett of N. Y., and Dunn, who voted against the bill, and with the addition of Messrs. Bishop, Campbell of O., Knapp, Leiter, and Tyson.

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The following article, on the Kansas-Nebraska Bill, said to be from the pen of one of the soundest constitutional lawyers of the state of Pennsylvania, is presented in such a plain, brief manner, as to be readily understood:—

"The Constitution of the United States, Article 6, Sec. 2, declares that 'this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.'

Slavery existed in Louisiana when it was a French and when it was a Spanish colony.

On the 30th day of April, 1803, a treaty was made between France and the United States, ceding the territory of Louisiaua to the latter, the third article of which is in the following words:

"Article 3.—The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

The territory of Louisiana embraced all the territory now included in the states of Louisiana, Arkansas, Missouri, and Iowa, and the territories of Kansas, Nebraska, and Minnesota. So long as any portion of this territory remained territory, and had not been erected into a state, Congress could pass no law abolishing slavery in such territory—they had no jurisdiction of the subject.

When any portion of that territory was erected into a state, the state so erected became a municipal government, and having jurisdiction of the subject, could abolish slavery, if they chose; but no other power had any right so to do.

It therefore follows, that the celebrated Kansas and Nebraska Bill, as it is called, in which Congress refused to enact any provision in relation to slavery, either to establish it or abolish it, and repealing so much of the Missouri Compromise as professed to legislate upon the subject by Congress, was in strict conformity to the provisions of the Constitution of the United States, and the treaty of cession made with France."

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INAUGURAL ADDRESS OF GOV. GEARY OF KANSAS, SEPT. 11, 1856.

Gov. Geary, after alluding to the fact that the office was entirely unsought by him, said:—

With a full knowledge of all the circumstances surrounding the executive office, I have deliberately accepted it, and, as God may give me strength and ability, I will endeavor faithfully to discharge its various requirements. When I received my commission I was solemnly sworn to support the Constitution of the United States, and to discharge my duties as Governor of Kansas with fidelity. By reference to the Act for the organization of this territory, passed by Congress on the 30th day of March, 1854, I find my duties more particularly defined. Among other things, I am "to take care that the laws be faithfully executed."

The Constitution of the United States and the organic law of this territory, will be lights by which I will be guided in my executive cares.

A careful and dispassionate examination of our organic act will satisfy any reasonable person that the provisions are eminently just and beneficial. If this act has been distorted to unworthy purposes, it is not the fault of its provisions. The great leading feature of that act is the right therein conferred upon the actual and *bona fide* inhabitants of this territory "in the exercise of self-government, to determine for themselves what shall be their own domestic institutions, subject only to the Constitution and the laws duly enacted by Congress under it." The people, accustomed to self-government in the states from whence they came, and having removed to this territory with the *bona fide* intention of making it their future residence, were supposed to be capable of creating their own municipal government, and to be the best judges of their own local necessities and institutions. This is what is termed "popular sovereignty." By this phrase we simply mean the right of the majority of the people of the several states and territories, being qualified electors, to regulate their own domestic concerns, and to make their own municipal laws. Thus understood, this doctrine underlies the whole system of republican government. It is the great right of self-government to which our ancestors, in the stormy days of the revolution, pledged "their lives, their fortunes, and their sacred honor."

A doctrine so eminently just should receive the willing homage of every American citizen. When legitimately expressed and duly ascertained, the will of the majority must be the imperative rule of civil action for every law-abiding citizen. This simple, just rule of action, has brought order out of chaos, and by a progress unparalleled in the history of the world, has made a few feeble infant colonies a giant confederated republic.

No man, conversant with the state of affairs now in Kansas, can close his eyes to the fact that much civil disturbance has for a long time past existed in this territory. Various reasons have been assigned for this unfortunate condition of affairs, and numerous remedies have been proposed.

The House of Representatives of the United States have ignored the claims of both gentlemen claiming the legal right to represent the people of this territory in that body. The Topeka constitution, recognised by the House, has been repudiated by the Senate. Various measures, each, in the opinion of its respective advocates, suggestive of peace to Kansas, have been alternately proposed and rejected. Men outside of the territory, in various sections of the Union, influenced by reasons best known to themselves, have endeavored to stir up internal strife, and to array brother against brother. In this conflict of opinion, and for the most unworthy purposes, Kansas is left to suffer, her people to mourn, and her prosperity is endangered.

Is there no remedy for these evils? Cannot the wounds of Kansas be healed and peace be restored to all her borders?

Men of the North—men of the South—of the East and of the West, in Kansas—you, and you alone, have the remedy in your own hands. Will you not cease to regard each other as enemies, and look upon one another as the children of a common mother, and come and reason together?

Let us banish all outside influence from our deliberations, and assemble around our council board with the Constitution of our country and the organic law of this territory as the great charts for our guidance and direction. The bona fide inhabitants of this territory alone are charged with the solemn duty of enacting her laws, upholding her government, maintaining peace, and laying the foundation for a future commonwealth.

On this point let there be a perfect unity of sentiment. It is the first great step toward the attainment of peace. It will inspire confidence amongst ourselves, and insure the respect of the whole country. Let us show ourselves worthy and capable of self-government.

Do not the inhabitants of this territory better understand what domestic institutions are suited to their condition—what laws will be most conducive to their prosperity and happiness—than the citizens of distant, or even neighboring states? This great right of regulating our own affairs and attending to our own business, without any interference from others, has been guarantied to us by the law which Congress has made for the organization of this territory. This right of self-government—this privilege guarantied to us by the organic law of our territory, I will uphold with all my might, and with the entire power committed to me.

In relation to any changes of the laws of the territory which I may deem desirable, I have no occasion now to speak; but these are subjects to which I shall direct public attention at the proper time.

The territory of the United States is the common property of the several states or of the people thereof. This being so, no obstacle should be interposed to the free settlement of this common property while in a territorial condition.

I cheerfully admit that the people of this territory, under the organic act, have the absolute right of making their municipal laws, and from citizens who deem themselves aggrieved by recent legislation, I would invoke the utmost forbearance, and point out to them a sure and peaceable remedy. You have the right to ask the next legislature to revise any and all laws; and, in the mean time, as you value the peace of the territory and the maintenance of future laws, I would earnestly ask you to refrain from all violation of the present statutes.

I am sure that there is patriotism sufficient in the people of Kansas to lend a willing obedience to law. All the provisions of the Constitution of the United States must be sacredly observed, all the acts of Congress having reference to this territory must be unhesitatingly obeyed, and the decisions of our courts respected. It will be my imperative duty to see that these suggestions are carried into effect. In my official action here, I will do justice at all hazards. Influenced by no other considerations than the welfare of the whole people of this territory, I desire to know no party, no section, no North, no South, no East, no West —nothing but Kansas and my country.

Gov. Geary then concluded his address, with an appeal to Providence to aid him in restoring peace to Kansas.

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Convention Act of Kansas.

An act to provide for taking the census and election for delegates to Convention.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, as follows:—

Sec. 1. That, for the purpose of making an enumeration of the inhabitants entitled to vote under the provisions of this act, an apportionment, and an election of members of a convention, it shall be the duty of the sheriffs of the several counties of Kansas territory, and they are hereby required, between the first day of March and the first day of April, 1857, to make an enumeration of all the free male inhabitants, citizens of the United States over

twenty-one years of age, and all other white persons actually residing within their respective counties; and for this purpose shall have power to appoint one or more deputies to assist in such duties, not to exceed one in each municipal township, each of whom, before entering upon the duties of his office, shall take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully and impartially discharge the duties imposed on him by this act, according to the best of his skill and judgment, which oath or affirmation shall be administered to them severally, and be duly certified by a judge or clerk of the District Court of the United States, or judge or clerk of the probate court for the several counties, or by a justice of the peace, and filed and recorded in the office of the secretary of the territory.

Sec. 2. In case of any vacancy in the office of sheriff, the duties imposed upon such sheriff by this act shall devolve upon and be performed by the judge of probate court of the county in which such vacancy may exist, who may appoint deputies not to exceed one in each municipal township, and, in case the office of both sheriff and probate judge in any county shall be or become vacant, the governor shall appoint some competent resident of such county to perform such duty, who shall have the same right to appoint deputies, take and subscribe the same oath, and perform all the requirements of this act as applied to sheriffs.

Sec. 3. It shall be the duty of the sheriff, probate judge, or person appointed by the governor, as herein provided, in each county or election district, on or before the 10th day of April next, to file in the office of the probate judge of such county or election district a full and complete list of all the qualified voters resident in his said county or election district on the first day of April, eighteen hundred and fifty-seven, which list shall exhibit, in a fair and legible hand, the names of all such legal voters.

Sec. 4. It shall be and it is hereby made the duty of each probate judge, upon such returns being made, without delay to cause to be posted, at three of the most public places in each election precinct in his county or election district, one copy of such list of qualified voters, to the end that every inhabitant may inspect the same and apply to said probate judge to correct any error he may find therein, in the manner hereinafter provided.

Sect. 5. Said probate judge shall remain in session each day, Sundays excepted, from the time of receiving said returns until the first day of May next, at such places as shall be most convenient to the inhabitants of the county or election district, and proceed to the inspection of said returns, and hear, correct, and finally determine according to the facts, without unreasonable delay, all questions concerning the omission of any person from said returns, or the improper insertion of any name on said returns; and any other question affecting the integrity or fidelity of said returns, and for this purpose shall have power to administer oaths and examine witnesses and compel their attendance in such manner as said judge shall deem necessary.

Sec. 6. That, as soon as the said list of legal voters shall thus have been revised and corrected, it shall be the duty of the several probate judges to make out full and fair copies thereof, and without delay furnish to the governor of the territory one copy and to the secretary of the territory one copy; and it shall be the duty of the governor to cause copies thereof, distinguishing the returns from each county or election district, to be printed and distributed generally among the inhabitants of the territory; and one copy shall be deposited with the clerk of each court of record or probate judge within the limits of said territory, and one copy delivered to each judge of the election, and at least three copies shall be posted up at each place of voting.

Sec. 7. It shall be the duty of the governor and secretary of the territory, so soon as the census shall be completed and returns made, to proceed to make an apportionment of the members for a convention among the different counties and election districts in said territory in the following manner: The whole number of legal voters shall be divided by sixty, and the product of such division, rejecting any fraction of a unit, shall be the ratio or rule of apportionment of members among the several counties or election districts; and if any county or election district shall not have a number of legal voters thus ascertained equal to the ratio, it shall be attached to some adjoining county or district, and thus form a representative district; the number of said voters in each county or district shall then be divided by the ratio, and the product shall be the number of representatives apportioned to such county or district: Provided, That the loss in the number of members, caused by the fractions remaining in the several counties in the division of the legal voters thereof, shall be compensated by assigning to so many counties or districts as have the largest fractions an additional member for its fraction as may be necessary to make the whole number of representatives sixty.

Sec. 8. An election shall be held for members of a convention to form a constitution for the state of Kansas, according to the apportionment to be made as aforesaid on the third Monday in June next, to be held at the various election precincts established in the territory, in accordance with the provisions of law on that subject; and at such election no person shall be permitted to vote unless his name shall appear upon said corrected list.

Sec. 9. The board of county commissioners shall appoint the places of voting for their respective counties or election districts. They shall appoint three suitable persons to be judges of the election at each place of voting. They shall cause a notice of the places of holding elections in their respective counties

or districts to be published and distributed in every election district or precinct ten days before the day of election. If any judge of election so appointed shall fail or refuse to perform the duties of said office, the legal voters assembled at the place and on the day appointed for said election shall have the power to fill such vacancy by election amongst themselves.

Sec. 10. The judges of election shall each, before entering on the discharge of his duties, make oath or affirmation that he will faithfully and impartially discharge the duties of judge of the election according to law, which oath shall be administered by any officer authorized to administer oaths. The clerks of election shall be appointed by the judges, and shall take the like oath or affirmation, to be administered by one of the judges or by any of the officers aforesaid. Duplicate returns of election shall be made and certified by the judges and clerks, one of which shall be deposited with the board of county commissioners for the county or district in which the election is held, and the other shall be transmitted to the secretary of the territory, and the one having the highest number of votes in his county or election district shall be the representative for such county or district; and, in case of a tie or a contest in which it cannot be satisfactorily determined who was duly elected, the convention when assembled shall order a new election, as herein provided.

Sec. 11. Every bona fide inhabitant of the territory of Kansas on the third Monday of June, one thousand eight hundred and fifty-seven, being a citizen of the United States, over the age of twenty-one years, and who shall have resided three months next before said election in the county in which he offers to vote, and no other person whatever, shall be entitled to vote at said election, and any person qualified as a voter may be a delegate to said convention, and no others.

Sec. 12. All persons hereby authorized to take the census, or to assist in the taking thereof, shall have power to administer oaths and examine persons on oath in all cases where it may be necessary to the full and faithful performance of their duties under this act.

Sec. 13. If any person, by menace, threats, or force, or by any other unlawful means, shall directly or indirectly attempt to influence any qualified voter in giving his vote, or deter him from going to the poll, or disturb or hinder him in the free exercise of his right of suffrage at said election, the person so offending shall be adjudged guilty of a misdemeanor, and punished by fine not less than five hundred dollars, or by imprisonment not less than three months nor more than six, or by both.

Sec. 14. That every person not being a qualified voter according to the provisions of this act, who shall vote at any election within said territory, knowing that he is not entitled to vote, and every person who, at the same election, shall vote more than once, whether at the same or a different place, shall be adjudged guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor exceeding two hundred, or by imprisonment not less than three months nor exceeding six, or both.

Sec. 15. Any person whatsoever who may be charged with holding the election herein authorized who shall wilfully and knowingly commit any fraud or irregularity whatever, with the intent to hinder or prevent or defeat a fair expression of the popular will in the said election, shall be guilty of a misdemeanor, and punished by fine not less than five hundred dollars nor more than one thousand dollars, and imprisonment not less than six months nor more than twelve months, or both.

Sec. 16. The delegates thus elected shall assemble in convention at the capitol of said territory on the first Monday of September next, and shall proceed to form a constitution and state government, which shall be republican in its form, for admission into the Union, on an equal footing with the original states in all respects whatever, by the name of the State of Kansas.

Sec. 17. Said committee, when assembled, shall elect a presiding officer, and all other officers necessary for the transaction of their business, and the members and officers of said convention shall be entitled to receive the same compensation as the members and officers of the Legislative Assembly of Kansas Territory, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 18. All sheriffs and other officers, for the discharge of the duties required of them by this act, shall be entitled to receive four dollars for each day they are necessarily employed.

Sec. 19. Doniphan shall constitute the first election district, Brown and Nemaha the second, Atchison the third, Leavenworth the fourth, Jefferson the fifth, Calhoun the sixth, Marshall the seventh, Riley the eighth, Johnson the ninth, Douglas the tenth, Shawnee, Richardson and Davis the eleventh, Lykins the twelfth, Franklin the thirteenth, Weller, Breckenridge, Wise and Madison the fourteenth, Butler and Coffey the fifteenth, Linn the sixteenth, Anderson the seventeenth, Bourbon, McGee, Dorn and Allen the eighteenth, Woodson, Wilson, Godfrey, Greenwood and Hunter the nineteenth.

Sec. 20. All votes given at the election herein provided for shall be *viva voce*.

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Letter of Att'y Gen. Isacks thereon:

Washington City, March 25.

To the Editor of the Union.

Sir: In your issue of the 21st instant, in which the act of the Legislative Assembly of Kansas Territory providing for the formation of a state constitution was published, you copied also an article from the New York Journal of Commerce, which called in question

the propriety of the course of that body in not providing for a reference of the constitution to the people, and stated that a failure so to do was, in the judgment of that paper, "a manifest defect."

Being somewhat acquainted with the impressions under which the Assembly acted, I trust I may be pardoned in saying a word in explanation of their view of the matter.

The committees in which the bill originated were of opinion that the Assembly had no power to dictate to the convention (which, when assembled, would represent the sovereignty of the people) what course should be pursued on that or any other subject.

If the Assembly had power to command a reference of the constitution to the people, that body certainly had the right to make other requirements, and thus might have dictated provisions on any other subject.

There can be no doubt of a reference of the constitution to the people, and that the objection urged by the Journal of Commerce will be removed.

A. J. Isacks.

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Act of Territorial Legislature of Kansas repealing what are known as the obnoxious acts.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, Sec. 1st, That so much of the 11th section of an act entitled an act to regulate elections as provides that any person challenged as a voter may be required to take an oath or affirmation that he will sustain the provisions of the several acts of Congress in that section specified, be, and the same is hereby, repealed.

Sec. 2. All officers hereafter elected or appointed to any office of honor, trust, or profit, under the laws of this territory, shall, before entering upon the duties of such office, take and subscribe an oath to support the Constitution of the United States and the provisions of an act to organize the territories of Nebraska and Kansas, and faithfully to demean himself in office, and no other.

Sec. 3. All attorneys-at-law, obtaining a license in this territory, shall take and subscribe an oath to support the Constitution of the United States and the provisions of an act to organize the territories of Nebraska and Kansas, and faithfully and honestly to demean himself in his practice.

Sec. 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

This act to take effect and be in force from and after its passage.

Thomas Johnson,
President of the Council.
Wm. G. Matthias,
Speaker of the House.

I hereby certify that the within is a true and correct copy of the enrolled bill.

Thomas C. Hughes,
Chief Clerk Council.

Lecompton, K. T., Feb. 14, 1857.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, That the twelfth section of an act, entitled "An act to punish offences against slave property," be, and the same is hereby, repealed.

Thomas Johnson,
President of the Council.
Wm. G. Mathias.
Speaker of the House.

I hereby certify that the within is a true and correct copy of the enrolled bill.

Thomas C. Hughes,
Chief Clerk Council.

Lecompton, K. T., Feb. 14, 1857.

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Address of Hon. F. P. Stanton, Secretary and Acting Governor.

To the people of the territory of Kansas:—

Fellow citizens:—The Hon. Robert J. Walker, present governor of the territory, accepted his appointment from the President upon condition that he should not be required to leave Washington until the 11th of May next. Circumstances beyond his control render it impossible for him to start before that day; he may, therefore, be expected here about the middle of next month, and will then assume the executive authority of the territory.

During the absence of the governor, by the organic law of the territory, the whole duties and responsibilities of the executive are devolved upon me by virtue of my commission as secretary. In assuming to exercise the functions of this high office, at this critical juncture in the affairs of the territory, it is not inappropriate that I should briefly indicate the course which I shall feel it my duty to pursue.

The government of the United States recognises the authority of the territorial government in all matters which are within the scope of the organic act of Congress and consistent with the Federal Constitution. I hold that there can be no other rightful authority exercised within the limits of Kansas, and I shall proceed to the faithful and impartial execution of the laws of the territory, by the use of all the means placed in my power, and which may be necessary to that end.

The government especially recognises the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a state into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law the convention itself will, in some form, provide for submitting the great-distracting question regarding their

social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress, without delay, as one of the sovereign states of the American Union, and the territorial authorities will be immediately withdrawn.

I need scarcely say that all the power of the territorial executive will be exerted, with entire impartiality, to prevent fraud, to suppress violence, and to secure to every citizen a fair opportunity for the safe and peaceful exercise of his elective privilege. It will be no less the duty than the earnest desire and great pleasure of the governor, or acting governor of the territory, to carry out, in good faith, the policy avowed by the President of the United States in his recent inaugural address, in which he declares it to be "the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved," and, "that being accomplished, nothing can be fairer than to leave the people of a territory, free from all foreign interference, to decide their own destiny for themselves, subject only to the Constitution of the United States."

Nothing is wanting but to secure the confidence of the people of all parties in the sincerity of the declared intention of the territorial executive, to carry out these principles in good faith, in order to induce the co-operation of all good men in the pending measures for adopting a state constitution. The principles themselves cannot fail to be acceptable to the sober judgment of the people; and I ardently hope, for the sake of the paramount interests involved, that the necessary confidence will not be withheld.

The deplorable events which have marked the history of the territory up to this time have doubtless left their natural results of enmity and heart-burnings among the people, as also upon the criminal records of the territorial courts. Indictments have been found against many of those who acted in a military capacity under the authority of the territorial government, for acts and excesses alleged to be wholly illegal and unjustifiable. On the other hand, similar prosecutions have been instituted against those who resisted the territorial authorities, and who undertook to retaliate for the alleged wrongs committed against them. It is my deliberate opinion that, in order to promote peace and harmony, and to secure the future repose of the people, there ought to be a general amnesty in reference to all those acts, on both sides, which grew out of the political contest, and which were not corruptly and feloniously committed for personal gain, and to gratify individual malignity.

This measure, if adopted at all, ought to be adopted generously, without any consideration of the origin of the difficulty, and without question as to the party which may be responsible for the wrong. It will involve no concession or advantage to either party, but will be merely an act of economy, designed to obliterate, as far as possible, from the hearts of the people, all memory of the disastrous and lamentable contest which has heretofore desolated this unhappy territory. If it shall have that effect, though it may pardon some instances of gross wrong and outrage, it will tend to calm the excited passions of the people, and to prevent similar occurrences in the future. It will be a measure of conciliation and peace, and will leave the people free from apprehension in the future, so that they can safely devote themselves to those important labors which are designed to make this territory a great, prosperous, and happy state.

FRED. P. STANTON,
Secretary and Acting Governor.

Lecompton, 17th April, 1857.

Correspondence between a committee of Free State men and Acting Governor Stanton upon the mode of election of delegates to the State Convention.

Lawrence, K. T., April 25.

HON. F. P. STANTON, Acting Governor of Kansas Territory.

Dear Sir: In your address to the people of Lawrence last evening, we understood you to say in substance, that you would enforce the laws enacted by a legislature elected by the people of an adjoining state until they should be repealed; also, if the laws are unjust or distasteful our remedy is the ballot box.

History has indelibly recorded the fact which Gen. Maclean admitted, in our presence, last evening, that the ballot-box was taken from the people of Kansas territory, on the 30th March, 1855, and has not to this day been returned. From that time until the present the people have had no voice whatever in making laws or in selecting officers to administer them, notwithstanding the world-wide declaration by the administration at Washington, and its friends elsewhere, that the people should be perfectly free to regulate their institutions in their own way, subject only to the Constitution of the United States.

We are now invited to participate in an election of delegates to a constitutional convention to meet in September next, to frame a constitution and state government. We are told that the election law is a good one; that the voice of the actual settlers can be heard at the polls, and that justice will be meted out to all parties. We regret that the past conduct of the officers to superintend this election has not been such as to permit us to believe that they will secure a fair vote of the people; and the fact that many well known citizens in Kansas are omitted from the registry list, and that as well known citizens and residents

of Missouri are registered, is conclusive proof to us that a fair election is not intended, and will not be permitted by the officers who have thus far had the matter in charge. But if a fair election is intended, notwithstanding the body of men calling it was not elected by the people of Kansas; and notwithstanding the people have already formed a constitution, of which a large majority approve, we, the undersigned, are willing to overlook the past, and go into the election of delegates to a constitutional convention, should a convention of the people of Kansas concur, if the following course will be adopted by the officers of the election, to wit:—

First.—Two persons shall be elected in each township or district to correct the registry list—one by the Pro-Slavery and one by the Free State party, who shall proceed in company to take the census, and register all legal voters; and the probate judges shall correct the first lists, and the appointment of delegates shall be made according to the returns thus made.

Second.—Four judges of election shall be selected for each voting precinct, two by the Pro-Slavery and two by the Free State party; and the names of three of said judges shall be required to a certificate of election to entitle a person to a seat in the convention.

We think your excellency will at once perceive that some such course must be pursued to correct the list, or no correction can be made. We are informed by credible reports that in some districts, non-residents to the number of thousands have already been registered, while actual Free State settlers have been refused; and how else can the lists be corrected than by a re-taking of the census by some person or persons who have regard for an oath? Testimony of a negative character can avail nothing, and to obtain positive testimony with reference to the residence of those enlisted from another state would be impossible in the short time remaining before the election.

That you have the power to take any course you may think proper to secure a fair election, we have no doubt. It is not material that the letter of the law calling the election should be strictly followed, indeed no law at all is requisite, so that the will of a majority of the people can be ascertained. Congress can give legality to a constitution formed in accordance with a previous territorial act or without one, and we trust your excellency will restore the ballot-box to the people of Kansas in all its purity at any risk of informality in minor and non-essential provisions of the election regulations.

Very respectfully,

Your obedient servants,

C. Robinson,	G. W. Smith,
Wm. Hutchinson,	Geo. F. Earle,
Edward Clark,	Joseph Cracklin,
Ephraim Nute, Jr.,	G. Jenkins,
John Hutchinson,	S. S. Emory,
G. C. Brackett,	John H. Wakefield,
E. D. Ladd,	J. A. Finley.
C. W. Babcock,	

Executive Office,
Lecompton, K. T., April 30, 1857.

Gentlemen: Yours of the 25th inst. reached me only by last night's mail. I proceed without delay to reply to the proposition you make in reference to the election about to be held for delegates to a constitutional convention.

As I take a different view of the laws of the territory from that which you express, it will be impossible for me to consent to any new proceeding in opposition to that which has been sanctioned by the legislative authorities.

I did not hear from Gen. Maclean any such admission as you represent him to have made. That gentleman spoke only of his individual action in the particular mentioned, and whether that action was right or wrong, or whether it occurred in that individual instance only, or in a thousand others, by men either from Missouri or Massachusetts, it could not invalidate the laws which now prevail in the territory. If I believed—as I do not believe—your assertion that the laws of Kansas were "enacted by a legislature elected by the people of an adjoining state," it would still be impossible for me to set them aside—the attempt to do so would be an act of gross usurpation, not less objectionable in its character and effects than the fraudulent interference which you attribute to the people of Missouri. I must, therefore, say to you in the most explicit language, that I can do nothing which denies the authority and validity of the laws enacted within this territory. Congress alone has power to abrogate them.

I have no authority over the probate judges. It is not my province to advise them in relation to the performance of their judicial functions. Yet it will not be improper for me to say that it would be very judicious and becoming in them to obtain every possible information from respectable men of both parties, in order to enable them to correct the list of voters. If such impartial men of their own will and within the time limited by law, could take a new census and present it to the probate judges with sufficient proof of its fairness and accuracy, I think the probate judges would be bound to adopt it and return it to the governor as the true list legally corrected. I should be sorry to see any probate judge in the territory refuse to receive the sworn testimony of two respectable men, differing in politics, as to any matter within their knowledge, connected with the residence of citizens, and their qualifications as voters. I do not believe such a wrong can possibly have occurred, and I therefore say that if you had been desirous of obtaining a correct list of voters for the coming election, you had it in your power to accomplish that object in perfect conformity with the law.

It is not my purpose to reply to your statement of facts. I cannot do so from any personal knowledge enabling me either to admit or deny them. I may say, however, I have

heard statements quite as authentic as your own, and in some instances from members of your own party, to the effect that your political friends have very generally, indeed almost universally, refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they have refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration, and it appears to me that without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well known and controlling fact. I forbear to say anything of the unreasonableness of your requirement that we shall set aside the law in order to accomplish what you have refused to do in obedience to its provisions, but I will be most happy to learn that you, gentlemen, and your party friends generally, have been at work in earnest with a view to enable the probate judges to present a true and perfect list of the legal voters of the territory. You have had power to correct the lists—if you have failed to do it, the fault will be your own.

In reference to your proposition to appoint four judges of election at every place of voting, I have to say that the law very wisely authorizes only three. The governor has nothing to do with their appointment. It is not in my power, therefore, to adopt your suggestions in this particular. If I had any authority in the matter, I would, in every instance, appoint as judges of election one Republican of your party, one National Democrat in favor of a free state, and one National Democrat in favor of making a slave state: this would be quite as fair and impartial a mode of proceeding as ever is, or indeed can be adopted by political parties in any country. I most sincerely hope the probate judges may adopt this suggestion, or any other which may better avail to secure a perfectly fair and independent expression of the popular will.

I have the honor to be, very respectfully,
Your obedient servant,
FRED'K P. STANTON, Secretary,
and Acting Governor of Kansas Territory.
To C. ROBINSON, WM. HUTCHINSON, EDWARD CLARK, and others.

—

INAUGURAL ADDRESS OF THE HON. ROBERT J. WALKER, GOVERNOR OF KANSAS, ON THE 27TH OF MAY, 1857.

Governor Walker, after alluding to the circumstances under which he accepted the position of Governor of Kansas, proceeded to say:

Under our practice the preliminary act of framing a state constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the territorial legislature, created and so recognised by the authority of Congress, and clothed by it in the comprehensive language of the organic law with full power to make such an enactment. The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognised in my instructions from the President of the United States. Those who oppose this course, cannot aver the alleged irregularity of the territorial legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that legislature was invalid, then are we without law or order in Kansas, without town, city, or county organization, all legal and judicial transactions are void, all titles null, and anarchy reigns throughout our borders.

It is my duty, in seeing that all constitutional laws are fairly executed, to take care, as far as practicable, that this election of delegates to the convention shall be free from fraud or violence, and that they shall be protected in their deliberations.

The people of Kansas then are invited by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a constitution and state government. The law has performed its entire appropriate function, when it extends to the people the right of suffrage: but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and Constitution, where there is no fraud or violence, by the majority of those who do vote, as although all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

You should not console yourselves, my fellow-citizens, with the reflection, that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body. I cannot doubt, however, the course they will adopt on this subject. But why incur the hazard of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?

But it is said that the convention was not legally called, and that the election will not be freely and fairly conducted. The territorial legislature is the power ordained for this purpose by the Congress of the United States, and in opposing it, you resist the authority of the federal government. The le-

gislature was called into being by the Congress of 1854, and is recognised in the very latest Congressional legislation. It is recognised by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution, and I have no other alternative under my oath, but to see that all constitutional laws are fully and fairly executed.

I see in this act calling the convention, no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage. If, by fraud or violence, a majority should not be permitted to vote, there is a remedy, it is hoped, in the wisdom and justice of the convention itself, acting under the obligations of an oath, and a proper responsibility to the tribunal of public opinion. There is a remedy, also, if such facts can be demonstrated, in the refusal of Congress to admit a state into the Union under a constitution imposed by a minority upon a majority by fraud or violence. Indeed, I cannot doubt that the convention, after having framed a state constitution, will submit it for ratification or rejection, by a majority of the then actual *bona fide* resident settlers of Kansas.

Gov. Walker then says, that with the above views well known to the President and Cabinet, and approved by them, he accepted the appointment of governor. His instructions from the President through the Secretary of State sustain "the regular legislature of the territory" in "assembling a convention to form a constitution," and they express the opinion of the President that "when such a constitution shall be submitted to the people of a territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence." And Gov. W. then repeats his clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers in Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress. After directing attention more impressively to other questions of local importance, and commenting upon the future of the territory, the governor says:—

I cannot too earnestly impress upon you the necessity of removing the slavery agitation from the halls of Congress, and Presidential conflicts. It is conceded that Congress has no power to interfere with slavery in the states where it exists, and if it can now be established, as is clearly the doctrine of the Constitution, that Congress has no authority to interfere with the people of a territory on this subject, in forming a state constitution, the question must be removed from Congressional and Presidential elections.

This is the principle affirmed by Congress in the act organizing this territory, ratified by the people of the United States in the recent election, and maintained by the late decision of the Supreme Court of the United States. If this principle can be carried into successful operation in Kansas,—that her people shall determine what shall be her social institutions,—the slavery question must be withdrawn from the halls of Congress, and from our Presidential conflicts, and the safety of the Union be placed beyond all peril: whereas, if the principle should be defeated here, the slavery agitation must be renewed in all elections throughout the country, with increasing bitterness, until it shall eventually overthrow the government.

It is this agitation which, to European powers, presents the only hope of subverting our free institutions, and, as a consequence, destroying the principle of self-government throughout the world. It is this hope that has already inflicted deep injury upon our country, exciting monarchical or despotic interference with our domestic as well as foreign affairs, and inducing their interposition, not only in our elections, but in diplomatic intercourse to arrest our progress, to limit our influence and power, depriving us of great advantages in peaceful territorial expansion, as well as in trade with the nations of the world.

Indeed, when I reflect upon the hostile position of the European press during the recent election, and their exulting predictions of the dissolution of our Union as a consequence of the triumph of a sectional candidate, I cannot doubt, that the peaceful and permanent establishment of these principles now being subjected to their final test in Kansas, will terminate European opposition to all those measures which must so much increase our commerce, furnish new markets for our products and fabrics, and by conservative peaceful progress, carry our flag and the empire of our Constitution into new and adjacent regions indispensable as a part of the Union to our welfare and security, adding coffee, sugar, and other articles to our staple exports, whilst greatly reducing their price to the consumer.

Nor is it only in our foreign intercourse that peace will be preserved, and our prosperity advanced, by the accepted fact of the permanence of our government, based upon the peaceful settlement of this question in Kansas; but at home, the same sentiment will awaken renewed confidence in the stability of our institutions, give a new impulse to all our industry, and carry us onward in a career of progress and prosperity, exceeding even our most san-

guine expectations; a new movement of European capital will flow in upon us for permanent investment, and a new exodus of the European masses, aided by the pre-emption principle, carry westward the advancing column of American states in one unbroken phalanx to the Pacific.

And let me ask you, what possible good has been accomplished by agitating in Congress and in Presidential conflicts the slavery question? Has it emancipated a single slave or improved their condition? Has it made a single state free, where slavery otherwise would have existed? Has it accelerated the disappearance of slavery from the more northern of the slaveholding states, or accomplished any practical good whatever? No, my fellow-citizens, nothing but unmitigated evil has already ensued, with disaster still more fearful impending for the future, as a consequence of this agitation.

There is a law more powerful than the legislation of man, more potent than passion or prejudice, that must ultimately determine the location of slavery in this country; it is the isothermal line, it is the law of the thermometer, of latitude or altitude, regulating climate, labor, and productions, and as a consequence, profit and loss. Thus even upon the mountain heights of the tropics, slavery can no more exist than in northern latitudes, because it is unprofitable, being unsuited to the constitution of that sable race transplanted here from the equatorial heats of Africa. Why is it that in the Union slavery recedes from the North and progresses South? It is this same great climatic law now operating for or against slavery in Kansas. If the elevated plains of Kansas, stretching to the base of our American Alps—the Rocky Mountains—and including their eastern crest crowned with perpetual snow, from which sweep over her open prairies those chilling blasts reducing the average range of the thermometer here to a temperature nearly as low as that of New England, should render slavery unprofitable here, because unsuited to the tropical constitution of the negro race, the law above referred to must ultimately determine that question here, and can no more be controlled by the legislation of man, than any other moral or physical law of the Almighty. Especially must this law operate with irresistible force in this country, where the number of slaves is limited and cannot be increased by importation, where many millions of acres of sugar and cotton lands are still uncultivated, and, from the ever augmenting demand, exceeding the supply, the price of those great staples has nearly doubled, demanding vastly more slave labor for their production.

If, from the operation of these causes, slavery should not exist here, I trust it by no means follows that Kansas should become a state controlled by the treason and fanaticism of abolition. She has, in any event, certain constitutional duties to perform to her sister states, and especially to her immediate neighbor—the slave-holding state of Missouri. Through that great state, by rivers and railroads, must flow to a great extent our trade and intercourse, our imports and exports. Our entire eastern front is upon her border; from Missouri come a great number of her citizens; even the farms of the two states are cut by the line of state boundary, part in Kansas, part in Missouri; her citizens meet us in daily intercourse, and that Kansas should become hostile to Missouri, an asylum for her fugitive slaves, or a propagandist of abolition treason, would be alike inexpedient and unjust, and fatal to the continuance of the American Union. In any event, then, I trust that the constitution of Kansas will contain such clauses as will for ever secure to the state of Missouri the faithful performance of all constitutional guarantees, not only by federal, but by state authority, and the supremacy within our limits of the authority of the Supreme Court of the United States on all constitutional questions be firmly established.

Upon the south Kansas is bounded by the great Southwestern Indian Territory. This is one of the most salubrious and fertile portions of this continent. It is a great cotton growing region, admirably adapted by soil and climate for the products of the South, embracing the valleys of the Arkansas and Red River, adjoining Texas on the south and west, and Arkansas on the east, and it ought speedily to become a state of the American Union. The Indian treaties will constitute no obstacle any more than precisely similar treaties did in Kansas, or their lands, valueless to them, now for sale, but which, sold with their consent and for their benefit like the Indian lands of Kansas, would make them a most wealthy and prosperous people, and their consent on these terms would be most cheerfully given. This territory contains double the area of the state of Indiana, and if necessary, an adequate portion of the western and more elevated part could be set apart exclusively for these tribes, and the eastern and larger portion be formed into a state, and its lands sold for the benefit of these tribes (like the Indian lands of Kansas), thus greatly promoting all their interests. To the eastern boundary of this region on the state of Arkansas, run the railroads of that state; to her southern limits come the great railroads from Louisiana and Texas, from New Orleans and Galveston, which will ultimately be joined by railroads from Kansas, leading through this Indian Territory, connecting Kansas with New Orleans, the Gulf of Mexico, and with the Southern Pacific Railroad, leading through Texas to San Francisco.

It is essential to the true interests, not only of Kansas, but of Louisiana, Texas and Arkansas, Iowa and Missouri, and the whole region west of the Mississippi, that this coterminous Southwestern Indian Territory should speedily become a state, not only to supply us with cotton, and receive our products in return, but as occupying the area

over which that portion of our railroads should run, which connect us with New Orleans and Galveston, and by the Southern route with the Pacific. From her central position, through or connected with Kansas, must run the Central, Northern, and Southern routes to the Pacific, and with the latter, as well as with the Gulf, the connexion can only be secured by this Southwestern Territory becoming a state, and to this Kansas should direct her earnest attention as essential to her prosperity.

Our country and the world are regarding with profound interest the struggle now impending in Kansas. Whether we are competent to self-government, whether we can decide this controversy peacefully for ourselves by our own votes without fraud or violence, whether the great principles of self-government and state sovereignty can be carried here into successful operation, are the questions now to be determined, and upon the plains of Kansas may now be fought the last great and decisive battle, involving the fate of the Union, of state sovereignty, of self-government, and the liberties of the world. If you could, even for a brief period, soften or extinguish sectional passions or prejudice, and lift yourselves to the full realization of the momentous issues intrusted to your decision, you will feel, that no greater responsibility was ever devolved on any people. It is not merely shall slavery exist in or disappear from Kansas, but shall the great principle of self-government and state sovereignty be maintained or subverted. State sovereignty is mainly a practical principle in so far as it is illustrated by the great sovereign right of the majority of the people in forming a state government to adopt their own social institutions, and this principle is disregarded whenever such decision is subverted by Congress, or overthrown by external intrusion, or by domestic fraud or violence. All those who oppose this principle, are the enemies of state rights, of self-government, of the Constitution and the Union. Do you love slavery so much, or hate it so intensely, that you would endeavor to establish or exclude it by fraud or violence, against the will of the majority of the people? What is Kansas with or without slavery, if she should destroy the rights and Union of the states? Where would be her schools, her free academies, her colleges and university, her towns and cities, her railroads, farms, and villages, without the Union, and the principles of self-government? Where would be her peace and prosperity, and what the value of her lands and property? Who can decide this question for Kansas, if not the people themselves? and if they cannot, nothing but the sword can become the arbiter.

On the one hand, if you can and will decide peacefully this question yourselves, I see for Kansas an immediate career of power, progress, and prosperity, unsurpassed in the history of the world. I see the peaceful establishment of our state constitution, its ratification by the people and our immediate admission into the Union, the rapid extinguishment of Indian title, and the occupancy of those lands by settlers and cultivators; the diffusion of universal education: pre-emptions, for the actual settlers, the state rapidly intersected by a net work of railroads; our churches, schools, colleges, and university, carrying westward the progress of law and religion, liberty and civilization; our towns, cities, and villages, prosperous and progressing, our farms teeming with abundant products, and greatly appreciated in value, and peace, happiness, and prosperity smiling throughout our borders. With proper clauses in our constitution, and the peaceful arbitrament of this question, Kansas may become the model state of the American Union. She may bring down upon us from North to South, from East to West, the praises and blessings of every patriotic American, and of every friend of self-government throughout the world. She may record her name on the proudest page of the history of our country, and of the world, and as the youngest and last born child of the American Union, all will hail and regard her with respect and affection.

On the other hand, if you cannot thus peacefully decide this question, fraud, violence, and injustice will reign supreme throughout our borders, and we will have achieved the undying infamy of having destroyed the liberty of our country, and of the world. We will become a by-word of reproach and obloquy; and all history will record the fact, that Kansas was the grave of the American Union. Never was so momentous a question submitted to the decision of any people; and we cannot avoid the alternatives now placed before us of glory or of shame.

May that overruling Providence who brought our forefathers in safety to Jamestown and Plymouth, who watched over our colonial pupilage; who convened our ancestors in harmonious councils, on the birthday of American independence; who gave us Washington, and carried us successfully through the struggles and perils of the revolution; who assembled in 1787 that noble band of patriots and statesmen from North and South who framed the Federal Constitution; who has augmented our numbers from three millions to thirty millions, has carried us from the western slope of the Alleghenies, through the great valleys of the Ohio, Mississippi, and Missouri, and now salutes our standard on the shores of the Pacific, rouse in our hearts a love of the whole Union, and a patriotic devotion to the whole country —may it extinguish or control all sectional passions and prejudice, and enable us to conduct to a successful conclusion the great experiment of self-government now being made within our boundaries.

Is it not infinitely better that slavery should be abolished or established in Kansas, rather than that we should become slaves, and not permitted to govern ourselves? Is the absence or existence of slavery in Kansas paramount

to the great questions of state sovereignty, of self-government, and of the Union? Is the sable African alone entitled to your sympathy and consideration, even if he were happier as a freeman than as a slave, either here or in St. Domingo, or the British West Indies, or Spanish America, where the emancipated slave has receded to barbarism, and approaches the lowest point in the descending scale of moral, physical, and intellectual degradation? Have our white brethren of the great American and European race no claims upon our attention? Have they no rights or interests entitled to regard and protection? Shall the destiny of the African in Kansas exclude all considerations connected with our own happiness and prosperity? And is it for the handful of that race now in Kansas, or that may be hereafter introduced, that we should subvert the Union, and the great principles of self-government and state sovereignty, and imbrue our hands in the blood of our countrymen! Important as this African question may be in Kansas, and which it is your solemn right to determine, it sinks into insignificance compared with the perpetuity of the Union, and the final successful establishment of the principles of state sovereignty and free government. If patriotism, if devotion to the Constitution and love of the Union, should not induce the minority to yield to the majority on this question, let them reflect that in no event can the minority successfully determine this question permanently, and that in no contingency will Congress admit Kansas as a slave or free state, unless a majority of the people of Kansas shall first have fairly and freely decided this question for themselves by a direct vote on the adoption of the constitution, excluding all fraud or violence. The minority, in resisting the will of the majority, may involve Kansas again in civil war, they may bring upon her reproach and obloquy, and destroy her progress and prosperity; they may keep her for years out of the Union, and in the whirlwind of agitation, sweep away the government itself. But Kansas never can be brought into the Union with or without slavery, except by a previous solemn decision, fully, freely, and fairly made by a majority of her people in voting for or against the adoption of her state constitution. Why, then, should this just, peaceful, and constitutional mode of settlement meet with opposition from any quarter? Is Kansas willing to destroy her own hopes of prosperity merely that she may afford political capital to any party, and perpetuate the agitation of slavery throughout the Union? Is she to become a mere theme for agitators in other states, the theatre on which they shall perform the bloody drama of treason and disunion? Does she want to see the solemn acts of Congress, the decision of the people of the Union in the recent election, the legislative, executive, and judicial authorities of the country all overthrown, and revolution and civil war inaugurated throughout her limits? Does she want to be "bleeding Kansas" for the benefit of political agitators within or out of her limits, or does she prefer the peaceful and quiet arbitrament of this question for herself? What benefit will the great body of the people of Kansas derive from these agitations? They may for a brief period give consequence and power to political leaders and agitators; but it is at the expense of the happiness and welfare of the great body of the people of this territory.

Those who oppose slavery in Kansas do not base their opposition upon any philanthropic principles, or any sympathy for the African race. For in their so-called constitution, framed at Topeka, they deem that entire race so inferior and degraded, as to exclude them all forever from Kansas, whether they be bond or free, thus depriving them of all rights here, and denying even that they can be citizens of the United States, for if they are citizens they could not be constitutionally exiled or excluded from Kansas. Yet such a clause inserted in the Topeka constitution was submitted by that convention for the vote of the people, and ratified here by an overwhelming majority of the anti-slavery party. The party here, therefore, has, in the most positive manner, affirmed the constitutionality of that portion of the recent decision of the Supreme Court of the United States, declaring that Africans are not citizens of the United States.

This is the more important, inasmuch as this Topeka constitution was ratified with this clause inserted by the entire Republican party in Congress, thus distinctly affirming the recent decision of the Supreme Court of the Union, that Africans are not citizens of the United States, for, if citizens, they may be elected to all offices, state and national, including the Presidency itself; they must be placed upon a basis of perfect equality with the whites, serve with them in the militia, on the bench, the legislature, the jury box, vote in all elections, meet us in social intercourse; and intermarry freely with the whites. This doctrine of the perfect equality of the white with the black in all respects whatsoever, social and political, clearly follows from the position that Africans are citizens of the United States. Nor is the Supreme Court of the Union less clearly vindicated by the position now assumed here by the published creed of this party, that the people of Kansas, in forming their state constitution (and not Congress), must decide this question of slavery for themselves. Having thus sustained the court on both the controverted points decided by that tribunal, it is hoped they will not approve the anarchical and revolutionary proceedings of other states, expunging the Supreme Court from our system by depriving it of the great power for which it was created, of expounding the Constitution. If that be done, we can have, in fact, no unity of government, or fundamental law, but just as many ever varying

constitutions as passion, prejudice, and local interests may, from time to time, prescribe in the thirty-one states of the Union.

I have endeavored heretofore faintly to foreshadow the wonderful prosperity which would follow at once in Kansas, the peaceful and final settlement of this question. But if it should be in the power of agitators to prevent such a result, nothing but ruin will pervade our territory. Confidence will expire, and law and order will be subverted. Anarchy and civil war will be re-inaugurated among us. All property will greatly depreciate in value. Even the best farms will become almost worthless. Our towns and cities will sink into decay. Emigration into our territory will cease. A mournful train of returning settlers with ruined hopes and blasted fortunes, will leave our borders. All who have purchased property at present prices will be sacrificed, and Kansas will be marked by universal ruin and desolation.

Nor will the mischief be arrested here. It will extend into every other state. Despots will exult over the failure here of the great principles of self-government, and the approaching downfall of our confederacy. The pillars of the Union will rock upon their base, and we may close the next Presidential conflict, amid the scattered fragments of the Constitution of our once happy and united people. The banner of the stars and stripes, the emblem of our country's glory, will be rent by contending factions. We shall no longer have a country. The friends of human liberty in other realms will shrink despairing from the conflict. Despotic power will resume its sway throughout the world, and man will have tried in vain the last experiment of self-government. The architects of our country's ruin, the assassins of her peace and prosperity, will share the same common ruin of all our race. They will meet, whilst living, the bitter curses of a ruined people, whilst history will record as their only epitaph: They were the destroyers of the American Union, of the liberties of their country and of the world.

But I do not despair of the Republic. My hope is in the patriotism and intelligence of the people; in their love of country, of liberty, and of the Union. Especially is my confidence unbounded in the hardy pioneers and settlers of the West. It was such settlers of a new state devoted to the Constitution and the Union, whom I long represented in the Senate of the United States, and whose rights and interests it was my pride and pleasure there, as well as in the Treasury Department, to protect and advocate. It was men like these whose rifles drove back the invader from the plains of Orleans, and planted the stars and stripes upon the victorious fields of Mexico. These are the men whom gold cannot corrupt, nor foes intimidate. From their towns and villages, from their farms and cottages, spread over the beautiful prairies of Kansas, they will come forward now in defence of the Constitution and the Union. These are the glorious legacy they received from our fathers, and they will transmit to their children the priceless heritage. Before the peaceful power of their suffrage, this dangerous sectional agitation will disappear, and peace and prosperity once more reign throughout the borders. In the hearts of this noble band of patriotic settlers, the love of their country and of the Union is inextinguishable. It leaves them not in death, but follows them into that higher region, where, with Washington and Franklin and their noble compatriots, they look down with undying affection upon their country, and offer up their fervent prayers that the Union and the Constitution may be perpetuated. For recollect, my fellow citizens, that it is the Constitution that makes the Union, and unless the immortal instrument, bearing the name of the Father of his Country, shall be maintained entire in all its wise provisions and sacred guarantees, our free institutions must perish.

My reliance also is unshaken upon the same overruling Providence which has carried us triumphantly through so many perils and conflicts, which has lifted us to a height of power and prosperity unexampled in history, and, if we shall maintain the Constitution and the Union, points us to a future more glorious and sublime than mind can conceive or pen describe. The march of our country's destiny, like that of His first chosen people, is marked by the foot-prints of the steps of God. The Constitution and the Union are "the cloud by day, and the pillar of fire by night," which will carry us safely under his guidance through the wilderness and bitter waters, into the promised and ever extending fields of our country's glory. It is His hand which beckons us onward in the pathway of peaceful progress and expansion of power and renown, until our continent, in the distant future, shall be covered by the folds of the American banner, and, instructed by our example, all the nations of the world, through many trials and sacrifices, shall establish the great principles of our constitutional confederacy of free and sovereign states.

R. J. Walker.

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United States of America,
Territory of Kansas.

To the Legal Voters and Elective Officers of Kansas:

Whereas the following returns of the census taken under the act of the Legislative Assembly, entitled "An act to provide for the taking of a census and the election of delegates to Convention," passed the 19th of February, 1857, have been made to me, to wit:—

Dist.	Counties.	No. of legal voters.	Whole population.
1.	Doniphan	1086	4120
2.	Brown	206	no returns.
"	Nemaha	140	512
3.	Atchison	804	2807
4.	Leavenworth	1837	5529
5.	Jefferson	555	no returns.
6.	Calhoun	291	885
7.	Marshall	206	415
8.	Riley	353	no returns.
"	Pottawatomie	205	no returns.

9. Johnson	496	890
10. Douglas	1313	3727
11. Shawnee	283	—
" Richardson	—	—
" Davis	—	—
12. Lykens	413	1352
13. ———	no returns.	
14. ———	no returns.	
15. ———	no returns.	
16. Linn	413	1821
17. ———	no returns.	
18. Bourbon, McGee, Dorn, and Allen	645	2622
Total	9251	

Now, therefore, I, Frederick P. Stanton, Secretary and Acting Governor, do hereby proclaim that, according to the provisions of the said act, and the census returns made in pursuance thereof, and upon a proper apportionment among the legal voters of the several districts aforesaid, they are respectively entitled to elect to the convention provided for in said law the number of delegates herein assigned to them; that is to say:—

To the 1st District—Doniphan county, 7 delegates.
2d " Brown and Nemaha, 2.
3d " Atchison county, 5.
4th " Leavenworth, 12.
5th " Jefferson, 4.
6th " Calhoun, 2.
7th " Marshall, 1.
8th " Riley and Pottawatomie, 4.
9th " Johnson, 3.
10th " Douglas, 8.
11th " Shawnee, Richardson, and Davis, 2.
12th " Lykens, 3.
16th " Linn, 3.
18th " Bourbon, McGee, Dorn, and Allen, 4.

The proper officers will hold the election for delegates to the said convention on the third Monday of June next, as directed by the law aforesaid, and in accordance with the apportionment herein made and declared.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the territory, at Lecompton, this the 20th May, 1857. FRED. P. STANTON.

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*On the 1st of Dec., 1856, John W. Whitfield having again been elected a delegate from Kansas, the following proceedings took place in the House of Representatives:—

Mr. Phelps. I hold in my hand the credentials of John W. Whitfield, elected as a delegate from the territory of Kansas to this session of Congress. Mr. Whitfield is present, and I desire that the oath of office be administered to him. I will ask the clerk, however, first to read the credentials.

The credentials were read, as follows:—

United States of Amreica,
Territory of Kansas:

This is to certify that John W. Whitfield was duly elected a delegate to the second session of the thirty-fourth Congress of the United States from the territory of Kansas, at an election held on the first Monday of October, 1856.

In testimony whereof I have hereunto subscribed my hand, and caused to be affixed the seal of the territory. [L. S.]

Done at Lecompton, this 8th day of October, 1856.
JOHN W. GEARY,
Governor of Kansas territory.

By the Governor:
DANIEL WOODSON, Secretary.

On the 9th of Dec., the House decided that Gen. Whitfield should be sworn in, as follows:

YEAS.—Messrs. *Aiken*, AKERS, *Allen*, *Barksdale*, *Bell*, *Hendley S. Bennett*, *Bocock*, *Bowie*, *Boyce*, *Branch*, *Brooks*, BROOM, *Burnett*, *Cadwalader*, JOHN P. CAMPBELL, CARLILE, *Caruthers*, *Caskie*, *Clingman*, *Williamson R. W. Cobb*, COX, *Crawford*, CULLEN, *Davidson*, HENRY WINTER DAVIS, *Jacob C. Davis*, *Denver*, *Dowdell*, *Edmundson*, *Elliott*, *English*, ETHERIDGE, EUSTIS, EVANS, *Faulkner*, *Florence*, FOSTER, *Thomas J. D. Fuller*, *Garnett*, *Goode*, *Greenwood*, *Augustus Hall*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HARRISON, *Herbert*, *Hickman*, HOFFMAN, *Houston*, *Jewett*, *George W. Jones*, *J. Glancy Jones*, *Keitt*, *Kelly*, KENNETT, *Kidwell*, LAKE, *Letcher*, LINDLEY, *Lumpkin*, ALEXANDER K. MARSHALL, HUMPHREY MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullin*, *McQueen*, *Smith Miller*, *Millson*, MOORE, *Morrison*, *Mordecai Oliver*, *Orr*, *Packer*, PAINE, *Peck*, *Phelps*, PORTER, *Powell*, PRYEAR, *Quitman*, READY, RICAUD, RIVERS, *Ruffin*, *Rust*, *Sandidge*, *Savage*, *Shorter*, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, SNEED, *Stephens*, SWOPE, *Talbott*, *Taylor*, TRIPPE, TYSON, UNDERWOOD, *Vail*, VALK, *Walker*, *Warner*, *Watkins*, *Wells*, *Wheeler*, WHITNEY, *Williams*, *Winslow*, *John V. Wright*, ZOLLICOFFER.—112.

NAYS—Messrs. Albright, Allison, Ball, Barbour, Barclay, Henry Bennett, Benson, Billinghurst, Bingham, Bishop, Bliss, Bradshaw, Brenton, Buffinton, Burlingame, James H. Campbell, Lewis D. Campbell, Chaffee, Bayard Clarke, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Cumback, Damrell, Timothy Davis, Day, Dean, De Witt, Dick, Dodd, Durfee, Edie, EDWARDS, Emrie, Flagler, Galloway, Giddings, Gilbert, Granger, Grow, Robert B. Hall, Harlan, HAVEN, Hodges, Holloway, Thomas R. Horton, Valentine B. Horton, Howard, Hughston, Kelsey, King, Knapp, Knight, Knowlton, Knox, Kunkel, Leiter, Mace, Matteson, McCarty, Killian Miller, Millward, Morgan, Morrill, Mott, Murray, Nichols, Norton, Andrew Oliver, Parker, Pearce, Pelton, Pennington, Perry, Pettit, Pike, Pringle, Purviance, Ritchie, Robbins, Roberts, Robison, Sabin, Sapp, Scott, Sherman, Simmons, Spinner, Stanton, Stranahan, Tappan, Thorington, Thurston, Todd, Trafton, Wade, Wakeman, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Welch, Woodruff, Woodworth.—108.

AN ITEM OF HISTORY.

A piece of unwritten history, connected with the legislation on the Kansas-Nebraska bill, will find an appropriate place here.

It will be recollected that the motion of Mr. Cutting of N. Y., by which the Senate bill, organizing the territories of Nebraska and Kansas, was committed to the Committee of the Whole House on the state of the Union, on the 21st of March, 1854, gave rise to a good deal of bad feeling between some of the friends of the bill, who voted against that motion, and those of them that voted for it. It was freely insinuated that these representatives claiming to be the friends of the measure, who voted for that motion, were at heart opposed to the bill. These gentlemen who had so voted, and who afterwards gave the bill their support, justified its commitment to the Committee of the Whole House upon the ground that, unless the bill was freely discussed in the House before it was brought to a vote, the people could not become thoroughly acquainted with its merits, and would be apt, in the Northern states, to make up a hasty judgment in opposition to it, well calculated to defeat its sanction by them, and to bury, politically, those representatives from the North who were giving it their support. The result of the commitment of the bill, and the bad feeling which ensued, was a caucus of its friends, held a few nights subsequent, in the Committee on Foreign Relations room of the

* These proceedings should have followed Gov. Geary's Message; but were inadvertently omitted.

House of Representatives, where there were in attendance some 98 members of both Houses, and where the subject was fully discussed.

Mr. Wm. H. Witte, of Pennsylvania, and others, opposed the bringing of the discussion on the bill to too early a close. The folly of such a course of action upon a measure embracing so vital a principle as that involved, destroying as it did a compromise, in behalf of which the prejudices of the Northern people were so highly excited, became apparent to the meeting, and it was determined that the discussion should be full and ample, and that when it reached that standard, then, and not till then, should the bill be brought to a vote.

The caucus appointed Mr. Olds of O., Mr. Witte of Pa., Mr. Bocock of Va., Mr. English of Ind., and Mr. Kerr of N. C., a committee to superintend the progress of the bill, to arrange the debate in its favor, and attend to all matters tending to promote its safe transit through the House. These gentlemen did justice to the positions thus assigned them, and to their efforts may be attributed to a great extent the success which attended it. The wise policy of discussion triumphed. There were more speeches made by the opponents of the bill than by its friends, which completely precluded them from complaining of any application of the gag to their right of discussion, and thus deprived them of what would have been, in their hands, a potent instrument to excite opposition to the measure.

Negro Citizenship.

DEPARTMENT OF STATE,
Washington, Nov. 4, 1856.

SIR:—Your letters of the 29th ultimo and 3d inst., requesting passports for eleven colored persons, have been received, and I am directed by the Secretary to inform you that the papers transmitted by you do not warrant the department in complying with your request. The question whether free negroes are citizens, is not now presented for the first time, but has repeatedly arisen in the administration of both the national and state governments. In 1821, a controversy arose as to whether free persons of color were citizens of the United States, within the intent and meaning of the acts of Congress regulating foreign and coasting trade, so as to be qualified to command vessels, and Mr. Wirt, Attorney General, decided that they were not, and he moreover, held that the word "citizens of the United States" were used in the acts of Congress in the same sense as in the Constitution. This view is also fully sustained in a recent opinion of the present Attorney General.

The judicial decisions of the country are to the same effect. In Kent's Commentaries, vol. 2, p. 277, it is stated that in 1833, Chief Justice Daggett of Connecticut, held that free blacks are not "citizens" within the meaning of the term, as used, in the Constitution of the United States, and the Supreme Court of Tennessee, in the case of The State against Clairbone, held the same doctrine. Such being the construction of the Constitution in regard to free persons of color, it is conceived that they cannot be regarded, when beyond the jurisdiction of this government, as entitled to the full rights of citizens; but the Secretary directs me to say that, though the department could not certify that such persons are citizens of the United States, yet, if satisfied of the truth of the facts, it would give a certificate that they were born in the United States, are free, and that the government thereof would regard it to be its duty to protect them if wronged by a foreign government, while within its jurisdiction, for a legal and proper purpose.

I am, sir, respectfully, your
obedient servant,
J. A. THOMAS, As. Sec'y.

H. H. Rice, Esq., New York City.

Nicaragua.

PROCLAMATION RESPECTING AN APPREHENDED INVASION OF.

By the President of the United States of America:—

WHEREAS information has been received by me that sundry persons, citizens of the United States and others, residents therein, are preparing, within the jurisdiction of the same, to enlist, or enter themselves, or to hire or retain others to participate in military operations within the state of Nicaragua:

Now, therefore, I, Franklin Pierce, President of the United States, do warn all persons against connecting themselves with any such enterprise or undertaking, as being contrary to their duty as good citizens and to the laws of their country, and threatening to the peace of the United States.

I do further admonish all persons who may depart from the United States, either singly or in numbers, organized or unorganized, for any such purpose, that they will thereby cease to be entitled to the protection of this government.

I exhort all good citizens to discountenance and prevent any such disreputable and criminal undertaking as aforesaid, charging all officers, civil and military, having lawful power in the premises, to exercise the same for the purpose of maintaining the authority and enforcing the laws of the United States.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed to these presents.

Done at the City of Washington, the eighth day of December, one thousand eight [L. S.] hundred and fifty-five, and of the Independence of the United States the eightieth.

FRANKLIN PIERCE.

By the President:
W. L. MARCY, Sec. of State.

Nicholson Letter.

THE following letter was written by Gen. Cass to the Hon. A. O. P. Nicholson, of Tennessee, on the subject of the Wilmot Proviso, and the acquisition of Mexican territory:—

Washington, Dec. 24, 1847.

Dear Sir: I have received your letter, and shall answer it as frankly as it is written.

You ask me whether I am in favor of the acquisition of Mexican territory, and what are my sentiments with regard to the Wilmot proviso?

I have so often and so explicitly stated my views of the first question in the Senate, that it seems almost unnecessary to repeat them here. As you request it, however, I shall briefly give them.

I think, then, that no peace should be granted to Mexico till a reasonable indemnity is obtained for the injuries which she has done us. The territorial extent of this indemnity is, in the first instance, a subject of executive consideration. There the Constitution has placed it, and there I am willing to leave it; not only because I have full confidence in its judicious exercise, but because, in the ever-varying circumstances of a war, it would be indiscreet, by a public declaration, to commit the country to any line of indemnity, which might otherwise be enlarged, as the obstinate injustice of the enemy prolongs the contest, with its loss of blood and treasure.

It appears to me that the kind of metaphysical magnanimity which would reject all indemnity at the close of a bloody and expensive war, brought on by a direct attack upon our troops by the enemy, and preceded by a succession of unjust acts for a series of years, is as unworthy of the age in which we live as it is revolting to the common sense and practice of mankind. It would conduce but little to our future security, or, indeed, to our present reputation, to declare that we repudiate all expectation of compensation from the Mexican government, and are fighting, not for any practical result, but for some vague—perhaps philanthropic—object, which escapes my penetration, and must be defined by those who assume this new principle of national intercommunication. All wars are to be deprecated, as well by the statesman as by the philanthropist. They are great evils; but there are greater evils than these, and submission to injustice is among them. The nation which should refuse to defend its rights and its honor, when assailed, would soon have neither to defend; and when driven to war, it is not by professions of disinterestedness and declarations of magnanimity that its rational objects can be best obtained, or other nations taught a lesson of forbearance—the strongest security for permanent peace. We are at war with Mexico, and its vigorous prosecution is the surest means of its speedy termination, and ample indemnity the surest guarantee against the recurrence of such injustice as provoked it.

The Wilmot proviso has been before the country some time. It has been repeatedly discussed in Congress, and by the public press. I am strongly impressed with the opinion that a great change has been going on in the public mind upon this subject—in my own as well as others; and that doubts are resolving themselves into convictions that the principle it involves should be kept out of the national legislature, and left to the people of the confederacy in their respective local governments.

The whole subject is a comprehensive one, and fruitful of important consequences. It would be ill-timed to discuss it here. I shall not assume that responsible task, but shall confine myself to such general views as are necessary to the fair exhibition of my opinions.

We may well regret the existence of slavery in the southern states, and wish they had been saved from its introduction. But there it is, and not by the act of the present generation; and we must deal with it as a great practical question, involving the most momentous consequences. We have neither the right nor the power to touch it where it exists; and if we had both, their exercise, by any means heretofore suggested, might lead to results which no wise man would willingly encounter, and which no good man could contemplate without anxiety.

The theory of our government presupposes that its various members have reserved to themselves the regulation of all subjects relating to what may be termed their internal police. They are sovereign within their boundaries, except in those cases where they have surrendered to the general government a portion of their rights, in order to give effect to the objects of the Union, whether these concern foreign nations or the several states themselves. Local institutions, if I may so speak, whether they have reference to slavery or to any other relations, domestic or public, are left to local authority, either originally or derivative. Congress has no right to say that there shall be slavery in New York, or that there shall be no slavery in Georgia; nor is there any other human power but the people of those states, respectively, which can change the relations existing therein; and they can say, if they will, We will have slavery in the former, and we will abolish it in the latter.

In various respects the territories differ from the states. Some of their rights are inchoate, and they do not possess the peculiar attributes of sovereignty. Their relation to the general government is very imperfectly defined by the Constitution; and it will be found, upon examination, that in that instrument the only grant of power concerning them is conveyed in the phrase, "Congress shall have the power to dispose of, and make all needful rules and regulations respecting the territory and other property belonging to the United States." Certainly this phraseology is very loose, if it were designed to include in the grant the whole power of legislation over persons, as

well as things. The expression the "territory and other property" fairly construed relates to the public lands as such, to arsenals, dock-yards, forts, ships, and all the various kinds of property which the United States may and must possess.

But surely the simple authority to dispose of and regulate these does not extend to the unlimited power of legislation; to the passage of all laws, in the most general acceptation of the word; which, by-the-by, is carefully excluded from the sentence. And, indeed, if this were so, it would render unnecessary another provision of the Constitution, which grants to Congress the power to legislate, with the consent of the states respectively, over all places purchased for the "erection of forts, magazines, arsenals, dock-yards, &c." These being the "property" of the United States, if the power to make "needful rules and regulations concerning" them includes the general power of legislation, then the grant of authority to regulate "the territory and other property of the United States" is unlimited, wherever subjects are found for its operation, and its exercise needed no auxiliary provision. If, on the other hand, it does not include such power of legislation over the "other property" of the United States, then it does not include it over their "territory;" for the same terms which grant the one grant the other. "Territory" is here classed with property, and treated as such; and the object was evidently to enable the general government, as a property-holder—which, from necessity, it must be—to manage, preserve, and "dispose of" such property as it might possess, and which authority is essential almost to its being. But the lives and persons of our citizens, with the vast variety of objects connected with them, cannot be controlled by an authority, which is merely called into existence for the purpose of making rules and regulations for the disposition and management of property.

Such, it appears to me, would be the construction put upon this provision of the Constitution were this question now first presented for consideration, and not controlled by imperious circumstances. The original ordinance of the Congress of the Confederation, passed in 1787, and which was the only act upon this subject in force at the adoption of the Constitution, provided a complete frame of government for the country north of the Ohio, while in a territorial condition, and for its eventual admission in separate states into the Union. And the persuasion that this ordinance contained within itself all the necessary means of execution probably prevented any direct reference to the subject in the Constitution further than vesting in Congress the right to admit the states formed under it into the Union. However, circumstances arose which required legislation, as well over the territory north of the Ohio as over other territory, both within and without the original Union, ceded to the general government; and at various times a more enlarged power has been exercised over the territories—meaning thereby the different territorial governments—than is conveyed by the limited grant referred to. How far an existing necessity may have operated in producing this legislation, and thus extending, by rather a violent implication, powers not directly given, I know not. But certain it is that the principle of interference should not be carried beyond the necessary implication which produces it. It should be limited to the creation of proper governments for new countries, acquired or settled, and to the necessary provision for their eventual admission into the Union; leaving, in the mean time, to the people inhabiting them to regulate their internal concerns in their own way. They are just as capable of doing so as the people of the states; and they can do so, at any rate, as soon as their political independence is recognised by admission into the Union. During this temporary condition it is hardly expedient to call into exercise a doubtful and invidious authority, which questions the intelligence of a respectable portion of our citizens, and whose limitation, whatever it may be, will be rapidly approaching its termination—an authority which would give to Congress despotic power, uncontrolled by the Constitution, over most important sections of our common country. For, if the relation of master and servant may be regulated or annihilated by its legislation, so may the relation of husband and wife, of parent and child, and of any other condition which our institutions and the habits of our society recognise. What would be thought if Congress should undertake to prescribe the terms of marriage in New York, or to regulate the authority of parents over their children in Pennsylvania? And yet it would be as vain to seek one justifying the interference of the national legislature in the cases referred to in the original states of the Union. I speak here of the inherent power of Congress, and do not touch the question of such contracts as may be formed with new states when admitted into the confederacy.

Of all the questions that can agitate us, those which are merely sectional in their character are the most dangerous, and the most to be deprecated. The warning voice of him who, from his character, and services, and virtue, had the best right to warn us, proclaimed to his countrymen, in his Farewell Address—that monument of wisdom for him, as I hope it will be of safety for them—how much we had to apprehend from measures peculiarly affecting geographical portions of our country. The grave circumstances in which we are now placed make these words words of safety; for I am satisfied, from all I have seen and heard here, that a successful attempt to engraft the principles of the Wilmot proviso upon the legislation of this government, and to apply them to new territory, should new territory be acquired, would seriously affect our tranquillity. I do not

suffer myself to foresee or to foretell the consequences that would ensue; for I trust and believe there is good sense and good feeling enough in the country to avoid them, by avoiding all occasions which might lead to them.

Briefly, then, I am opposed to the exercise of any jurisdiction by Congress over this matter; and I am in favor of leaving to the people of any territory which may be hereafter acquired, the right to regulate it for themselves under the general principles of the Constitution. Because—

1. I do not see in the Constitution any grant of the requisite power to Congress; and I am not disposed to extend a doubtful precedent beyond its necessity—the establishment of territorial governments when needed—leaving to the inhabitants all the rights compatible with the relations they bear to the confederation.

2. Because I believe this measure, if adopted, would weaken, if not impair the union of the states, and would sow the seeds of future discord, which would grow up and ripen into an abundant harvest of calamity.

3. Because I believe the general conviction that such a proposition would succeed would lead to an immediate withholding of the supplies, and thus to a dishonorable termination of the war. I think no dispassionate observer at the seat of government can doubt this result.

4. If, however, in this I am under a misapprehension, I am under none in the practical operation of this restriction, if adopted by Congress, upon a treaty of peace making any acquisition of Mexican territory. Such a treaty would be rejected just as certainly as presented to the Senate. More than one-third of that body would vote against it, viewing such a principle as an exclusion of the citizens of the slaveholding states from a participation in the benefits acquired by the treasure and exertions of all, and which should be common to all. I am repeating—neither advancing nor defending these views. That branch of the subject does not lie in my way, and I shall not turn aside to seek it.

In this aspect of the matter, the people of the United States must choose between this restriction and the extension of their territorial limits. They cannot have both; and which they will surrender must depend upon their representatives first, and then, if these fail them, upon themselves.

5. But, after all, it seems to be generally conceded that this restriction, if carried into effect, could not operate upon any state to be formed from newly acquired territory. The well-known attributes of sovereignty, recognised by us as belonging to the state governments, would sweep before them any such barrier, and would leave the people to express and exert their will at pleasure. Is the object, then, of temporary exclusion for so short a period as the duration of the territorial governments worth the price at which it would be purchased?—worth the discord it would engender, the trial to which it would expose our Union, and the evils that would be the certain consequence, let that trial result as it might? As to the course which has been intimated, rather than proposed, of engrafting such a restriction upon any treaty of acquisition, I persuade myself it would find but little favor in any portion of this country. Such an arrangement would render Mexico a party, having a right to interfere in our internal institutions in questions left by the Constitution to the state governments, and would inflict a serious blow upon our fundamental principles. Few indeed, I trust, there are among us who would thus grant to a foreign power the right to inquire into the constitution and conduct of the sovereign states of this Union; and if there are any, I am not among them, and never shall be. To the people of this country, under God, now and hereafter, are its destinies committed; and we want no foreign power to interrogate us, treaty in hand, and to say, Why have you done this, or why have you left that undone? Our own dignity and the principles of national independence unite to repel such a proposition.

But there is another important consideration which ought not to be lost sight of in the investigation of this subject. The question that presents itself is not a question of the increase, but of the diffusion of slavery. Whether its sphere be stationary or progressive, its amount would be the same. The rejection of this restriction will not add one to the class of servitude, nor will its adoption give freedom to a single being who is now placed therein. The same numbers will be spread over greater territory; and so far as compression, with less abundance of the necessaries of life, is an evil, so far will that evil be mitigated by transporting slaves to a new country, and giving them a larger space to occupy.

I say this in the event of the extension of slavery over any new acquisition. But can it go there? This may well be doubted. All the descriptions which reach us of the condition of the Californias and of New Mexico, to the acquisition of which our efforts seem at present directed, unite in representing those countries as agricultural regions, similar in their products to our middle states, and generally unfit for the production of the great staples which can alone render slave labor valuable. If we are not grossly deceived—and it is difficult to conceive how we can be—the inhabitants of those regions, whether they depend upon their ploughs or their herds, cannot be slaveholders. Involuntary labor, requiring the investment of large capital, can only be profitable when employed in the production of a few favored articles confined by Nature to special districts, and paying larger returns than the usual agricultural products spread over more considerable portions of the earth.

In the able letter of Mr. Buchanan upon this subject, not long since given to the public, he presents similar considerations with great force. "Neither," says the distinguish-

ed writer, "the soil, the climate, nor the productions of California, south of 36° 30′, nor indeed of any portion of it, north or south, is adapted to slave labor; and, besides, every facility would be there afforded for the slave to escape from his master. Such property would be entirely insecure in any part of California. It is morally impossible, therefore, that a majority of the emigrants to that portion of the territory south of 36° 30′, which will be chiefly composed of our citizens, will ever re-establish slavery within its limits.

"In regard to New Mexico, east of the Rio Grande, the question has already been settled by the admission of Texas into the Union.

"Should we acquire territory beyond the Rio Grande and east of the Rocky Mountains, it is still more impossible that a majority of the people would consent to *re-establish* slavery. They are themselves a colored population, and among them the negro does not belong socially to a degraded race."

With this last remark Mr. Walker fully coincides in his letter written in 1844, upon the annexation of Texas, and which everywhere produced so favorable an impression upon the public mind as to have conduced very materially to the accomplishment of that great measure. "Beyond the Del Norte," says Mr. Walker, "slavery will not pass; not only because it is forbidden by law, but because the colored race there preponderates in the ratio of ten to one over the whites; and holding, as they do, the government and most of the offices in their possession, they will not permit the enslavement of any portion of the colored race, which makes and executes the laws of the country."

The question, it will be therefore seen on examination, does not regard the exclusion of slavery from a region where it now exists, but a prohibition against its introduction where it does not exist, and where, from the feelings of the inhabitants and the laws of Nature, "it is morally impossible," as Mr. Buchanan says, that it can ever re-establish itself.

It augurs well for the permanence of our confederation that, during more than half a century which has elapsed since the establishment of this government, many serious questions, and some of the highest importance, have agitated the public mind, and more than once threatened the gravest consequences; but that they have all in succession passed away, leaving our institutions unscathed, and our country advancing in numbers, power, and wealth, and in all the other elements of national prosperity, with a rapidity unknown in ancient or in modern days. In times of political excitement, when difficult and delicate questions present themselves for solution, there is one ark of safety for us—and that is, an honest appeal to the fundamental principles of our Union, and a stern determination to abide their dictates. This course of proceeding has carried us in safety through many a trouble, and I trust will carry us safely through many more, should many more be destined to assail us. The Wilmot proviso seeks to take from its legitimate tribunal a question of domestic policy, having no relation to the Union, as such, and to transfer it to another, created by the people for a special purpose, and foreign to the subject-matter involved in this issue. By going back to our true principles, we go back to the road of peace and safety. Leave to the people who will be affected by this question, to adjust it upon their own responsibility, and in their own manner, and we shall render another tribute to the original principles of our government, and furnish another guarantee for its permanence and prosperity.

I am, dear sir, respectfully,
your obedient servant,
LEWIS CASS.

A. O. P. Nicholson, Esq., Nashville, Tenn.

Ohio.

ON the 27th of February, 1802, a petition was received and referred in the House of Representatives from the inhabitants of Fairfield county, in the Northwestern Territory, praying admission into the Union as a state.

On the 9th of April, 1802, a bill passed the House to enable the people of the Eastern Division of the Northwestern Territory to form a constitution and state government, and for the admission of such state into the Union.

On the 27th of April, 1802, it was passed by the Senate with amendments which were concurred in by the House, and it became a law by the approval of the President on the 30th of April, 1802.

The people of the territory formed a constitution, named the state "Ohio," and on the 19th of February, 1803, an act was passed extending the laws of the United States not locally inapplicable over said state.

Ordinance of 1784-87.

ON the first of March, 1784, a committee consisting of Mr. Jefferson of Va., Mr. Chase of Md., and Mr. Howell of R. I., submitted to Congress the following plan for the temporary government of the Western Territory:—

The committee appointed to prepare a plan for the temporary government of the Western Territory, have agreed to the following resolutions:—

Resolved, That the territory ceded or to be ceded by individual states to the United States, whensoever the same shall have been purchased of the Indian inhabitants and offered for sale by the United States, shall be formed into additional states, bounded in the following manner, as nearly as such cessions will admit; that is to say, northwardly and southwardly by parallels of latitude, so that each state shall comprehend, from south to north, two degrees of latitude, beginning to count from the completion of thirty-one degrees north of the equator; but any territory northwardly of the forty-seventh degree shall make part of the state next below. And

eastwardly and westwardly they shall be bounded, those on the Mississippi by that river on one side and the meridian of the lowest point of the rapids of the Ohio on the other; and those adjoining on the east, by the same meridian on their western side, and on their eastern by the meridian of the western cape of the mouth of the Great Kanawha. And the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one state.

That the settlers within the territory so to be purchased and offered for sale shall, either on their own petition or on the order of Congress, receive authority from them, with appointments of time and place, for their free males of full age to meet together for the purpose of establishing a temporary government to adopt the constitution and laws of any one of these states, so that such laws nevertheless shall be subject to alteration by their ordinary legislature, and to erect, subject to a like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any state until it shall have acquired twenty thousand free inhabitants, when, giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves.

Provided, That both the temporary and permanent governments be established on these principles as their basis:—

1. That they shall for ever remain a part of the United States of America.

2. That in their persons, property, and territory, they shall be subject to the government of the United States in Congress assembled, and to the Articles of Confederation, in all those cases in which the original states shall be so subject.

3. That they shall be subject to pay a part of the federal debts, contracted or to be contracted, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other states.

4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title.

5. *That after the year* 1800 *of the Christian era there shall be neither slavery nor involuntary servitude in any of the said states, otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.*

That whenever any of the said states shall have, of free inhabitants, as many as shall then be in any one of the least numerous of the thirteen original states, such state shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original states, after which the assent of two-thirds of the United States, in Congress assembled, shall be requisite in all those cases wherein, by the Confederation, the assent of nine states is now required, provided the consent of nine states to such admission may be obtained according to the eleventh of the Articles of Confederation. Until such admission by their delegates into Congress, any of the said states, after the establishment of their temporary government, shall have authority to keep a sitting member in Congress, with a right of debating, but not of voting.

That the territory northward of the forty-fifth degree, that is to say, of the completion of forty-five degrees from the equator, and extending to the Lake of the Woods, shall be called Sylvania; that of the territory under the forty-fifth and forty-fourth degrees, that which lies westward of Lake Michigan, shall be called Michigania; and that which is eastward thereof, within the peninsula formed by the lakes and waters of Michigan, Huron, St. Clair, and Erie, shall be called Chersonesus, and shall include any part of the peninsula which may extend above the forty-fifth degree. Of the territory under the forty-third and forty-second degrees, that to the westward, through which the Assenisipi or Rock river runs, shall be called Assenisipia; and that to the eastward, in which are the fountains of the Muskingum, the two Miamies of Ohio, the Wabash, the Illinois, the Miami of the Lake, and the Sandusky rivers, shall be called Metropotamia. Of the territory which lies under the forty-first and fortieth degrees, the western, through which the river Illinois runs, shall be called Illinoia; that next adjoining, to the eastward, Saratoga; and that between this last and Pennsylvania, and extending from the Ohio to Lake Erie, shall be called Washington. Of the territory which lies under the thirty-ninth and thirty-eighth degrees, to which shall be added so much of the point of land within the fork of the Ohio and Mississippi as lies under the thirty-seventh degree, that to the westward, within and adjacent to which are the confluences of the rivers Wabash, Shawanee, Tanisee, Ohio, Illinois, Mississippi, and Missouri, shall be called Polypotamia; and that to the eastward, farther up the Ohio, otherwise called the Pelisipi, shall be called Pelisipia.

That all the preceding articles shall be formed into a charter of compact, shall be duly executed by the President of the United States, in Congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental conditions between the thirteen original states and those newly described, unalterable but by the joint consent of the United States in Congress assembled, and of the particular state within which such alteration is proposed to be made.

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On the 19th of April, 1784, Mr. Speight of N. C. moved that the proviso be stricken out. Under the Articles of Confederation, which governed the proceedings of Congress, a ma-

jority of the thirteen states was necessary to an affirmative decision of any question; and the vote of no state could be counted, unless represented by at least two delegates.

The question upon Mr. Speight's motion was put in this form:—

"Shall the words moved to be struck out stand?"

The vote stood—

For the Proviso, six states, viz.: New Hampshire. Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania.

Against the Proviso, three states, viz.: Virginia, Maryland, and South Carolina.

Delaware and Georgia were not represented. New Jersey, by Mr. Dick, voted ay, but her vote, only one delegate being present, could not be counted. The vote of North Carolina was divided—Mr. Williamson voting ay, Mr. Speight, no. The vote of Virginia stood—Mr. Jefferson, ay, Messrs. Hardy and Mercer, no. Of the twenty-three delegates present and voting, sixteen voted for, and seven against the proviso. Thus was the proviso defeated.

The Ordinance of 1784, thus amended, became the law of the land on the 23d of April following. In 1785, Mr. King of Mass. again moved the proviso in Congress, in a slightly modified form, as follows:—

"That there shall be neither slavery nor involuntary servitude in any of the states described in the resolves of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original states, and each of the states described in the said resolve of the 23d of April, 1784."—4 *Jour. Cong. Confed.*, 481.

The resolution was ordered to be committed by the votes of New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and Maryland—eight; against the votes of Virginia, North Carolina, South Carolina, and Georgia—four. Delaware was not represented. The vote of Maryland was determined by two ayes against one no, while that of Virginia was determined by two noes against one aye.

No further action was had at this time; but in a little more than two years afterwards, the subject was brought for the third time before Congress, in connexion, as before, with the government of the Western Territory. The Ordinance of 1784 had never been carried into practical operation. Settlements were about to commence in the northwest, and the settlers needed protection and government. Congress, therefore, in 1787, resumed the consideration of the subject of the western territory. These deliberations resulted in the celebrated Ordinance of 1787, an act which received the unanimous votes of the states; and, with a single exception from New York, of all of the delegates.

The Ordinance of 1787 is as follows:—

Whereas the General Assembly of Virginia, at their session commencing on the 20th day of October, 1783, passed an act to authorize their delegates in Congress to convey to the United States in Congress assembled, all the right of that commonwealth to the territory northwestward of the river Ohio: and whereas the delegates of the said commonwealth have presented to Congress the form of a deed proposed to be executed pursuant to the said act, in the words following:—

To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the commonwealth of Virginia, in the Congress of the United States of America, send greeting:

Whereas the General Assembly of the commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act, entitled, "An act to authorize the delegates of this state in Congress to convey to the United States in Congress assembled, all the right of this commonwealth to the territory northwestward of the river Ohio," in these words following, to wit:

"Whereas the Congress of the United States did, by their act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several states in the Union, having claims to waste and unappropriated lands in the western country, a liberal cession to the United States, of a portion of their respective claims, for the common benefit of the Union: and whereas this commonwealth did, on the second day of January, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of the said states, all right, title, and claim, which the said commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession. And whereas the United States in Congress assembled have, by their act of the thirteenth of September last, stipulated the terms on which they agree to accept the cession of this state, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this commonwealth, are conceived, on the whole, to approach so nearly to them, as to induce this state to accept thereof, in full confidence that Congress will, in justice to this state, for the liberal cession she hath made, earnestly press upon the other states claiming large tracts of waste and uncultivated territory, the propriety of making cessions equally liberal, for the common benefit and support of the Union. Be it enacted by the General Assembly, That it shall and may be lawful for the delegates of this state to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this state, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said states, all right, title, and claim, as well of soil as jurisdiction, which this commonwealth hath to the territory or

tract of country within the limits of the Virginia charter, situate, lying, and being, to the northwest of the river Ohio, subject to the terms and conditions contained in the before recited act of Congress of the thirteenth day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into states, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit: and that the states so formed shall be distinct republican states, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other states.

That the necessary and reasonable expenses incurred by this state, in subduing any British posts, or in maintaining forts and garrisons within, and for the defence, or in acquiring any part of, the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this state, which they shall judge to be comprised within the intent and meaning of the act of Congress, of the tenth of October, one thousand seven hundred and eighty, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincents, and the neighboring villages, who have professed themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this state, shall be allowed and granted to the then Colonel, now General George Rodgers Clarke, and to the officers and soldiers of his regiment, who marched with him when the post of Kaskaskies and St. Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place, on the northwest side of the Ohio, as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion, according to the laws of Virginia. That in case the quantity of good land on the southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops, upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops, in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliances of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever. Provided, that the trust hereby reposed in the delegates of this state shall not be executed unless three of them at least are present in Congress.

And whereas the said General Assembly, by their resolution of June sixth, one thousand seven hundred and eighty-three, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said commonwealth in Congress for one year, from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said General Assembly of Virginia, before recited, and in the name, and for and on behalf, of the said commonwealth, do, by these presents, convey, transfer, assign, and make over, unto the United States, in Congress assembled, for the benefit of the said states, Virginia inclusive, all right, title and claim, as well of soil as of jurisdiction, which the said commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony whereof, we have hereunto subscribed our names and affixed our seals, in Congress, the first day of March, in the year of our Lord one thousand seven hundred and eighty-four, and of the Independence of the United States the eighth.

Resolved, That the United States in Congress assembled are ready to receive this deed, whenever the delegates of the state of Virginia are ready to execute the same.

The delegates of Virginia then proceeded and signed, sealed, and delivered the said deed: whereupon Congress came to the following resolution:—

The delegates of the commonwealth of Virginia having executed the deed,

Resolved, That the same be recorded and enrolled among the acts of the United States in Congress assembled.

—

Resolved, That it be, and it hereby is, recommended to the legislature of Virginia, to take into consideration their act of cession:

and revise the same, so far as to empower the United States in Congress assembled, to make such a division of the territory of the United States, lying northerly and westerly of the river Ohio, into distinct republican states, not more than five nor less than three, as the situation of that country and future circumstances may require; which states shall hereafter become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the original states: in conformity with the resolution of Congress of the tenth October, 1780.*

According to order, the ordinance for the government of the territory of the United States northwest of the river Ohio, was read a third time and passed, as follows:

An ordinance for the government of the territory of the United States northwest of the river Ohio.

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them: and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parents' share; and there shall, in no case, be a distinction between kindred of the whole and half-blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered, by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress: he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

* "Resolved, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular state, pursuant to the recommendation of Congress, of the 6th day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican states, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other states; that each state which shall be so formed shall contain a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; that the necessary and reasonable expenses which any particular state shall have incurred, since the commencement of the present war, in subduing any British posts, or in maintaining forts or garrisons within, and for the defence, or in acquiring any part of, the territory that may be ceded or relinquished to the United States, shall be reimbursed:

"That the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or any nine or more of them."—*Journals of Congress*, October 10, 1780.

Previous to the organization of the General Assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district; and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly; provided that, for every five hundred free male inhabitants, there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature; provided, that no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid: and whenever a vacancy shall happen in the Council, by death or removal from office, the House of Representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term: And every five years, four months at least before the expiration of the time of service of the members of the Council, the said House shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the House, and by a majority in the Council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient.

The Governor, Judges, Legislative Council, Secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the Council and House assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which for ever hereafter shall be formed in the said territory; to provide, also, for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:—

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact, between the original states and the people and

states in the said territory, and for ever remain unalterable, unless by common consent, to wit:—

Art. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

Art. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate: and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with, or affect, private contracts or engagements, bona fide, and without fraud, previously formed.

Art. 3. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall for ever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Art. 4. The said territory and the states which may be formed therein, shall for ever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary, for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

Art. 5. There shall be formed in the said territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: the western state in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash, from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided, however, and it is further understood and declared, that the boundaries of these three states shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government: provided the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: Provided always, that any person

escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784,* relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void. Done, &c.

—

ACT OF VIRGINIA.

Whereas, the United States in Congress assembled did, on the seventh day of July, in the year of our Lord one thousand seven hundred and eighty-six, state certain reasons, showing that a division of the territory which hath been ceded to the said United States, by this commonwealth, into states, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican states, not more than five nor less than three in number, as the situation of that country and future circumstances might require: and the said United States in Congress assembled have, in an ordinance for the government of the territory northwest of the river Ohio, passed on the thirteenth of July, one thousand seven hundred and eighty-seven, declared the following as one of the articles of compact between the original states and the people and states in the said territory, viz.:

[Here the 5th article of compact, of the ordinance of Congress of 13th July, 1787, is recited verbatim.]

And it is expedient that this commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original states and the people and states in the said territory.

2. Be it therefore enacted by the General Assembly, That the aforerecited article of compact, between the original states and the people and states in the territory northwest of Ohio river, be, and the same is hereby ratified and confirmed, anything to the contrary, in the deed of cession of the said territory by this commonwealth to the United States, notwithstanding.

Oregon.

AFTER the Clayton Compromise Bill was defeated in the House, the Oregon bill, which originated in that body, was looked to as the means of providing a territorial government for Oregon.

This bill as it became a law contained the following provision:—

Sec. 14.—And be it further enacted, *That the inhabitants of said territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions, and restrictions, and prohibitions in said articles of compact imposed upon the people of said territory;* and the existing laws now in force in the territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the Constitution of the United States and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed by the Legislative Assembly of the said territory of Oregon; but all laws heretofore passed in said territory, making grants of land or otherwise affecting or encumbering the title to lands, shall be, and are hereby, declared null and void, and the laws of the United States are hereby extended over, and declared to be in force in, said territory, so far as the same, or any provision thereof, may be applicable.

The Committee of the Whole having struck out that part of the section italicized, the question came up in the House upon agreeing with the Committee of the Whole in striking out, and it was decided in the negative as follows:—

YEAS.—Messrs. *Barringer, Bayly, Beale,* Birdsall, *Bocock, Botts, Bowdon, Bowlin, Boyd,* Brodhead, *Wm. G. Brown, Albert G. Brown, Burt, Cabell, Chapman, Chase, Beverly L. Clarke, Clingman, Howell Cobb, Williamson R. W. Cobb, Cocke, Crisfield, Crozier, Daniel, Garnett Duncan, Alexander Evans, Featherston,* Ficklin, *Flournoy, French, Fulton, Gayle, Gentry, Goggin, Green, Willard P. Hall, Haralson, Harmanson, Harris, Haskell, Hill, Hilliard, Isaac E. Holmes, George S. Houston, Inge,* Charles J. Ingersoll, *Iverson, Jameson, Andrew Johnson, Robert W. Johnson, George W. Jones, John W. Jones, Kaufman,* Kennon, *Thomas Butler King, La Sere, Ligon, Lumpkin,* McClernand, *McDowell, McKay, McLane,* Miller, *Outlaw, Pendleton, Phelps, Pillsbury, Preston, Rhett, Richardson,* Robinson, *Roman,* Sawyer, *Shepperd, Simpson, Sims, Stanton, Stephens, Thibodeaux, Thomas, Jacob Thompson, Robert A. Thompson, Tompkins, Toombs, Venable, Wallace, Wick, Woodward.*—88.

NAYS.—Messrs. Abbott, Adams, Ashmun, Bingham, Blanchard, Brady, Butler, Canby, Cathcart, Franklin Clark, Collamer, Collins, Conger, Cranston, Crowell, Cummins, Darling, Dickey, Dickinson, Dixon, Duer, Daniel Duncan, Dunn, Eckert, Edwards, Embree, Nathan Evans, Faran, Farrelly, Fisher, Freedley, Fries, Giddings, Gott, Gregory, Grinnell, Hale, Nathan K. Hall, Hammons, Jas. G. Hampton, Moses Hampton, Henley, Henry, Elias B. Holmes, *John W. Houston,* Hubbard, Hudson, Hunt, Joseph R. Ingersoll, Jenkins, Kellogg, Daniel P. King, Lahm, William T. Lawrence, Sidney Lawrence, Lincoln, Lord, Lynde, Maclay, McClelland, McIlvaine, Job Mann, Horace Mann, Marsh, Marvin, Morris, Mullin, Nelson, Newell, Nicoll, Palfrey, Peaslee, Peck, Petrie, Pettit, Pollock, Putnam, Reynolds, Richey, Rockhill, Julius Rockwell, John A. Rockwell, Rose, Root, Rumsey, St. John, Schenck, Sherrill, Silvester, Slingerland, Smart, Caleb B. Smith, Robert Smith, Truman Smith, Starkweather, Andrew Stewart, Charles E. Stuart, Strohm, Tallmadge, Taylor, James Thompson, Richard W. Thompson, William Thompson, Thurston, Turner, Tuck, Van Dyke, Vinton, Warren, Wentworth, White, Wiley, Williams, Wilmot.—114.

Northern men in roman, Southern men in italics.

So the House refused to concur with the committee in striking out.

The bill passed the House on the 2d of August, 1848, by yeas and nays, as follows:—

* This reference is to the Ordinance of 1784, preceding this.

YEAS.—Messrs. Abbott of Mass., Green Adams of Ky., Ashmun of Mass., Belcher of Me., Bingham of Mich., Birdsall of N. Y., Blanchard of Pa., Bowlin of Mo., Brady of Pa., Brodhead of Pa., Butler of Pa., Canby of O., Cathcart of Ind., Clapp of Me., Clark of Me., Cocke of Tenn., Collamer of Vt., Collins of N. Y., Conger of N. Y., Cranston of R. I., Crowell of O., Cummings of O., Dickey of Pa., Dickinson of O., Dixon of Conn., Duer of N. Y., Duncan of O., Dunn of Ind., Eckart of Pa., Edwards of O., Embree of Ind., Evans of O., Faran of O., Farrelly of Pa., Ficklin of Ill., Fisher of O., Freedley of Pa., Fries of O., Giddings of O., Gott of N. Y., Gregory of N. J., Grinnell of Mass., Hale of Mass., Hall of Mo., Hall of N. Y., Hammond of Me., Hampton of N. J., Hampton of Pa., Henley of Ind., Henry of Vt., Holmes of N. Y., Houston of Del., Hubbard of Conn., Hudson of Mass., Hunt of N. Y., Charles J. Ingersoll of Pa., Joseph R. Ingersoll of Pa., Irvin of Pa., Jamieson of Mo., Jenkins of N. Y., Johnson of Tenn., Jones of Tenn., Kellogg of N. Y., Kennon of O., King of Mass., Lahm of O., William T. Lawrence of N. Y., Sidney Lawrence of N. Y., Lincoln of Ill., Lord of N. Y., Lynde of Wis., Maclay, McClelland, McClernand, McIvaine of Pa., Mann of Pa., Marsh of Vt., Marvin of N. Y., Miller of O., Morris of O., Mullin of N. Y., Newell of N. J., Nicoll of N. Y., Palfrey of Mass., Peaslee of N. H., Peck of Vt., Petrie of N. Y., Pollock of Pa., Richardson of Ill., Reynolds of N. Y., Richey of O., Robinson of Ind., Rockhill of Ind., Rockwell of Mass., Rockwell of Conn., Rose of N. Y., Root of O., Rumsey, Jr., of N. Y., Sawyer of O., Schenck of O., Sherrill of N. Y., Silvester of N. Y., Slingerland of N. Y., Smart of Mc., Smith of Ind., Smith of Ill., Smith of Conn., Starkweather of N. Y., Stewart of Pa., Strohm of Pa., Stuart of Mich., Tallmadge of N. Y., Taylor of O., Thompson of Pa., Thompson of Ia., Thurston of R. I., Tuck of N. H., Turner of Ill., Van Dyke of N. J., Vinton of O., Warren of N. Y., Wentworth of Ill., White of N. Y., Wick of Ind., Wiley of Me., Wilmot of Pa.

NAYS.—Messrs. Barringer of N. C., Bayley of Va., Beale of Va., Bocock of Va., Botts of Va., Bowdon of Ala., Boyd of Ky., Boydon of N. C., Brown of Miss., Burt of S. C., Cabell of Fla., Chapman of Md., Clark of Ky., Clingman of N. C., Cobb of Ga., Cobb of Ala., Crisfield of Md., Crozier of Tenn., Daniel of N. C., Duncan of Ky., Evans of Md., Featherston of Miss., Flournoy of Va., French of Ky., Fulton of Va., Gayle of Ala., Gentry of Tenn., Goggin of Va., Green of Mo., Haralson of Ga., Harris of Ala., Haskell of Tenn., Hill of Tenn., Hilliard of Ala., Holmes of S. C., Houston of Ala., Inge of Ala., Iverson of Ga., Johnson of Ark., Jones of Tenn., Kaufman of Tex., King of Ga., La Sere of La., Levin of Pa., Ligon of Md., Lumpkin of Ga., McDowell of Va., McKay of N. C., McLane of Md., Meade of Va., Outlaw of N. C., Pendleton of Va., Phelps of Mo., Pillsbury of Tex., Preston of Va., Rhett of S. C., Roman of Md., Shepperd of N. C., Simpson of S. C., Simms of S. C., Stanton of Tenn., Stephens of Ga., Thibodeaux of La., Thomas of Tenn., Thompson of Miss., Thompson of Va., Tompkins of Miss., Toombs of Ga., Venable of N. C., Wallace of S. C., Woodward of S. C.

In the Senate, on the 10th of August, 1848, the bill coming up for consideration, on motion of Mr. Douglas an amendment extending the Missouri line to the Pacific was adopted. For amendment and vote see extension of Missouri line, p. 360.

The bill was then engrossed by yeas and nays as follows:—

YEAS.—Messrs. Atchison of Mo., Badger of N. C., Bell of Tenn., Benton of Mo., Berrien of Ga., Borland of Ark., Breese of Ill., Bright of Ind., Butler of S. C., Cameron of Pa., Clayton of Del., Davis of Miss., Dickinson of N. Y., Douglas of Ill., Downs of La., Fitzgerald of Mich., Hannegan of Ind., Houston of Tex., Hunter of Va., Johnson of Md., Johnson of La., Johnson of Ga., King of Ala., Lewis of Ala., Mangum of N. C., Mason of Va., Metcalfe of Ky., Pearce of Md., Sebastian of Ark., Spruance of Del., Sturgeon of Pa., Turney of Tenn., Underwood of Ky.—33.

NAYS.—Messrs. Allen of O., Atherton of N. H., Baldwin of Conn., Bradbury of Me., Calhoun of S. C., Clarke of R. I., Corwin of O., Davis of Mass., Dayton of N. J., Dix of N. Y., Dodge of Wis., Felch of Mich., Greene of R. I., Hale of Mass., Hamlin of Me., Miller of N. J., Niles of Conn., Phelps of Vt., Upham of Vt., Walker of Wis., Webster of Mass., Westcott of Fla.—22.

The House disagreed to the amendment of the Senate, the Senate receded, and the bill became a law.

For the vote of the House disagreeing to the amendment of the Senate see extension of the Missouri line, p. 360.

President Polk communicated his approval of the bill in a message in which he said:—

The territory of Oregon lies far north of thirty-six degrees thirty minutes, the Missouri and Texas compromise line. Its southern boundary is the parallel of forty-two, leaving the intermediate distance to be three hundred and thirty geographical miles.

And it is because the provisions of this bill are not inconsistent with the terms of the Missouri compromise, if extended from the Rio Grande to the Pacific Ocean, that I have not felt at liberty to withhold my sanction. Had it embraced territories south of that compromise, the question presented for my consideration would have been of a far different character, and my action upon it must have corresponded with my convictions.

Ought we now to disturb the Missouri and Texas compromises? Ought we, at this late day, in attempting to annul what has been so long established and acquiesced in, to excite sectional divisions and jealousies; to alienate the people of different portions of the Union from each other, and to endanger the existence of the Union itself?

From the adoption of the Federal Constitution, during a period of sixty years, our progress as a nation has been without example in the annals of history. Under the protection of a bountiful Providence, we have advanced with giant strides in the career of wealth and prosperity. We have enjoyed the blessings of freedom to a greater extent than any other people, ancient or modern, under a government which has preserved order, and secured to every citizen life, liberty, and property. We have now become an example for imitation to the whole world. The friends of freedom in every clime point with admiration to our institutions. Shall we, then, at the moment when the people of Europe are devoting all their energies in the attempt to assimilate their institutions to our own, peril all our blessings by despising the lessons of experience, and refusing to tread in the footsteps which our fathers have trodden? And for what cause would we endanger our glorious Union? The Missouri compromise contains a prohibition of slavery throughout all that vast region extending twelve and a half degrees along the Pacific, from the parallel of thirty-six degrees thirty minutes to that of forty-nine degrees, and east from that ocean to and beyond the summit of the Rocky Mountains.

Why, then, should our institutions be endangered because it is proposed to submit to the people of the remainder of our newly acquired territory lying south of thirty-six degrees thirty minutes, embracing less than four degrees of latitude, the question whether, in the language of the Texas compromise, they "shall be admitted (as a state) into the Union with or without slavery?" Is this a question to be pushed to such extremities by excited partisans on the one side or the other, in regard to our newly acquired distant pos-

sessions on the Pacific, as to endanger the union of thirty glorious states which constitute our confederacy? I have an abiding confidence that the sober reflection and sound patriotism of the people of all the states will bring them to the conclusion that the dictate of wisdom is to follow the example of those who have gone before us, and settle this dangerous question on the Missouri compromise, or some other equitable compromise, which would respect the rights of all, and prove satisfactory to the different portions of the Union.

Holding as a sacred trust the executive authority for the whole Union, and bound to guard the rights of all, I should be constrained, by a sense of duty, to withhold my official sanction from any measure which would conflict with these important objects.

At the next session, in his annual message he said:—

"It was upon this consideration that, at the close of your last session, I gave my sanction to the principle of the Missouri compromise, by approving and signing the bill to establish the territorial government of Oregon. From a sincere desire to preserve the harmony of the Union, and in deference to the acts of my predecessors, I felt constrained to yield my acquiescence to the extent to which they had gone in compromising this delicate and dangerous question. But if Congress shall now reverse the decision by which the Missouri compromise was effected, and shall propose to extend the restriction over the whole territory, south as well as north of the parallel of 36° 30′, it will cease to be a compromise, and must be regarded as an original question."

Ostend Manifesto.

MR. MARCY TO MR. SOULE.

(Extracts.—No. 19.)

Department of State,
Washington, Aug. 16, 1854.

Sir: I am directed by the President to suggest to you a particular step, from which he anticipates much advantage to the negotiations with which you are charged, on the subject of Cuba.

These, and other considerations which will readily occur to you, suggest that much may be done at London and Paris either to promote directly the great object in view, or at least to clear away impediments to its successful consummation.

Under these circumstances, it seems desirable that there should be a full and free interchange of views between yourself, Mr. Buchanan, and Mr. Mason, in order to secure a concurrence in reference to the general object.

The simplest and only very apparent means of attaining this end is for the three ministers to meet, as early as may be, at some convenient central point (say Paris), to consult together, to compare opinions as to what may be advisable, and to adopt measures for perfect concert of action in aid of your negotiations at Madrid. While the President has, as I have before had occasion to state, full confidence in your own intelligence and sagacity, he conceives that it cannot be otherwise than agreeable to you and to your colleagues in Great Britain and France, to have the consultation suggested and then to bring your common wisdom and knowledge to bear simultaneously upon the negotiations at Madrid, London, and Paris.

If you concur in these views, you will please to fix the time when you can repair to Paris, or such other convenient point as you may select, and give notice of it to Mr. Buchanan and Mr. Mason, who have instructions on the subject, and will await advices from you as to the time and place of the contemplated conference. In case the proposed interview shall take place, you are desired to communicate to the government here the results of opinion or means of action to which you may in common arrive, through a trustworthy confidential messenger, who may be able to supply any details not contained in a formal despatch.

I am, sir, respectfully your obedient servant,
W. L. MARCY.

Pierre Soule, Esq., &c., &c., Madrid.

MR. SOULE TO MR. MARCY.

United States Legation to Spain,
London, Oct. 20, 1854.

Sir: Herewith I have the honor to transmit to you a joint communication from Mr. Buchanan, Mr. Mason, and myself, embodying the result of our deliberations on the subject about which we had been desired to confer together. The issues, with reference to which we were instructed to express our judgment, were of too momentous an import not to tax all the discernment and discretion in our power, and it was with a deep sense of solemn responsibility that we entered upon the duties which had been assigned to us.

May we have accomplished our task in a manner not unworthy of the great object for which it was conferred on us!

My colleagues have had a full view of the difficulties and dangers which the question presents; and you will see that they have not hesitated to join me in the expression of sentiments according strikingly with the intimations repeatedly thrown out in your despatches to me.

I do not know if we shall be found sufficiently explicit in the language through which we have attempted to convey our impressions; I trust, however, that it will be found sufficiently free from ambiguity to leave no room even for a doubt as to its true meaning.

The question of the acquisition of Cuba by us is gaining ground as it grows to be more seriously agitated and considered. Now is the moment for us to be done with it; for if we delay its solution, we will certainly repent that we let escape the fairest opportunity we could ever be furnished with of bringing it to a decisive test.

Present indications would seem to encourage the hope that we may come to that solution peaceably. But if it were otherwise—if it is to bring upon us the calamity of a war—let it be now, while the great powers of this continent are engaged in that stupendous struggle, which cannot but engage all their strength and tax all their energies as long as it lasts, and may, before it ends, convulse them all.

Neither England nor France would be likely to interfere with us. England could not bear to be suddenly shut out of our market and see her manufactures paralyzed even by a temporary suspension of her intercourse with us.

And France, with the heavy task now on her hands, and when she so eagerly aspires to take her seat as the acknowledged chief of the European family, would have no inducement to assume the burden of another war, nor any motive to repine at seeing that we took in our keeping the destinies of the New World, as she will soon have those of the Old.

I close this despatch in haste, as I have no time left me to carry it further.

Mr. McRae leaves for Liverpool within a few minutes. I intrust to him details which would not have found a place here, nor in the other despatch. He will impart to you what of my mind I am not able to pour out in these lines.

Respectfully, yours,

PIERRE SOULE.

Hon. William L. Marcy,
Secretary of State, &c.

—

Aix la Chapelle,
October 18, 1857.

Sir:—The undersigned, in compliance with the wish expressed by the President in the several confidential despatches you have addressed to us respectively to that effect, have met in conference, first at Ostend, in Belgium, on the 9th, 10th, and 11th instant, and then at Aix la Chapelle, in Prussia, on the days next following, up to the date hereof.

There has been a full and unreserved interchange of views and sentiments between us, which, we are most happy to inform you, has resulted in a cordial coincidence of opinion on the grave and important subject submitted to our consideration.

We have arrived at the conclusion and are thoroughly convinced, that an immediate and earnest effort ought to be made by the government of the United States to purchase Cuba from Spain at any price for which it can be obtained not exceeding the sum of $. The proposal should, in our opinion, be made in such a manner as to be presented through the necessary diplomatic forms to the Supreme Constituent Cortes about to assemble. On this momentous question, in which the people both of Spain and the United States are so deeply interested, all our proceedings ought to be open, frank, and public. They should be of such a character as to challenge the approbation of the world.

We firmly believe that, in the progress of human events, the time has arrived when the vital interests of Spain are as seriously involved in the sale, as those of the United States in the purchase, of the island, and that the transaction would prove equally honorable to both nations.

Under these circumstances we cannot anticipate a failure, unless possibly through the malign influence of foreign powers, who possess no rights whatever to interfere in the matter.

We proceed to state some of the reasons which have brought us to this conclusion, and, for the sake of clearness, we shall specify them under two distinct heads:

1st. The United States ought, if practicable, to purchase Cuba with as little delay as possible.

2d. The probability is great that the government and Cortes of Spain will prove willing to sell it, because this would essentially promote the highest and best interests of the Spanish people.

The first, it must be clear to every reflecting mind, that, from the peculiarity of its geographical position, and the considerations attendant on it, Cuba is as necessary to the North American republic as any of its present members, and that it belongs naturally to that great family of states of which the Union is the providential nursery. From its locality, it commands the mouth of the Mississippi and the immense and annually increasing trade which must seek this avenue to the ocean.

On the numerous navigable streams, measuring an aggregate course of some thirty thousand miles, which disembogue themselves through this magnificent river into the Gulf of Mexico, the increase of the population within the last ten years amounts to more than that of the entire Union at the time Louisiana was annexed to it.

The natural and main outlet to the products of this entire population, the highway of their direct intercourse with the Atlantic and the Pacific states, can never be secure, but must ever be endangered whilst Cuba is a dependency of a distant power, in whose possession it has proved to be a source of constant annoyance and embarrassment to their interests.

Indeed, the Union can never enjoy repose, nor possess reliable security, as long as Cuba is not embraced within its boundaries.

Its immediate acquisition by our government is of paramount importance, and we cannot doubt but that it is a consummation devoutly wished for by its inhabitants. The intercourse which its proximity to our coasts begets and encourages between them and the citizens of the United States, has, in the progress of time, so united their interests and blended their fortunes that they now look upon each other as if they were one people and had but one destiny.

Considerations exist which render delay in the acquisition of this island exceedingly dangerous to the United States. The system of immigration and labor lately organized within its limits, and the tyranny and oppression

which characterize its immediate rulers, threaten an insurrection at every moment, which may result in direful consequences to the American people.

Cuba has thus become to us an unceasing danger, and a permanent cause of anxiety and alarm.

But we need not enlarge on these topics. It can scarcely be apprehended that foreign powers, in violation of international law, would interpose their influence with Spain to prevent our acquisition of the island. Its inhabitants are now suffering under the worst of all possible governments—that of absolute despotism, delegated by a distant power to irresponsible agents, who are changed at short intervals, and who are tempted to improve the brief opportunity thus afforded to accumulate fortunes by the basest means.

As long as this system shall endure, humanity may in vain demand the suppression of the African slave trade in the island. This is rendered impossible whilst that infamous traffic remains an irresistible temptation and source of immense profit to needy and avaricious officials, who, to attain their ends, scruple not to trample the most sacred principles under foot.

The Spanish government at home may be well disposed, but experience has proved that it cannot control these remote depositaries of its power. Besides, the commercial nations of the world cannot fail to perceive and appreciate the great advantages which would result to their people from a dissolution of the forced and unnatural connexion between Spain and Cuba, and the annexation of the latter to the United States. The trade of England and France with Cuba would, in that event, assume at once an important and profitable character, and rapidly extend with the increasing population and prosperity of the island.

2. But if the United States and every commercial nation would be benefited by this transfer, the interests of Spain would also be greatly and essentially promoted. She cannot but see what such a sum of money as we are willing to pay for the island, would effect in the development of her vast natural resources.

Two-thirds of this sum, if employed in the construction of a system of railroads, would ultimately prove a source of greater wealth to the Spanish people than that opened to their vision by Cortez. Their prosperity would date from the ratification of the treaty of cession.

France has already constructed continuous lines of railways from Havre, Marseilles, Valenciennes, and Strasbourg, via Paris, to the Spanish frontier, and anxiously awaits the day when Spain shall find herself in a condition to extend these roads through her northern provinces to Madrid, Seville, Cadiz, Malaga, and the frontiers of Portugal. The object once accomplished, Spain would become a centre of attraction for the travelling world, and secure a permanent and profitable market for her various productions.

Her fields, under the stimulus given to industry by remunerating prices, would teem with cereal grain, and her vineyards would bring forth a vastly increased quantity of choice wines. Spain would speedily become, what a bountiful Providence intended she should be, one of the first nations of Continental Europe; rich, powerful, and contented. Whilst two-thirds of the price of the island would be ample for the completion of her most important public improvements, she might, with the remaining forty millions, satisfy the demands now pressing so heavily upon her credit, and create a sinking fund which would gradually relieve her from the overwhelming debt now paralyzing her energies.

Such is her present wretched financial condition, that her best bonds are sold upon her own Bourse at about one-third of their par value; whilst another class, on which she pays no interest, have but a nominal value, and are quoted at about one-sixth of the amount for which they were issued. Besides, these latter are held principally by British creditors who may, from day to day, obtain the effective interposition of their own government for the purpose of coercing payment. Intimations to that effect have already been thrown out from high quarters, and unless some new source of revenue shall enable Spain to provide for such exigencies, it is not improbable that they may be realized. Should Spain reject the present golden opportunity for developing her resources, and removing her financial embarrassments, it may never again return. Cuba, in its palmiest day, never yielded her exchequer, after deducting the expenses of its government, a clear annual income of more than a million and a half of dollars. These expenses have increased in such a degree as to leave a deficit chargeable on the treasury of Spain to the amount of six hundred thousand dollars. In a pecuniary point of view, therefore, the island is an encumbrance, instead of a source of profit, to its mother country.

Under no probable circumstances can Cuba ever yield to Spain one per cent. on the large amount which the United States are willing to pay for its acquisition. But Spain is in imminent danger of losing Cuba without remuneration.

Extreme oppression, it is now universally admitted, justifies any people in endeavoring to relieve themselves from the yoke of their oppressors. The sufferings which the corrupt, arbitrary, and unrelenting local administration necessarily entails upon the inhabitants of Cuba, cannot fail to stimulate and keep alive that spirit of resistance and revolution against Spain which has, of late years, been so often manifested. In this condition of affairs it is vain to expect that the people of the United States will not be warmly enlisted in favor of their oppressed neighbors.

We know that the President is justly inflex-

ible in his determination to execute the neutrality laws: but, should the Cubans themselves rise in revolt against the oppression which they suffer, no human power could prevent citizens of the United States and liberal minded men from other countries from rushing to their assistance. Besides, the present is an age of adventure, in which restless and daring spirits abound in every portion of the world.

It is not improbable, therefore, that Cuba may be wrested from Spain by a successful revolution; and in that event she will lose both the island and price which we are now willing to pay for it—a price far beyond what was ever paid by one people to another for any province.

It may also be remembered that the settlement of this vexed question by the cession of Cuba to the United States, would for ever prevent the dangerous complications between nations, to which it might otherwise give birth.

It is certain that, should the Cubans themselves organize an insurrection against the Spanish government, and should other independent nations come to the aid of Spain in the contest, no human power could, in our opinion, prevent the people and government of the United States from taking part in such a civil war in support of their neighbor and friend. But if Spain, dead to the voice of her own interest, and actuated by stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States, then the question will arise, What ought to be the course of the American government under such circumstances? Self-preservation is the first law of nature, with states as well as with individuals. All nations have, at different periods, acted upon this maxim. Although it has been made the pretext for committing flagrant injustice, as in the partition of Poland and other similar cases which history records, yet the principle itself, though often abused, has always been recognised. The United States have never acquired a foot of territory except by fair purchase, or, as in the case of Texas, upon the free and voluntary application of the people of that independent state, who desired to blend their destinies with our own.

Even our acquisitions from Mexico are no exception to this rule, because, although we might have claimed them by the right of the conquest in a just war, yet we purchased them for what was considered by both parties a full and ample equivalent.

Our past history forbids that we should acquire the island of Cuba without the consent of Spain, unless justified by the great law of self-preservation. We must, in any event, preserve our own conscious rectitude and our own self-respect.

Whilst pursuing this course we can afford to disregard the censures of the world, to which we have been so often and so unjustly exposed. After we shall have offered Spain a price for Cuba far beyond its present value, and this shall have been refused, it will then be time to consider the question, Does Cuba, in the possession of Spain, seriously endanger our internal peace and the existence of our cherished Union?

Should this question be answered in the affirmative, then by every law, human and divine, we shall be justified in wresting it from Spain if we possess the power, and this upon the very same principle that would justify an individual in tearing down the burning house of his neighbor, if there were no other means of preventing the flames from destroying his own house.

Under such circumstances we ought neither to regard the circumstances or count the odds which Spain might enlist against us. We forbear to enter into the question, whether the present condition of the island would justify such a measure. We should, however, be recreant to our duty, be unworthy of our gallant forefathers, and commit base treason against our posterity, should we permit Cuba to be Africanized and become a second St. Domingo with all its attendant horrors to the white race, and suffer the flames to extend to to our own neighboring shores, seriously to endanger or actually to consume the fair fabric of our Union.

We fear that the course and current of events are rapidly tending to such a catastrophe. We, however, hope for the best, though we ought certainly to be prepared for the worst.

We also forbear to investigate the present condition of the questions at issue between the United States and Spain. A long series of injuries to our people has been committed in Cuba by Spanish officials, and are unredressed. But recently a most flagrant outrage on the rights of American citizens and on the flag of the United States was perpetrated in the harbor of Havana, under circumstances which, without immediate redress, would have justified a resort to measures of war in vindication of national honor. That outrage is not only unatoned, but the Spanish government has deliberately sanctioned the acts of its subordinates and assumed the responsibility attaching to them. Nothing could more impressively teach us the danger to which those peaceful relations it has ever been the policy of the United States to cherish with foreign nations are constantly exposed, than the circumstances of that case. Situated as Spain and the United States are, the latter have forborne to resort to the extreme measures.

But this course cannot, with due regard to their own dignity as an independent nation, continue; and our own recommendations, now submitted, are dictated by the firm belief that the cession of Cuba to the United States, with stipulations as beneficial to Spain as those suggested, is the only effective made of settling all past differences and of securing the two countries against future collision.

We have already witnessed the happy re-

sults for both countries which followed a similar arrangement in regard to Florida.

Yours, very respectfully,
JAMES BUCHANAN.
J. Y. MASON.
PIERRE SOULE.

Hon. Wm. L. Marcy, Secretary of State.

Personal Liberty Bill.

THE following is a synopsis of the Personal Liberty Bill, as passed by the legislature of Massachusetts:—

"By the 10th section it is provided that 'any person who shall grant a certificate under the act of 1851 shall be deprived of any office he may hold under the commonwealth, and shall be for ever thereafter ineligible to any office of trust, honor, or emolument under the law of the commonwealth.'

"The eleventh section declares that 'any person who shall act as counsel or attorney for any claimant under said act shall be deprived of any commission he may then hold under the laws of the commonwealth, and shall be thereafter incapacitated to appear as counsel or attorney in the courts of the commonwealth.'

"The 16th section forbids any member of the volunteer militia from aiding in the enforcement of the fugitive slave law, and provides that 'any member of the same who shall offend against the provisions of this section shall be punished by fine of not less than one thousand and not exceeding two thousand dollars, and by imprisonment in the state prison not less than one year and not more than two years.'

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The following is the Personal Liberty bill of Vermont:—

An act for the protection of personal liberty.

"It is hereby enacted by the General Assembly of the state of Vermont, as follows:—Sec. 1. No court of record in this state, nor any judge thereof, no justice of the peace nor other magistrate, acting under the authority of this state, shall hereafter take cognisance of, or grant any certificate, warrant, or other process, in any case arising under section three of an act of Congress, passed February twelfth, seventeen hundred and ninety-three, entitled 'an act respecting fugitives from justice, and persons escaping from the service of their masters,' to any person claiming any other person as a fugitive slave in this state.

"Sec. 2. No sheriff, deputy sheriff, high bailiff, constable, jailor, or other officer or citizen of this state shall, hereafter, seize, arrest, or detain, or aid in the seizure, arrest or detention, or imprisonment in any jail or other building belonging to this state, or to any county, town, city, or person therein, of any person for the reason that he is or may be claimed as a fugitive slave.

"Sec. 3. No sheriff, deputy sheriff, high bailiff, constable, or other officer or citizen of this state, shall transport, or remove, or aid or assist in the transportation or removal of any fugitive slave, or any person claimed as such, from any place in this state to any other place within or without the same.

"Sec. 4. If any such judge, justice of the peace, magistrate, officer or citizen, shall offend against the two preceding sections, such judge, justice of the peace, magistrate, officer or citizen, shall be subject to the penalties provided in section five of this act.

"Sec. 5. Any judge of any court of record in this state, any justice of the peace or other magistrate, any sheriff, deputy sheriff, high bailiff, constable, or jailor, or any citizen of this state, who shall offend against the provisions of this act, by acting directly or indirectly under the provisions of section three of the act of Congress aforesaid, shall forfeit a sum not exceeding one thousand dollars, to the use of the state, to be recovered upon information or indictment, or be imprisoned in the state prison not exceeding five years."

Pierce, Franklin.

ON the 18th of December, 1837, Mr. Pierce of N. H., in the Senate, in discussing the reception of an abolition petition, said,

He was in favor of the reception, and that question he desired to meet distinctly, and unembarrassed by any other motion.

When petitions of this character should be received, we would be prepared to act upon them without delay: to reject the prayer of the petitions, to lay them upon the table, or give them any other direction that might be thought best calculated to silence the agitators, and tranquillize the public mind. As a member of the select committee of the other House, of which Mr. Pinckney of S. C. was chairman, he had fully concurred in the sentiments of the report presented by that gentleman at the first session of the twenty-fourth Congress; and further examination and reflection had only served to confirm him in the opinions which he at that time entertained; but mad and fanatical as he regarded the schemes of the abolitionists, and deeply as he deplored the consequences of their course upon all sections of the Union, he could give no vote that might be construed into a denial of the right of petition, and thus enable them to change their position, and make up a false issue before the country.

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On the 21st of February, 1839, Mr. Pierce presented in the Senate a memorial from certain citizens of New Hampshire, praying for the abolition of slavery in the District of Columbiua, and from the remarks made by him at the time the following is an extract:—

"I do earnestly hope that every honest man, who has sincerely at heart the best interests of the slave and the master, may no longer be governed by a blind zeal and impulse, but be led to examine this subject, so full of delicacy and danger, in all its bearings; and that, when called upon to lend their names and influence to the cause of

agitation, they may remember that we live under a written Constitution, which is the panoply and protection of the South as well as the North; that it covers the entire Union, and is equally a guarantee for the unmolested enjoyment of the domestic institutions of all its parts; and I trust, further, that they will no longer close their eyes to the fact that, so far as those in whose welfare they express so much feeling are concerned, this foreign interference has been, and must inevitably continue to be, evil, and only evil."

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SPEECH IN THE CONVENTION OF NEW HAMPSHIRE ON THE RELIGIOUS TEST IN ITS CONSTITUTION.

Mr. Pierce, of Concord, said that he could concur heartily in all that the gentleman from Portsmouth had uttered, except his last remark. It was quite obvious that, so far from having taxed the patience of the committee, his speeches upon both the great subjects embraced in the resolutions under consideration had been listened to with unqualified gratification. Not because he threw the weight of his high character and the power of his arguments into the scale on the side of right in a case where there was hesitancy—where the judgment of members was not definitely formed—where there was a shade of doubt as to the result; but because it was desirable that the grounds on which we proceed in matters of such grave import should be stated, as they had been, with singular force of reasoning and beauty of illustration. It was also a service well rendered, not less in vindication of the past than the present. The motives of the fathers of the present constitution and of the people in 1792 had been placed in their true light. So much was due to them. It was also due to this convention and the people whom they represent, and due to the reputation of the state abroad, that it be well understood that both of the provisions—the religious test and the property qualification—had been a dead letter, at least as long as the chairman [Mr. Sawyer] had participated to any extent in the councils of the state. They had been practically inoperative from Mr. P.'s earliest recollection. The chairman would remember that many years ago, at a time of high party excitement, it was suggested that a member of the House of Representatives occupied his seat without the requisite property qualification. But two objections at once occurred to any action upon the subject; the first was that investigation and action, instead of rejecting one member, might probably vacate twenty seats; the second was, that no member could probably be found to move in a matter so utterly repugnant to public sentiment.

The religious test in the constitution had undeniably been a stigma upon the state, at home and abroad. It had been repeatedly named to him, and once at least in a foreign land, as unworthy of the intelligent and liberal spirit of our countrymen. Although he had at times felt keenly the reproach, he had uniformly referred, as he had no doubt other gentlemen had done, to other parts of the constitution as illustrating the true and free spirit of our fathers, and to these as, at least for many years, a blank. The great question of religious toleration was practically settled, and settled in a manner never to be reversed while we retain our present form of government, more than thirty years ago. The provisions now claiming the attention of the committee could hardly be said to involve an open question. They had been the subject of discussion in every lyceum, every academy, debating club, every town; and there was perhaps no subject upon which public opinion and public feeling was so uniform and decisive. The substance—if substance they ever had—having long since passed away, he rejoiced that the proper occasion had at length arrived to dispense with the form.

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EXTRACT FROM HIS SPEECH, AT THE TOWN MEETING, AT CONCORD, ON THE SAME SUBJECT.

"Can it be possible (said he) that the people of New Hampshire will vote to retain a feature in its fundamental law, engrafted there under peculiar circumstances, repugnant to the plainest ideas of justice and equality, repugnant to the whole scope and tenor of the constitution upon which it stands as a *fungus*—dead, to be sure, but still there—a blot and deformity, obnoxious in the last degree to the spirit of the age in which we live? How can we say that our land is the asylum of the oppressed of other countries, when we fail to extend over them the shield of equal rights, and say to them, There is the panoply under which, so far as the dearest and most sacred of all rights is concerned, you may shelter yourselves? I love and revere the faith of my Protestant fathers; but do not Martin Lawler, and his countrymen near me, and who have this day exercised the right of freemen, now revere and cling to the faith of their fathers? Are you to tell them that they can vote for you, but are to be excluded from the privilege of being voted for?—that while you tax them to maintain your government, they shall not be eligible to positions that control taxation. Shame upon such a provision, while we boast of equal rights! I hope this provision of our constitution receives the deliberate reprobation of every man now in this hall. But, if I am mistaken in this, it is due to the honor of the state, it is due to the plainest dictates of justice, that whoever may favor this test, should state the reasons upon which he relies. For one, I never think of it without a deep sense of regret, and, I may add, of humiliation for my native state."

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LETTER OF PRESIDENT PIERCE ON THE COMPROMISE MEASURES.

Tremont House, Boston, May 27, 1852.

* * * * * *

I intended to speak to you more fully upon

the subject of the compromise measures than I had an opportunity to do. The importance of the action of the convention upon this question cannot be over-estimated. I believe there will be no disposition on the part of the South to press resolutions unnecessarily offensive to the sentiments of the North. But can we say as much on our side? Will the North come cheerfully up to the mark of constitutional right? If not, a breach in our party is inevitable. The matter should be met at the threshold, because it rises above party, and looks to the very existence of the confederacy. The sentiment of no one state is to be regarded upon this subject; but having fought the battle in New Hampshire upon the fugitive slave law, and upon what we believed to be the ground of constitutional right, we should, of course, desire the approval of the Democracy of the country.

What I wish to say to you is this: If the compromise measures are not to be substantially and firmly maintained, the plain rights secured by the Constitution will be trampled in the dust. What difference can it make to you or me whether the outrage shall seem to fall on South Carolina, or Maine, or New Hampshire? Are not the rights of each equally dear to us all? I will never yield to a craven spirit that, from considerations of policy, would endanger the Union. Entertaining these views, the action of the convention must, in my judgment, be vital. If we of the North who have stood by the constitutional rights of the South, are to be abandoned to any time-serving policy, the hopes of democracy and of the Union must sink together.

As I told you, my name will not be before the convention; but I cannot help feeling that what is there to be done will be important beyond men and parties—transcendently important to the hopes of democratic progress and civil liberty.

* * * * * *

Your friend,

FRANK. PIERCE.

Extract from the annual message of Mr. Pierce to 34th Congress, 3d session, on the results of the Presidential election.

Fellow citizens of the Senate and of the House of Representatives:—

The Constitution requires that the President shall, from time to time, not only recommend to the consideration of Congress such measures as he may judge necessary and expedient, but also that he shall give information to them of the state of the Union. To do this fully involves expositions of all matters in the actual condition of the country, domestic or foreign, which essentially concern the general welfare. While performing his constitutional duty in this respect, the President does not speak merely to express personal convictions, but as the executive minister of the government, enabled by his position, and called upon by his official obligations, to scan with an impartial eye the interests of the whole and of every part of the United States.

Of the condition of the domestic interests of the Union, its agriculture, mines, manufactures, navigation, and commerce, it is necessary only to say that the internal prosperity of the country, its continuous and steady advancement in wealth and population, and in private as well as public well-being, attest the wisdom of our institutions, and the predominant spirit of intelligence and patriotism, which, notwithstanding occasional irregularities of opinion or action resulting from popular freedom, has distinguished and characterized the people of America.

In the brief interval between the termination of the last and the commencement of the present session of Congress, the public mind has been occupied with the care of selecting, for another constitutional term, the President and Vice President of the United States.

The determination of the persons, who are of right, or contingently, to preside over the administration of the government, is, under our system, committed to the states and the people. We appeal to them, by their voice pronounced in the forms of law, to call whomsoever they will to the high post of Chief Magistrate.

And thus it is, that as the Senators represent the respective states of the Union, and the members of the House of Representatives the several constituencies of each state, so the President represents the aggregate population of the United States. Their election of him is the explicit and solemn act of the sole sovereign authority of the Union.

It is impossible to misapprehend the great principles which, by their recent political action, the people of the United States have sanctioned and announced.

They have asserted the constitutional equality of each and all of the states of the Union as states; they have affirmed the constitutional equality of each and all of the citizens of the United States as citizens, whatever their religion, wherever their birth, or their residence; they have maintained the inviolability of the constitutional rights of the different sections of the Union; and they have proclaimed their devoted and unalterable attachment to the Union and the Constitution, as objects of interest superior to all subjects of local or sectional controversy, as the safeguard of the rights of all, as the spirit and the essence of the liberty, peace, and greatness of the republic.

In doing this, they have, at the same time, emphatically condemned the idea of organizing in these United States mere geographical parties; of marshalling in hostile array towards each other the different parts of the country, North or South, East or West.

Schemes of this nature, fraught with incalculable mischief, and which the considerate sense of the people has rejected, could have had countenance in no part of the country,

had they not been disguised by suggestions plausible in appearance, acting upon an excited state of the public mind, induced by causes temporary in their character, and it is to be hoped transient in their influence.

Perfect liberty of association for political objects and the widest scope of discussion are the received and ordinary conditions of government in our country. Our institutions, framed in the spirit of confidence, in the intelligence and integrity of the people, do not forbid citizens, either individually or associated together, to attack by writing, speech, or any other methods short of physical force, the Constitution and the very existence of the Union. Under the shelter of this great liberty, and protected by the laws and usages of the government they assail, associations have been formed in some of the states of individuals who, pretending to seek only to prevent the spread of the institution of slavery into the present or future inchoate states of the Union, are really inflamed with desire to change the domestic institutions of existing states. To accomplish their objects, they dedicate themselves to the odious task of depreciating the government organization which stands in their way, and of calumniating, with indiscriminate invective, not only the citizens of particular states, with whose laws they find fault, but all others of their fellow-citizens throughout the country who do not participate with them in their assaults upon the Constitution, framed and adopted by our fathers, and claiming for the privileges it has secured, and the blessings it has conferred, the steady support and grateful reverence of their children. They seek an object which they well know to be a revolutionary one. They are perfectly aware that the change in the relative condition of the white and black races in the slaveholding states, which they would promote, is beyond their lawful authority; that to them it is a foreign object; that it cannot be effected by any peaceful instrumentality of theirs; that for them, and the states of which they are citizens, the only path to its accomplishment is through burning cities, and ravaged fields, and slaughtered populations, and all there is most terrible in foreign, complicated with civil and servile war; and that the first step in the attempt is the forcible disruption of a country embracing in its broad bosom a degree of liberty, and an amount of individual and public prosperity, to which there is no parallel in history, and substituting in its place hostile governments, driven at once and inevitably into mutual devastation and fratricidal carnage, transforming the now peaceful and felicitous brotherhood into a vast permanent camp of armed men, like the rival monarchies of Europe and Asia. Well knowing that such, and such only, are the means and the consequences of their plans and purposes, they endeavor to prepare the people of the United States for civil war by doing everything in their power to deprive the Constitution and the laws of moral authority, and to undermine the fabric of the Union by appeals to passion and sectional prejudice, by indoctrinating its people with reciprocal hatred, and by educating them to stand face to face as enemies, rather than shoulder to shoulder as friends.

It is by the agency of such unwarrantable interference, foreign and domestic, that the minds of many, otherwise good citizens, have been so inflamed into the passionate condemnation of the domestic institutions of the southern states, as at length to pass insensibly to almost equally passionate hostility towards their fellow-citizens of those states, and thus finally to fall into temporary fellowship with the avowed and active enemies of the Constitution. Ardently attached to liberty in the abstract, they do not stop to consider practically how the objects they would attain can be accomplished, nor to reflect that, even if the evil were as great as they deem it, they have no remedy to apply, and that it can be only aggravated by their violence and unconstitutional action. A question which is one of the most difficult of all the problems of social institution, political economy, and statesmanship, they treat with unreasoning intemperance of thought and language. Extremes beget extremes. Violent attack from the North finds its inevitable consequence in the growth of a spirit of angry defiance at the South. Thus, in the progress of events, we had reached that consummation which the voice of the people has now so pointedly rebuked, of the attempt of a portion of the states, by a sectional organization and movement, to usurp the control of the government of the United States.

Population.

Increase of in the United States for 50 Years.

1800	5,305,925
1810	7,239,814
1820	9,638,131
1830	12,866,020
1840	17,069,453
1850	23,191,876

Decennial increase per centum.

From 1800 to 1810	36.45
From 1810 to 1820	33.35
From 1820 to 1830	33.26
From 1830 to 1840	32.67
From 1840 to 1850	35.87

The population in the year 1800 being 5,305,925, and in the year 1850, 23,191,876, the increase has been 436 per centum on the population of 1800; calculating the same ratio of increase for the next fifty years, our population in the year 1900 would be 101,349,498, and in the year 1950 it would reach, if the same increase continued, 442,907,296.

Presidential Election of 1856.

Debate on the, in the House of Representatives, Dec. 9, 1856.

Mr. S. A. Smith of Tenn. But suppose I am wrong in the idea that the votes cast for

Fillmore in the northern states were opposed to the restoration of the Missouri compromise line; yet those who voted for him in the southern states openly avowed that they were opposed to its restoration. It was so proclaimed by all their speakers on the stump. Now, take the votes which Mr. Buchanan received and the votes given to Mr. Fillmore in the southern states, and there is a clear majority of more than two hundred thousand against the restoration of the Missouri compromise line. Yet the gentleman from Ohio, in a very extraordinary manner, asserted that the policy of President Pierce upon that subject has been condemned by a majority of three hundred thousand votes.

Mr. SHERMAN. I desire to propound a question to the gentleman.

Mr. SMITH of Tenn. I yield for an interrogatory, but for nothing else.

Mr. SHERMAN. Does not the gentleman know that thousands of persons in the northern states who were opposed to the repeal of the Missouri compromise voted for Mr. Buchanan?

Mr. SMITH of Tenn. I do; but they were utterly opposed to its restoration.

Mr. SHERMAN. Does he not know that the candidate of the Democratic party in the Lancaster district of Pennsylvania, in which Mr. Buchanan resides, was one of those here who voted against the repeal of the Missouri compromise—who condemned it upon the floor of this House, and upon the hustings?

Mr. SMITH of Tenn. I know that Mr. Heister, who ran in the Lancaster district, took open and bold ground in the late presidential campaign against the restoration of the Missouri compromise. He said that he had voted against the repeal of that compromise; but he unequivocally opposed its restoration.

Mr. SHERMAN. Was that gentleman, who thus opposed the restoration of the Missouri compromise, elected in the Wheatland district?

Mr. SMITH of Tenn. He was not; he was defeated. Perhaps, if he had voted for the repeal, he might have been elected. At the time of the repeal of the Missouri compromise he belonged to the Whig party, every northern member of which voted against that repeal.

Mr. DAVIDSON. Mr. Speaker, is this discussion in order?

The SPEAKER. The Chair thinks the discussion is in order on a motion to print and refer the message of the President.

Mr. SMITH of Tenn. It has been asserted in the South, in almost every presidential canvass and in every state canvass, that the Democratic party of the northern states were unsound on the question of the constitutional rights of the South.

We have denied this. We have held that the Democratic party North and the Democratic party South occupied one and the same ground. We took the same position in the late canvass. The gentleman furnishes, as he supposes, material to the opposition to the Democratic party in the South with which to fight us in future Presidential and state canvasses. But his attempt will be fruitless. The people of the South now understand the position of all the parties in the northern states, and they look to the Democracy as the only one national in its principles and just in its action to all sections of the Union.

It was boldly proclaimed yesterday that Mr. Buchanan was a minority president, and that the administration of President Pierce was condemned by the people. It was alleged that Mr. Buchanan was elected under false pretenses. A little investigation would have satisfied the gentleman from Ohio (Mr Campbell), that neither of these propositions is true in fact. I am prepared to refute all of them. Mr. Buchanan has clear majorities over all others in enough states to make him president without a single electoral vote from any state which he only carried by a plurality of votes. He has carried by clear majorities sixteen states—fourteen southern, and the states of Pennsylvania and Indiana. Those states number one hundred and fifty-two electoral votes, being eleven more than the number required to elect a President. So that if the strength of Fremont and Fillmore and Gerrit Smith were all combined he would have enough votes to elect him.

Let us try this in another way, for these are facts which go out to the people. The sixteen states which Mr. Buchanan carried by clear majorities have a population, by the last census, of 12,381,824. The entire population of the United States, by the same census, is put down at 23,099,578. Therefore he had a clear majority of the people of the Union in favor of his election. Yet it is said that he is a minority president, and that the principle of the restoration of the Missouri compromise was indorsed by the people.

Mr. Fremont carried the six New England states, and Wisconsin and Michigan. These eight states have a population of 3,431,000. The states of New York, New Jersey, Illinois, Ohio, and Iowa, were carried by pluralities. They have a population of over 6,000,000. Mr. Fillmore carried Maryland, with a population of 583,000. So that Mr. Buchanan and the Democratic party have been indorsed by a large majority of the people of the United States.

The total number of votes polled for Buchanan at the recent election may be stated in round numbers at	1,800,000
For Fremont, ...	1,275,000
For Fillmore, ...	850,000
Total number of votes, . . .	3,925,000
Buchanan over Fremont, . . .	525,000
Over Fillmore, ...	950,000
Fremont over Fillmore, ...	425,000

Buchanan's plurality over Fremont is 100,000 more than Fremont's plurality over Fillmore.

Fremont lacks about 1,375,000 of a majority of the whole. Buchanan lacks about 325,000 of a majority of the whole.

In all the non-slaveholding states taken together, Fremont is in a minority of more than 200,000. His vote, however, exceeds Buchanan's in said states about 130,000.

It is not true, therefore, that sectionalism has carried the day by a popular majority. The people of the country are opposed to sectionalism. The people of the North and of the South are in favor of the Union, and of preserving the rights of every section of the Union. The Democratic party was successful in the recent contest, even under the adverse circumstances which surrounded it, and elected the president by a large majority of the electoral colleges. The states we have carried contain a majority of the population of the United States. Buchanan and Breckenridge have a large majority of the electoral colleges. Why, then, is it said that the verdict of the people was against the policy of the Democratic party, and that the administration of President Pierce has been condemned by the people? The convention which nominated Mr. Buchanan endorsed President Pierce and his administration. This we all know. The very convention which nominated him endorsed the Kansas-Nebraska bill, which was the great issue in the presidential canvass.

Mr. BARCLAY. I wish to ask the gentleman whether the resolution endorsing the administration of President Pierce was published and circulated in the Democratic papers of Pennsylvania?

Mr. SMITH of Tenn. I know nothing about what was published in the Pennsylvania papers. It was contained in the official proceedings of the convention, which were published all over the country. But, sir, I hope that no Pennsylvanian here will esteem the people of that noble state so ignorant as not to know what occurred in the Cincinnati Convention, when its proceedings were public, and published in nearly all the journals of the country.

Mr. WASHBURNE of Ill. Do I understand the gentleman to state that this resolution endorsing the administration of Pierce was published in all the northern Democratic papers?

Mr. SMITH of Tenn. Yes, sir, all the leading ones of which I have any knowledge.

Mr. WASHBURNE of Ill. As part of the platform?

Mr. SMITH of Tenn. As part of the proceedings of the Cincinnati Convention.

Mr. WASHBURNE of Ill. I undertake to say that it was not published in many of the Illinois Democratic papers.

Mr. SMITH of Tenn. It was published in the northern Democratic papers as part of the proceedings of the convention. It was published in the Boston Post, in the New York Day Book, and in the Pennsylvanian. These are the leading papers of the North which I saw.

Mr. WASHBURNE of Ill. In my section of the country it not only was not published in those papers, but they denied that such a resolution was passed.

Mr. SMITH of Tenn. I am afraid that my friend's part of the country is a benighted place, anyhow, and should not be surprised if so good a thing would never find its way into his "beat." Is there a Democratic paper in the gentleman's district?

Mr. WASHBURNE of Ill. There are two or three which profess to be, but they have only a very limited circulation.

Mr. SMITH of Tenn. Do they support the regular Democratic candidates?

Mr. WASHBURNE of Ill. There were several Democratic papers in my state which did not publish it. I believe the Freeport Bulletin was one. I will not be certain, however.

Mr. SMITH of Tenn. That evades the question, and I turn the gentleman over to his colleague [Mr. Marshall].

Mr. MARSHALL of Ill. With the permission of the gentleman from Tennessee, I wish to ask my colleague a question. I understand my colleague to assert that Democratic papers in Illinois repudiate the resolution of the Cincinnati Convention endorsing the administration of Franklin Pierce, and denied that such a resolution had been adopted. This is a grave and sweeping charge, and I wish him to state distinctly what Democratic papers in Illinois he refers to.

Mr. WASHBURNE of Ill. I am not certain. I cannot state with certainty; but my impression is that the Freeport Bulletin denied that such a resolution had been adopted at Cincinnati.

Mr. MARSHALL of Ill. I wish to be understood distinctly as asserting that no paper in Illinois, recognised as an organ of the Democratic party, and circulating among the people of that state, ever denied the adoption of such a resolution. On the contrary, the Democracy of Illinois everywhere, without evasion or equivocation, sustained the platform and proceedings of the Cincinnati Convention, the principles of the Kansas-Nebraska bill, and the administration of Franklin Pierce. Any assertion to the contrary cannot be sustained by the facts. The position of the Democracy of Illinois cannot be mistaken by any one who wishes to understand it. They are in favor of withdrawing this question of slavery entirely from the halls of Congress, and of leaving its adjustment to the people of each state and territory for themselves, without any interference whatever from without. And this just principle, I cannot doubt, will be sustained by a large majority of the people of the northern states, when it is fairly and honestly presented, without misrepresentation or evasion by our opponents.

Mr. WASHBURNE of Ill. Will the gentleman state to the House whether he knows of his own knowledge that the State Register and the Chicago Times, two leading Democratic

papers in that state, published the resolution among the proceedings of the convention?

Mr. MARSHALL of Ill. Both of them did. And every paper which undertook to publish the entire proceedings published that among the other resolutions of the convention.

Mr. ALLEN. For the information of my colleague, I can state to him that the Chicago Times, the Springfield Register, and the Quincy Herald, three of the leading Democratic papers in the northern part of the state, published that resolution of the Cincinnati Convention.

Mr. MORRISON. I desire to state that all the Democratic papers in the eighth Congressional district of Illinois published that resolution; and not only the Democratic papers, but the Republican papers in that district published it also, and upon it based their assault upon the Democratic party, because that party had endorsed the administration of Franklin Pierce.

Mr. SMITH of Tenn. I would ask the gentleman from Illinois [Mr. Washburne], if he knows one single Democratic paper in his district which did not publish it?

Mr. WASHBURNE of Ill. I have stated that already.

Mr. SMITH of Tenn. Is it so to your own knowledge?

Mr. WASHBURNE of Ill. My impression is that the Freeport Bulletin is one paper which did not publish that resolution.

Mr. SMITH of Tenn. The resolutions of the Democratic Convention were public matters, and every Democratic member of Congress was entitled, I believe, to eighty copies, and they were distributed among the Northern and Southern states. I hold in my hand one of the resolutions of that convention, which I will read. It is as follows:—

"Resolved, That claiming fellowship with, and desiring the co-operation of, all who regard the preservation of the Union under the Constitution as the paramount issue—and repudiating all sectional parties and platforms concerning domestic slavery, which seek to embroil the states and incite to treason and armed resistance to law in the territories, and whose avowed purposes, if consummated, must end in civil war and disunion—the American Democracy recognise and adopt the principles contained in the organic laws establishing the territories of Kansas and Nebraska as embodying the only sound and safe solution of the 'slavery question' upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—*non-interference by Congress with slavery in state and territory, or in the District of Columbia.*"

Upon that platform Mr. Buchanan went before the country—a platform made in the state from which the gentleman comes who yesterday addressed the house, and attempted to show that the Democracy of his state were ignorant of the principles upon which they voted for the Democratic candidate.

Mr. GROW. I would ask the gentleman if he, and the party with whom he acted in the South, understand that resolution to mean that previous to the formation of a state constitution the people of a territory could prohibit or permit slavery?

Mr. SMITH of Tenn. It is well known that there is a difference of opinion between Northern and Southern gentlemen upon what is called the question of "squatter sovereignty." I have never regarded it as of any importance. I know that a large portion of the people of the North, of all parties, believe that the people, in a territorial capacity, can exclude or admit slavery, because they believe it is an inherent right, and one not conferred by Congress. The people of the South believe that, with some exceptions. There are some in the South who believe that the people have an inherent right to admit or exclude slavery in a territorial capacity, and there are many in the North who believe that the people of a territory have not that power until they form a constitution to ask admission as a state into the Union.

I have said I regard this as a question of no practicability. I have held that in a territorial capacity they had not the right to exclude slavery. Yet the majority of the people in the territory will decide this question, after all. In a territory we must have laws, not to establish, but to protect the institution of slavery; and if a majority of the people of the territory are opposed to the institution, they will refuse to pass laws for its protection.

We have the right to take slaves into the territory without any law establishing the institution. But Southern men must be satisfied that there will be laws for their protection before they will take their property, whether negroes or horses, with them into any state or territory of the United States.

Mr. H. MARSHALL. I would inquire whether Mr. Buchanan in the presidential campaign took the Northern or Southern construction of the question?

Mr. SMITH of Tenn. He took the bold and strong ground that the people had the right to settle the question for themselves. He has always taken ground against what the gentleman terms "squatter sovereignty."

Mr. H. MARSHALL. Do I understand the gentleman to say that Mr. Buchanan holds that the people of a territory, prior to the formation of a state constitution, have the right to exclude slavery?

Mr. SMITH of Tenn. Mr. Buchanan has never taken any such ground. I will read the ground he has taken.

Mr. H. MARSHALL. I know what he says in his letter of acceptance. As the Democratic party went into the canvass with two constructions of the question, I only wish to know which he took, or whether he took both?

Mr. SMITH of Tenn. Here is the ground he assumed. The following resolution is a part of the platform adopted by the Democratic National Convention which nominated Mr. Buchanan, and which he most cordially approved:—

"Resolved, That we recognise the right of the people of all the territories, including Kansas and Nebraska, acting through the legally and fairly-expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other states."

That is the ground taken by Mr. Buchanan

and the convention which nominated him. The doctrine that the people of a territory have the right to form their own institutions in their own way is the true and Democratic doctrine. As to the institution of slavery, they ought not to prohibit or establish it until they form a constitution to ask admission as a state into the Union. If the people of a territory are opposed to the institution of slavery, they will not pass laws to protect it, and it will not go there. If, on the contrary, they are in favor of it, they will pass laws for its protection, and it will go there. It will either go there or not, according to the popular sentiment of the people of the territory. The gentleman from Kentucky himself supported a candidate for the presidency who maintained the doctrine of squatter sovereignty.

Mr. H. MARSHALL. Our candidate did not hold that doctrine. He was opposed to it, as every man who supported him North and South was opposed to it.

Mr. SMITH of Tenn. How many times did the gentleman's candidate vote for the principles of the Wilmot proviso?

Mr. H. MARSHALL. Do you understand that to be squatter sovereignty?

Mr. SMITH of Tenn. The seventh section of the platform upon which the gentleman fought the battle contains what the gentleman himself considered an endorsement of the doctrine of squatter sovereignty—the language of the Nebraska bill.

Mr. H. MARSHALL. Not at all.

Mr. SMITH of Tenn. Yet the gentleman talks to me of squatter sovereignty, when his candidate has voted for the principle of the Wilmot proviso every time it came before the House when he was a member of this body. He denounced the repeal of the Missouri compromise, which compromise excluded the gentleman and myself from going to the territories of Kansas and Nebraska unless we left our servants behind us. Such are the strange scenes presented to us; and they go to show more forcibly the truth of what I stated to the gentleman from Ohio, that there is a movement on foot to unite all the elements of opposition to the Democratic party in the canvasses which are to come off in the future.

It has been frequently stated that the Democratic party north and the Democratic party south take different ground in reference to the affairs of Kansas and the future of that territory. The gentleman from Ohio [Mr. Sherman] said that the Democratic party in the north assumed the ground that they were a better free-soil party than the Republican party. Now, I have a right to speak on this subject. I was in the canvass north and south. I spoke in free and slave states. I addressed the people of the gentleman's own state at Cincinnati, together with two others, one from Ohio and one from Connecticut. I spoke in Trenton, N. J., with gentlemen from Pennsylvania and New York, one of them "Prince John," as he is sometimes called. The sentiments uttered by these gentlemen were precisely those I entertain and have published to my people. The only difference between us was this: I live in a slave state, in the midst of the institution, and like it; they live in free states, and did not like it; yet they had the patriotism to stand up to a maintenance of all the guarantees of the Constitution for the protection of the institution. This, in my judgment, entitles them to the more credit.

Mr. SHERMAN. The gentleman has said that he has spoken at the same meeting with Prince John Van Buren. Now, I would ask him whether he endorses the doctrines promulgated by that gentleman during the late campaign, and whether they would stand upon the same stump and rehearse them together?

Mr. SMITH of Tenn. I most certainly agree in all that Mr. Van Buren said at Trenton in reference to the question of slavery. It was the only one of his speeches I heard. It was published, and gentlemen can see it if they so desire. He there boldly avowed his opposition to any interference with slavery in the states or territories, and stated that he would support the admission of Kansas into the Union as a slave or a free state as the people should determine.

Mr. SHERMAN. My question is not answered at all. Do you concur in the opinions expressed by John Van Buren in the last campaign in regard to the events in Kansas and the policy of the repeal of the Missouri compromise.

Mr. SMITH of Tenn. I heard nothing from him which I did not concur in, though I do not remember to have heard him speak of events in Kansas.

Mr. SHERMAN. One further question. I would ask the gentleman if he is aware that not only John Van Buren, but that Wendell Phillips, a well-known Abolitionist, voted with the Democratic party?

Mr. SMITH of Tenn. I am authorized to deny that Wendell Phillips acted with the Democratic party.

Mr. SHERMAN. I have been informed that he did.

Mr. SMITH of Tenn. Whether he did or not it is not material. I know that a distinguished gentleman from South Carolina, [Mr. Orr], who occupies a seat upon this floor, and the gentleman from Georgia, [Mr. Cobb], went into the state of Maine, and that the two gentlemen from Georgia, [Mr. Stephens and Mr. Cobb], went to Pennsylvania, and avowed openly and put upon the record their sentiments, which were the same as are avowed here upon this floor, and the same as those held by the Democratic candidate for the presidency.

Now, sir, after all this has occurred—after we have avowed North the same sentiments which we did at home—after we have fought the battle and gained the victory, our opponents come here and endeavor to make out that they would have carried the election if

it had not been for a fraud practised by the Democratic party. I need pursue this subject no further.

The gentleman from Ohio also alluded to the delay in the progress of business in the House, at the commencement of the session, on account of the delegate from Kansas, and I must be allowed to make one remark in reference to what he said upon that subject. No one was here contesting the seat of Gen. Whitfield; and the objection made by the gentleman from Pennsylvania [Mr. Grow] to his taking the oath of office was one of the most extraordinary of all the singular proceedings of the so-called Republican party.

The action of the Democratic party was not factious. All we desired was a *fair vote*, and that we determined to have.

He told us that all the difficulties under which the country had labored had arisen from the opening of this agitation by the President, in the repeal of the Missouri compromise line. He told us further, that that act had brought about all the civil war which had existed in Kansas, and then to my astonishment, he thanked the President for interposing to put a stop to that civil war, which he said would have been existing yet but for the interposition of the general government. I was astonished at that, because the gentleman, and the party with which he acts, took the lead in withholding supplies from the army, with which alone the President could interfere and put a stop to that civil war. After doing all he could to prevent the President from having the means which enabled him to terminate that fearful strife, he turns round and thanks him for putting a stop to it. He ought to have thanked the people of the country that we have a President who, when this House failed to furnish supplies to the army of the United States, had the courage to call us back and keep us here until we did furnish him with the means which enabled him to accomplish what has called forth the commendation of the gentlemen from Ohio. The Democratic party, the Republican party, and the American party, now see that the bold stand then taken by the President did save the country from a civil war which might have led to bloodshed outside of the limits of Kansas. But after he has done that, and is thanked therefor, he is denounced for what they consider an innuendo against that party which attempted to stop the supplies for the army, and thus favor their own sectional views against the government.

Mr. Grow. How did the Republicans attempt to stop the supplies at the last session?

Mr. Smith of Tenn. By attempting to put upon a regular appropriation bill an unconstitutional provision.

Mr. Grow. They voted all the supplies, but proposed to prevent the President from carrying on those disturbances in Kansas. I believe gentlemen upon his side of the House voted against the army appropriation bill.

Mr. Smith of Tenn. The mode adopted to stop the supplies was worse than a straight, open, direct vote against any supplies to the army of the United States. An amendment was put upon the bill which was in direct conflict with one of the provisions of the Republican platform under which Col. Fremont was nominated. That platform declares, as one of its specifications against the President of the United States, that he had deprived the people of the privilege of bearing arms, while one part of the amendment to the army bill deprived the people of Kansas from bearing arms.

But I must congratulate the gentleman upon a sentiment which he uttered yesterday —not that I approve of it. He says that the only purpose of the Republican party was to prevent the extension of slavery. I would ask the gentleman if he believes in the platform upon which Mr. Fremont was nominated?

Mr. Sherman. I do.

Mr. Smith of Tenn. I will now read a part of that platform:—

"Resolved, That with our republican fathers we hold it to be a self-evident truth that all men are endowed with the inalienable right to life, liberty, and the pursuit of happiness, and that the primary object and ulterior design of our federal government were to secure those rights to all persons within its exclusive jurisdiction; that as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty, or property without due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it for the purpose of establishing slavery in the United States by positive legislation, prohibiting its existence or extension therein. That we deny the authority of Congress, of a territorial legislature, of any individual or associations of individuals, to give legal assistance to slavery in any territory of the United States while the present Constitution shall be maintained."

Mr. Sherman. Does not the gentleman know that the contest will show the only ground taken was that of opposition to the extension of slavery into the territories?

Mr. Smith of Tenn. I will publish the whole resolution. I have read enough, however, to show the exact position that has been taken. They will not only resist the extension of slavery by positive enactment, but "prohibit its existence" in the states and territories. Indeed, I would be glad if the Republicans would abandon these positions in their platform; but, notwithstanding their professions, we find gentlemen of that party daily acting with the senior member from Ohio, [Mr. Giddings], who, more than once, has expressed sympathy for any uprising of the slaves against their masters.

Mr. Giddings. Will the gentleman state the times when, and the places where, the declarations were made to which he alludes?

Mr. Smith of Tenn. Upon this floor and in the Philadelphia Convention. He so expressed himself in his speech on the McLeod case. I do not state the precise language he used, but only the substance of his remarks.

Mr. Giddings. Stand up to it or back out.

Mr. Smith of Tenn. I do not care to get into a controversy with the senior member from Ohio. I am too young for that. I did

not suppose he would deny my statement, and I will publish the remarks of his to which I refer.

I say, Mr. Speaker, as a Southern man, that if a bill were introduced into Congress for the establishment of slavery in any territory, I would vote against it. I do not believe that Congress has power either to prohibit or to establish it. I wish to leave the discussion of that matter to the people of the territory; yet those who refuse to allow the people of the territory to mould their institutions in their own way, talk of "free Kansas." Kansas was enslaved until the repeal of the Missouri compromise, which compromise deprived the people of the territory of the right to regulate their domestic institutions. Then it became free. The right of the people to govern themselves is the great element of freedom. Whether Kansas comes in as a free or as a slave state will make no difference with me in my political action. Whenever the people decide the question for themselves, whenever they fairly express their will upon the subject, I shall stand ready to support that decision, whatever it may be, whether for slavery or against it. This I believe to be the position of the Democratic party.

The late election has settled more important questions than any other that has occurred since the organization of the government.

1st. It decides the capacity of the people for self-government.

2d. That when the Union is in danger the Democratic party can triumph over all opposition, because the great element of their organization is equal justice to all sections of the country.

The Republican party have not only been defeated in the late election, but have been signally rebuked by the people. Their excuses for defeat will avail nothing. The people, when the trial comes, will always defeat any sectional party in the United States.

Prussia.

DECISION OF COURT IN, IN THE MATTER OF A SLAVE.

Berlin, July 28, 1856.

Dear Sir: I have at length succeeded in obtaining copies of the sentences or judgments given in the Prussian courts in this place, in the matter of the slave Marcellino, against his master, Dr. Ritter, of Rio Janeiro. They are long and intricate, and are perfect models of German legal ratiocination. I have had prepared a full translation, and intend to preserve it as a specimen of legal philosophy in the "Fatherland." If it should be desired, I will have a copy made for you. At present I send you such an abstract of the case as will be satisfactory upon the point to which your inquiry referred. There were various other points raised as to time, jurisdiction, &c., the decision of which is of no kind of importance.

About 1853, Dr. Ritter came from Rio to Berlin, having with him Marcellino, who was noted on his passport as his slave. In 1854, Marcellino instituted in the royal city court at Berlin, an action against Dr. Ritter for defamation, because Dr. Ritter asserted that he (Marcellino) was a slave; and that Dr. Ritter had bought him in Rio in March, 1852; that he had treated him as a slave, and would continue to do so on his return to Rio.

Marcellino denied the doctor's right to claim him as a slave, and requested that he should be made to prove it within four weeks.

The court said, in their opinion, "A complaint of defamation would have been rejected from the beginning, if the Prussian legislation had declared that slavery—that is to say, property in man—is illegal, as well in regard to foreigners as natives, and that every slave setting foot on Prussian territory is free. In such case, the complaint would have been void in a legal sense without regard to any injury resulting from it; and an obligation to maintain the charge would have been inadmissible and absurd, because slavery could have no legal existence. But the Prussian legislation has not reprobated the institution of slavery in such a decided manner. On the contrary, section one hundred and ninety-eight of the Prussian common law, 1, p. 5, declares expressly that foreigners, being in the royal countries only for a time, retain their rights to the slave they have brought with them; and this provision has nowhere been annulled by late legislation."

Having established this, the court then argued that, as the law which secured to foreigners the right to the slaves they brought with them, seemed to reserve expressly to the person claimed, the right to contest the claim; that, therefore, the plaintiff's action might be maintained, and that he could compel the defendant, Dr. Ritter, to establish his claim in a given time. The judgment of the court was as follows:—

"That the defendant, Dr. Ritter, is obliged to institute a suit in due form on account of the claims he makes to Marcellino, the plaintiff, as being his property, within a term of nine months, in default whereof he shall be perpetually enjoined against setting up any such claim; and, in that case, the said Dr. Ritter shall be bound to pay the costs of the process, and to refund those of the other party."

From this judgment Dr. Ritter appealed, and insisted that plaintiff's action should have been dismissed with costs. After stating the case and examining the various questions raised as to time, jurisdiction, &c., the court of appeal held that there was no real ground for a suit of defamation, "Although the defendant has acknowledged that he asserts to have a right, a property in Marcellino as his slave, and that he has not lost it even in Prussia, by virtue of the prescription (S. 198, 1, 5) of the common law: that foreigners, being in the royal countries only for awhile, retain their rights in the slaves they have brought with them." And the reason given

why the action could not be maintained was, not that the action would lie in any case, but that, in this case, there was probable cause for making the charge complained of. And therefore it was no vain or unfounded boast to the injury of Marcellino. The court said further:—

"The plaintiff has arrived here from Brazil as companion and servant of the defendant, from a country in which slavery exists, and he is noted in the passport of defendant as his slave. He himself declares in his complaint that he has been treated until now as a slave; and the merchant Ree, from Rio de Janeiro, whose testimony as a witness has been taken in *perpetuam memoriam rei*, has testified that Marcellino has there lived in the house of Dr. Ritter as a slave, and that he has been treated as slaves live and are treated according to the custom there, in which respect he mentions the manner of addressing and of going with bare feet. Therefore Dr. Ritter has been undoubtedly, as regards Marcellino, in possession of the rights of a master over his slave, and this relation has existed still on their arrival at Berlin, and of course it has not been altered by the accidental saying or expression that he would exercise his right in Marcellino, only in a limited sense, during his residence in Europe." Under these circumstances, the court add, Dr. Ritter had sufficient reason to say what he did, or make the claim he did, and it cannot be considered an arbitrary, unfounded boast, even if it should turn out that the right of ownership could not be proved, or if it should be abolished. The complaint must therefore be considered unfounded. The judgment of the court of appeals was that the plaintiff in the action for defamation should be nonsuited, and that each party pay half the costs of the two courts, &c.

From this abstract of the two judgments, it will be seen in what the two courts agreed and wherein they differed.

1. Both agreed that, according to Prussian law, slavery might exist in the kingdom—that is to say, a foreigner, coming here for a time, could bring with him his slave, and retain him as a slave while he remained.

2. Both agreed that if no slavery could exist, no action of defamation for claiming a person as a slave could lie.

3. Both agreed that an action might be brought for making such a charge—it being degrading and injurious.

4. But on the point, whether the action could be maintained in this case, the courts differed.

The first court said the charge had been proved, and that defendant must prove the truth of it in nine months, or lose his pretended rights and pay costs.

The second court said the charge had been proved; but under such circumstances of open claim of right, and of proof, as to show that defendant had probable ground for what he said, and therefore the action would not lie, and he should not be compelled to prove his claim.

From the decree of the second court there was an appeal to the highest tribunal, in which it was sought to annul or reverse the judgment of the second court; but only on the ground of defects in form. It was unsuccessful, and the judgment remains undisturbed.

Although in this case the suit was not brought originally by the slave to recover his freedom, but only to recover damages against Dr. Ritter for claiming him as a slave, and to compel the master to prove his right, yet the law and the principles laid down and recognised by both courts, show conclusively that the rights of a master, who takes a slave into the Prussian territories for a limited time, are respected, and that the slave has no right to claim his freedom, simply because he is on Prussian soil.

I hope you will pardon the delay which has taken place. It has not been my fault.

Very respectfully, your ob't servant,

P. D. Vroom.

General J. A. Thomas.

Public Lands.

It is not deemed necessary to go into any great detail in a work of this kind on the subject of the public lands.

The question of distribution which engages at this time, to a greater extent, the public attention than any other question connected with the public domain, is fully presented in its favorable and adverse light in the report of Mr. Clay, the extract from a report of Mr. Grundy, and the valuable compilation of matter and argument which characterizes the recent address of Mr. Faulkner, of Virginia. The Editor feels that in presenting these admirable papers to the readers of his work, he does exact justice to both sides of the question. To publish more, would be a task of supererogation. The votes on each one of the land distribution bills, which has been before Congress, will be interesting to those who desire to ascertain the position of public men, when the question at former times agitated Congress.

The subject of railroad grants also excites some attention. A short sketch of their history is embraced under this heading. Really though, this matter is of no political importance whatever, as public men seem to support and oppose these grants, without regard to party lines.

The other details of the land legislation of the country are too dry and of too little interest to demand a space herein.

Mr. Clay's Report on the Public Lands, April 16, 1832.

Mr. Clay, from the Committee on Manufactures, made to the Senate the following report:—

The Committee on Manufactures have been instructed by the Senate to inquire into the expediency of reducing the price of public lands, and of ceding them to the several states within which they are situated, on reasonable terms. Far from desiring to assume the duty involved in this important inquiry, it is known to the Senate that a majority of the committee was desirous that the subject should have been referred to some other committee. But, as the Senate took a different view of the matter, the Committee on Manufactures have felt bound to acquiesce in its decision; and, having bestowed on the whole subject the best consideration in their power, now beg leave to submit to the Senate the result of their inquiries and reflections.

The public lands belonging to the general government are situated, 1st, within the limits of the United States as defined by the treaty of peace which terminated the revolutionary war; and, 2dly, within the boundaries of Louisiana and Florida, as ceded by France and Spain, respectively, to the United States.

1st. At the commencement of the revolutionary war, there were in some of the states large bodies of waste and unappropriated lands, principally west of the Alleghany mountains, and in the Southern and Southwestern quarters of the Union, whilst in others, of more circumscribed or better defined limits, no such resource existed. During the progress of that war, the question was agitated, What should be done with these lands in the event of its successful termination? That question was likely to lead to paralyzing divisions and jealousies. The states not containing any considerable quantity of waste lands contended that, as the war was waged with united means, with equal sacrifices, and at the common expense, the waste lands ought to be considered as a common property, and not be exclusively appropriated to the benefit of the particular states within which they happened to be situated. These, however, resisted the claim, upon the ground that each state was entitled to the whole of the territory, whether waste or cultivated, included within its chartered limits. To check the progress of discontent, and arrest the serious consequences to which the agitation of this question might lead, Congress recommended to the states to make liberal cessions of the waste and unseated lands to the United States; and, on the 10th day of October, 1780, "Resolved, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular state, pursuant to the recommendation of Congress of the 6th of September last, shall be disposed of for the common benefit of the United States," &c.

In conformity with the recommendation of Congress, the several states containing waste and uncultivated lands made cessions of them to the United States. The declared object having been substantially the same in all of these cessions, it is only necessary to advert to the terms of some of them. The first, in order of time, was that of New York, made on the 1st day of March, 1781, by its delegation in Congress, in pursuance of an act of the legislature of the state; and the terms of the deed of cession expressly provide that the ceded lands and territories were to be held, "to and for the only use and benefit of such of the states as are, or shall become, parties to the Articles of Confederation." That of Virginia was the next in date, but by far the most important of all the cessions made by the different states, both as respects the extent and value of the country ceded. It comprehended the right of that commonwealth to the vast territory northwest of the river Ohio, embracing, but not confined to the limits of, the present states of Ohio, Indiana, and Illinois. The deed of cession was executed by the delegation of Virginia in Congress, in 1784, agreeably to an act of the legislature passed in 1783; and, among other conditions, the deed explicitly declares "that all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States, as have become, or shall become, members of the Confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatever." Passing by the cessions which other states, prompted by a magnanimous spirit of union and patriotism, successively made, we come to the last in the series, that of the state of Georgia, in 1802. The articles of agreement and cession entered into between that state and the United States, among various other conditions, contained the unequivocal declaration "that all the lands ceded by this agreement to the United States shall, after satisfying the above-mentioned payment of one million two hundred and fifty thousand dollars to the state of Georgia, and the grants recognised by the preceding conditions, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever."

Thus, by the clear and positive terms of these acts of cession, was a great, public, national trust created and assumed by the general government. It become solemnly bound to hold and administer the lands ceded, as a common fund for the use and benefit of all the states, and for no other use or purpose whatever. To waste or misapply this fund, or to divert it from the common benefit for which it was conveyed, would be a violation of the trust. The general government has no more power, rightfully, to cede the lands thus acquired to one of the new states, without a fair equivalent, than it could retrocede them

to the state or states from which they were originally obtained. There would indeed be much more equity in the latter than in the former case. Nor is the moral responsibility of the general government at all weakened by the consideration that, if it were so unmindful of its duty as to disregard the sacred character of the trust, there might be no competent power, peacefully applied, which could coerce its faithful execution.

2d. The other source whence the public lands of the United States have been acquired, are, 1st, the treaty of Louisiana, concluded in 1802; and, secondly, the treaty of Florida, signed in 1809. By the first, all the country west of the Mississippi, and extending to the Pacific Ocean, known as Louisiana, which had successively belonged to France, Spain, and France again, including the island of New Orleans, and stretching east of the Mississippi to the Perdido, was transferred to the United States, in consideration of the sum of fifteen millions of dollars which they stipulated to pay, and have since punctually paid, to France, besides other conditions deemed favorable and important to her interests. By the treaty of Florida, both the provinces of East and West Florida, whether any portion of them was or was not actually comprehended within the true limits of Louisiana, were ceded to the United States, in consideration, besides other things, of the payment of five millions of dollars, which they agreed to pay, and have since accordingly paid.

The large pecuniary considerations thus paid to these two foreign powers were drawn from the treasury of the people of the United States; and, consequently, the countries for which they formed the equivalents ought to be held and deemed for the common benefit of all the people of the United States. To divert the lands from that general object; to misapply or sacrifice them; to squander or improvidently cast them away, would be alike subversive of the interests of the people of the United States, and contrary to the plain dictates of the duty by which the general government stands bound to the states and to the whole people.

Before proceeding to perform the specific duty assigned to the committee by the Senate, they had thought it desirable to exhibit some general views of this great national resource. For that purpose, a call, through the Senate, for information, has been made upon the executive branch of the government. A report has not yet been made; but, as the committee are desirous of avoiding any delay, not altogether indispensable, they have availed themselves of the report from a secretary of the treasury to the House of Representatives, under date the 6th April, 1832, and of such other information as was accessible to them.

From that report, it appears that the aggregate of all sums of money which have been expended by the United States in the acquisition of the public lands, including interest on account of the purchases of Louisiana and Florida up to the 30th day of September, 1831, and including also expenses in their sale and management, is $48,077,551.40; and that the amount of money received at the treasury for proceeds of the sales of the public lands to the 30th of September, 1831, is $37,272,713.31. The government, therefore, has not been reimbursed by $10,804,838.90. According to the same report, it appears that the estimated amount of unsold lands, on which the foreign and Indian titles have been extinguished, is 227,293,884 acres, within the limits of the new states and territories; and that the Indian title remains on 113,577,869 acres within the same limits. That there have been granted to Ohio, Indiana, Illinois, and Alabama, for internal improvements, 2,187,665 acres; for colleges, academies, and universities, in the new states and territories, the quantity of 508,009; for education, being the thirty-sixth part of the public lands appropriated for common schools, the amount of 7,952,538 acres; and for seats of government in some of the new states and territories, 21,589 acres. By a report of the commissioner of the general land office, communicated to Congress with the annual message of the President of the United States in December, 1827, the total quantity of the public lands, beyond the bounndaries of the new states and territories, was estimated to be 750,000,000. The aggregate, therefore, of all the unsold and unappropriated public lands of the United States, surveyed and unsurveyed, on which the Indian title remains or has been extinguished, lying within and without the boundaries of the new states and territories, agreeably to the two reports now referred to, is 1,090,871,753 acres. There has been 138,988,224 acres surveyed, and the quantity only of 19,239,412 acres sold up to the 1st January, 1826. When the information called for shall be received, the subsequent surveys and sales up to the present period will be ascertained.

The committee are instructed by the Senate to inquire into the expediency of reducing the price of the public lands, and also of ceding them to the several states in which they are situated, on reasonable terms. The committee will proceed to examine these two subjects of inquiry distinctly, beginning first with that which relates to a reduction of price.

1. According to the existing mode of selling the public lands, they are first offered at public auction for what they will bring in a free and fair competition among the purchasers; when the public sales cease, the lands remaining unsold may be bought, from time to time, at the established rate of one dollar and a quarter per acre. The price was reduced to that sum in 1820, from $2 per acre, at which it had previously stood from the first establishment of the present system of selling public lands. A leading consideration with Congress, in the reduction of the price, was that of substituting cash sales for the credits which had been before allowed, and which, on many accounts, it was deemed expedient to abolish. A further reduction of the price, if called for by the public interests, must be re-

quired, either, 1st, Because the government now demands more than a fair price for the public lands; or, 2dly, Because the existing price retards, injuriously, the settlement and population of the new states and territories. These suggestions deserve separate and serious considerations.

1. The committee possess no means of determining the exact value of all the public lands now in market; nor is it material, at the present time, that the precise worth of each township or section should be accurately known. It is presumable that a considerable portion of the immense quantity offered to sale, or held by the United States, would not now command, and may not be intrinsically worth, the minimum price fixed by law; on the other hand, it is certain that a large part is worth more. If there could be a discrimination made, and the government had any motive to hasten the sales beyond the regular demands of the population, it might be proper to establish different rates, according to the classes of land; but the government, having no inducement to such acceleration, has hitherto proceeded on the liberal policy of establishing a moderate price, and by subdivisions of the sections, so as to accommodate the poorer citizens, has placed the acquisition of a home within the reach of every industrious man. For $100 any one may now purchase eighty, or for $50, forty acres of first-rate land, yielding, with proper cultivation, from fifty to eighty bushels of Indian corn per acre, or other equivalent crops.

There is no more satisfactory criterion of the fairness of the price of an article than that arising from the briskness of sales when it is offered in the market. On applying this rule, the conclusion would seem to be irresistible, that the established price is not too high. The amount of the sales in the year 1828, was $1,018,308.75; in 1829, $1,517,175.13; in 1830, $2,329,356.14: and, during the year 1831, $3,000,000. And the Secretary of the Treasury observes in his annual report, at the commencement of this session, that "the receipts from the public lands, during the present year, it will be perceived, have likewise exceeded the estimates, and indeed have gone beyond all former example. It is believed that, notwithstanding the large amount of scrip and forfeited land stock that may still be absorbed in payment for lands, yet, if the surveys now projected be completed, the receipts from this source of revenue will not fall greatly below those of the present year." And he estimates the receipts during the current year, from this source, at three millions of dollars. It is incredible to suppose that the amount of sales would have risen to so large a sum if the price had been unreasonably high. The committee are aware that the annual receipts may be expected to fluctuate, as fresh lands, in favorite districts, are brought into market, and according to the activity or sluggishness of emigration in different years.

Against any considerable reduction of the price of the public lands, unless it be necessary to a more rapid population of the new states, which will be hereafter examined, there are weighty, if not decisive considerations.

1. The government is the proprietor of much the largest quantity of the unseated lands of the United States. What it has in market, bears a large proportion to the whole of the occupied lands within their limits. If a considerable quantity of any article, land or any commodity whatever, is in market, the price at which it is sold will affect, in some degree, the value of the whole of that article, whether exposed to sale or not. The influence of a reduction of the price of the public lands would probably be felt throughout the Union; certainly in all the Western States, and most in those which contain, or are nearest to, the public lands. There ought to be the most cogent and conclusive reasons for adopting a measure which might seriously impair the value of the property of the yeomanry of the country. Whilst it is decidedly the most important class in the community, most patient, patriotic, and acquiescent in whatever public policy is pursued, it is unable or unwilling to resort to those means of union and concert which other interests employ to make themselves heard and respected. Government should, therefore, feel itself constantly bound to guard, with sedulous care, the rights and welfare of the great body of our yeomanry. Would it be just towards those who have heretofore purchased public lands at higher prices, to say nothing as to the residue of the agricultural interest of the United States, to make such a reduction, and thereby impair the value of their property? Ought not any such plan of reduction, if adopted, to be accompanied with compensation for the injury which they would inevitably sustain?

2. A material reduction of price would excite and stimulate the spirit of speculation, now dormant, and probably lead to a transfer of vast quantities of the public domain from the control of government to the hands of the speculator. At the existing price, and with such extensive districts as the public constantly offers in the market, there is no great temptation to speculation. The demand is regular, keeping pace with the progress of emigration, and is supplied on known and moderate terms. If the price were much reduced, the strongest incentives to engrossment of the better lands would be presented to large capitalists; and the emigrant, instead of being able to purchase from his own government upon uniform and established conditions, might be compelled to give much higher and more fluctuating prices to the speculator. An illustration of this effect is afforded by the military bounty lands granted during the late war. Thrown into market at prices below the government rate, they notoriously became an object of speculation, and have principally fallen into the hands of speculators, retarding the settlement of the districts which include them.

3. The greatest emigration that is believed

now to take place from any of the states, is from Ohio, Kentucky, and Tennessee. The effects of a material reduction in the price of the public lands would be, first, to lessen the value of real estate in those three states; secondly, to diminish their interest in the public domain, as a common fund for the benefit of all the states; and, thirdly, to offer what would operate as a bounty to further emigration from those states, occasioning more and more lands, situated within them, to be thrown into the market, thereby not only lessening the value of their lands, but draining them both of their population and currency.

And, lastly, Congress has, within a few years, made large and liberal grants of the public lands to several states. To Ohio, 922,937 acres; to Indiana, 384,728 acres; to Illinois, 480,000 acres; and to Alabama, 400,000 acres; amounting, together, to 2,187,665 acres. Considerable portions of these lands yet remain unsold. The reduction of the price of the public lands, generally, would impair the value of those grants, as well as injuriously affect that of the lands which have been sold in virtue of them.

On the other hand, it is inferred and contended, from the large amount of public land remaining unsold, after having been so long exposed to sale, that the price at which it is held is too high. But this apparent tardiness is satisfactorily explained by the immense quantity of public lands which have been put into the market by government. It is well known that the new states have constantly and urgently pressed the extinction of the Indian title upon lands within their respective limits; and, after its extinction, that they should be brought into market as rapidly as practicable. The liberal policy of the general government, coinciding with the wishes of the new states, has prompted it to satisfy the wants of emigrants from every part of the Union, by exhibiting vast districts of land for sale in all the states and territories, thus offering every variety of climate and situation to the free choice of settlers. From these causes, it has resulted that the power of emigration has been totally incompetent to absorb the immense bodies of waste lands offered in the market. For the capacity to purchase is, after all, limited by the emigration, and the progressive increase of population. If the quantity thrown into the market had been quadrupled, the probability is that there would not have been much more annually sold than actually has been. With such extensive fields for selection before them, purchasers, embarrassed as to the choice which they should make, are sometimes probably influenced by caprice or accidental causes. Whilst the better lands remain, those of secondary value will not be purchased. A judicious farmer or planter would sooner give one dollar and a quarter per acre for first rate land, than receive as a donation land of inferior quality, if he were compelled to settle upon it.

It is also contended that the price of the public land is a tax, and that, at a period when, in consequence of the payment of the public debt and the financial prosperity of the United States, the government is enabled to dispense with revenue, that tax ought to be reduced, and the revenue arising from the sales be thereby diminished. In the first place, it is to be observed, that if, as has been before stated, the reduction of the price of the public lands should stimulate speculation, the consequence would probably be, at least for some years, an augmentation of the revenue from that source. Should it have the effect of speculation supposed, it would probably also retard the settlement of the new states, by placing the lands engrossed by speculators, in anticipation of increased value, beyond the reach of emigrants. If it were true that the price demanded by government operated as a tax, the question would still remain whether that price exceeded the fair value of the land which emigrants are in the habit of purchasing; and, if it did not, there would be no just ground for its reduction. And assuming it to be a tax, it might be proper to inquire who pays the tax, the new or the old states—the states that send out, or the states that receive the emigrants. In the next place, regarded as a tax, those who have heretofore made purchases at the higher rate, have already paid the tax, and are as much deserving the equitable consideration of the government as those who might hereafter be disposed to purchase at the reduced rate. It is proper to add, that, by the repeal and reduction contemplated of duties upon articles of foreign import, subsequent purchasers of the public lands, as far as they are consumers of those articles, will share in the general relief, and will consequently be enabled to apply more of their means to the purchase of land.

But in no reasonable sense can the sale of the public lands be considered as the imposition of a tax. The government, in their disposal, acts as a trustee for the whole people of the United States, and, in that character, holds and offers them in the market. Those who want them buy them, because it is their inclination to buy them. There is no compulsion in the case. The purchase is perfectly voluntary, like that of any other article which is offered in the market. In making it, the purchaser looks exclusively to his own interest. The motive of augmenting the public revenue, or any other motive than that of his own advantage, never enters into his consideration. The government, therefore, stands to the purchaser in the relation merely of the vendor of a subject, which the purchaser's own welfare prompts him to acquire; and, in this respect, does not vary from the relation which exists between any private vendor of waste lands, and the purchaser from him. Nor does the use to which the government may think proper to apply the proceeds of the sale of the public lands give the smallest strength to the idea that the purchase of them is tantamount to the payment of a tax. The government may em-

ploy those proceeds as a part of its ordinary revenue, or it may apply them in any other manner, consistent with the Constitution, which it deems proper. Revenue and taxation are not always relative terms. There may be revenue without taxation. There may be taxation without revenue. There may be sources of established revenue which not only do not imply, but which supersede taxation. Is the consideration paid for land to a private individual to be deemed a tax, because that individual may happen to use it as a part of his income?

2. Is the reduction of the price of the public lands necessary to accelerate the settlement and population of the states within which they are situated? Those states are Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, and Louisiana. If their growth has been unreasonably slow and tardy, we may conclude that some fresh impulse, such as that under consideration, is needed. Prior to the treaty of Greenville, concluded in 1795, there were but few settlements within the limits of the present state of Ohio. Principally since that period, that is, within a term of about forty years, that state, from a wilderness, the haunt of savages and wild beasts, has risen into a powerful commonwealth, containing, at this time, a population of a million of souls, and holding the third or fourth rank among the largest states in the Union. During the greater part of that term, the minimum price of the public lands was two dollars per acre; and of the large quantity with which the settlement of that state commenced, there only remain to be sold 5,586,834 acres.

The aggregate population of the United States, exclusive of the territories, increased from the year 1820 to 1830 from 9,579,873 to 12,716,697. The rate of the increase during the whole term of ten years, including a fraction, may be stated at thirty-three per cent. The principle of population is presumed to have full scope generally in all parts of the United States. Any state, therefore, which has exceeded or fallen short of that rate, may be fairly assumed to have gained or lost, by emigration, nearly to the extent of the excess or deficiency. From a table accompanying this report, (marked B), the Senate will see presented various interesting views of the progress of population in the several states. In that table, it will be seen that each of the eleven states exceeded, and each of thirteen fell short of an increase at the average rate of thirty-three per cent. The greatest increase, during the term, was in the state of Illinois, where it was one hundred and eighty-five per cent., or at the rate of eighteen and a half per cent. per annum; and the least was in Delaware, where it was less than six per cent. The seven states embracing the public lands had a population, in 1820, of 1,207,165, and, in 1830, 2,238,802, exhibiting an average increase of eighty-five per cent. The seventeen states containing no part of the public lands had a population, in 1820, of 8,372,707, and, in 1830, of 10,477,895, presenting an average increase of only twenty-five per cent. The thirteen states, whose increase, according to the table, was below thirty-three per cent., contained, in 1820, a population of 5,939,759, and, in 1830, of 6,966,600, exhibiting an average increase of only seventeen per cent. The increase of the seven new states, upon a capital which, at the commencement of the term, was 1,207,165, has been greater than that of the thirteen, whose capital then was 5,939,759. In three of the eleven states (Tennessee, Georgia, and Maine), whose population exceeded the average increase of thirty-three per cent., there were public lands belonging to those states; and in the fourth (New York) the excess is probably attributable to the rapid growth of the city of New York, to waste lands in the western part of that state, and to the great development of its vast resources by means of extensive internal improvements.

These authentic views of the progress of population in the seven new states demonstrate that it is most rapid and gratifying; that it needs no such additional stimulus as a further reduction in the price of the public lands; and that, by preserving and persevering in the established system for selling them, the day is near at hand when those states, now respectable, may become great and powerful members of the confederacy.

Complaints exist in the new states, that large bodies of lands, in their respective territories, being owned by the general government, are exempt from taxation to meet the ordinary expenses of the state governments, and other local charges; that this exemption continues for five years after the sale of any particular tract; and that land being the principal source of the revenue of those states, an undue share of the burden of sustaining the expenses of the state governments falls upon the resident population. To all these complaints, it may be answered that, by voluntary compacts between the new states respectively, and the general government, five per cent. of the nett proceeds of all the sales of the public lands included within their limits are appropriated for internal improvements leading to or within those states; that a section of land in each township, or one-thirty-sixth part of the whole of the public lands embraced within their respective boundaries, has been reserved for purposes of education; and that the policy of the general government has been uniformly marked by great liberality towards the new states, in making various and some very extensive grants of the public lands for local purposes. But, in accordance with the same spirit of liberality, the committee would recommend an appropriation to each of the seven states referred to, of a further sum of ten per cent. on the nett proceeds of the sales of that part of the public land which lies within it, for objects of internal improvement in their respective limits. The tendency of such an appropriation will be not only to benefit those

states, but to enhance the value of the public lands remaining to be sold.

II. The committee have now to proceed to the other branch of the inquiry which they were required to make, that of the expediency of ceding the public lands to the several states in which they are situated, on reasonable terms. The inquiry comprehends, in its consequences, a cession of the whole public domain of the United States, whether lying within or beyond the limits of the present states and territories. For although, in the terms of the inquiry, it is limited to the new states, cessions to them would certainly be followed by similar cessions to other new states, as they may, from time to time, be admitted into the Union. Three of the present territories have nearly attained the requisite population entitling them to be received as members of the confederacy, and they shortly will be admitted. Congress could not consistently avoid ceding to them the public lands within their limits, after having made such cessions to the other states. The compact with the state of Ohio formed the model of compacts with all the other new states as they were successively admitted.

Whether the question of a transfer of the public lands be considered in the limited or more extensive view of it which has been stated, it is one of the highest importance, and demanding the most deliberate consideration. From the statements, founded on official reports, made in the preceding part of this report, it has been seen that the quantity of unsold and unappropriated lands lying within the limits of the new states and territories is 340,871,753 acres, and the quantity beyond those limits is 750,000,000, presenting an aggregate of 1,090,871,753 acres. It is difficult to conceive a question of greater magnitude than that of relinquishing this immense amount of national property. Estimating its value according to the minimum price, it presents the enormous sum of $1,363,589,691. If it be said that a large portion of it will never command that price, it is to be observed, on the other hand, that, as fresh lands are brought into market and exposed to sale at public auction, many of them sell at prices exceeding one dollar and a quarter per acre. Supposing the public lands to be worth, on the average, one-half of the minimum price, they would still present the immense sum of $681,794,845. The least favorable view which can be taken of them is, that of considering them a capital yielding, at present, an income of three millions of dollars annually. Assuming the ordinary rate of six per cent. interest per annum as the standard to ascertain the amount of that capital, it would be fifty millions of dollars. But this income has been progressively increasing. The average increase during the six last years has been at the rate of twenty-three per cent. per annum. Supposing it to continue in the same ratio, at the end of a little more than four years the income would be doubled, and make the capital one hundred millions dollars. Whilst the population of the United States increases only three per cent. per annum, the increase of the demand for the public lands is at the rate of twenty-three per cent., furnishing another evidence that the progress of emigration, and the activity of sales, have not been checked by the price demanded by government.

In whatever light, therefore, this great subject is viewed, the transfer of the public lands from the whole people of the United States, for whose benefit they are now held, to the people inhabiting the new states, must be regarded as the most momentous measure ever presented to the consideration of Congress. If such a measure could find any justification, it must arise out of some radical and incurable defect in the construction of the general government properly to administer the public domain. But the existence of any such defect is contradicted by the most successful experience. No branch of the public service has evinced more system, uniformity, and wisdom, or given more general satisfaction, than that of the administration of the public lands.

If the proposed cession to the new states were to be made at a fair price, such as the general government could obtain from individual purchasers under the present system, there would be no motive for it, unless the new states are more competent to dispose of the public lands than the common government. They are now sold under one uniform plan, regulated and controlled by a single legislative authority, and the practical operation is perfectly understood. If they were transferred to the new states, the subsequent disposition would be according to laws emanating from various legislative sources. Competition would probably arise between the new states in the terms which they would offer to purchasers. Each state would be desirous of inviting the greatest number of emigrants, not only for the laudable purpose of populating rapidly its own territories, but with the view to the acquisition of funds to enable it to fulfil its engagements to the general government. Collisions between the states would probably arise, and their injurious consequences may be imagined. A spirit of hazardous speculation would be engendered. Various schemes in the new states would be put afloat to sell or divide the public lands. Companies and combinations would be formed in this country, if not in foreign countries, presenting gigantic and tempting, but delusive projects; and the history of legislation, in some of the states of the Union, admonishes us that a too ready ear is sometimes given by a majority, in a legislative assembly, to such projects.

A decisive objection to such a transfer for a fair equivalent, is, that it would establish a new and dangerous relation between the general government and the new states. In abolishing the credit which had been allowed to purchasers of the public lands prior to the year 1820, Congress was principally governed

by the consideration of the inexpediency and hazard of accumulating a large amount of debt in the new states, all bordering on each other. Such an accumulation was deemed unwise and unsafe. It presented a new bond of interest, of sympathy, and of union, partially operating to the possible prejudice of the common bond of the whole Union. But that debt was a debt due from individuals, and it was attended with this encouraging security, that purchasers, as they successively completed the payments for their lands, would naturally be disposed to aid the government in enforcing payment from delinquents. The project which the committee are now considering is, to sell to the states, in their sovereign character, and, consequently, to render them public debtors to the general government to an immense amount. This would inevitably create between the debtor states a common feeling, and a common interest, distinct from the rest of the Union. Those states are all in the western and southwestern quarter of the Union, remotest from the centre of federal power. The debt would be felt as a load from which they would constantly be desirous to relieve themselves; and it would operate as a strong temptation, weakening, if not dangerous to the existing confederacy. The committee have the most animating hopes, and the greatest confidence in the strength and power and durability of our happy Union; and the attachment and warm affection of every member of the confederacy cannot be doubted; but we have authority higher than human, for the instruction, that it is wise to avoid all temptation.

In the state of Illinois, with a population, at the last census, of 157,445, there are 31,395,669 acres of public land, including that part on which the Indian title remains to be extinguished. If we suppose it to be worth only half the minimum price, it would amount to $19,622,480. How would that state be able to pay such an enormous debt? How could it pay even the annual interest upon it?

Supposing the debtor states to fail to comply with their engagements, in what mode could they be enforced by the general government? In treaties between independent nations, the ultimate remedy is well known. The apprehension of an appeal to that remedy, seconding the sense of justice and the regard for character which prevail among Christian and civilized nations, constitutes, generally, adequate security for the performance of national compacts. But this last remedy would be totally inadmissible in case of delinquency on the part of the debtor states. The relations between the general government and the members of the confederacy are happily those of peace, friendship, and fraternity, and exclude all idea of force and war. Could the judiciary coerce the debtor states? On what could their process operate? Could the property of innocent citizens, residing within the limits of those states, be justly seized by the general government, and held responsible for debts contracted by the states themselves in their sovereign character? If a mortgage upon the lands ceded were retained, that mortgage would prevent or retard subsequent sales by the states; and if individuals bought, subject to the encumbrance, a parental government could never resort to the painful measure of disturbing them in their possessions.

Delinquency on the part of the debtor states would be inevitable, and there would be no effectual remedy for the delinquency. They would come again and again to Congress, soliciting time and indulgence, until, finding the weight of the debt intolerable, Congress, wearied by reiterated applications for relief, would finally resolve to spunge the debt; or, if Congress attempted to enforce its payment, another and a worse alternative would be embraced.

If the proposed cession be made for a price merely nominal, it would be contrary to the express conditions of the original cessions from primitive states to Congress, and contrary to the obligations which the general government stands under to the whole people of these United States, arising out of the fact that the acquisitions of Louisiana and Florida, and from Georgia, were obtained at a great expense, borne from the common treasure, and incurred for the common benefit. Such a gratuitous cession could not be made without a positive violation of a solemn trust, and without manifest injustice to the old states. And its inequality among the new states would be as marked as its injustice to the old would be indefensible. Thus Missouri, with a population of 140,455, would acquire 38,292,151 acres; and the state of Ohio, with a population of 935,884, would obtain only 5,586,834 acres. Supposing a division of the land among the citizens of those two states, respectively, the citizen of Ohio would obtain less than six acres for his share, and the citizen of Missouri upwards of two hundred and seventy-two acres as his proportion.

Upon full and thorough consideration, the committee have come to the conclusion that it is inexpedient either to reduce the price of the public lands, or to cede them to the new states. They believe, on the contrary, that sound policy coincides with the duty which has devolved on the general government to the whole of the states, and the whole of the people of the Union, and enjoins the preservation of the existing system, as having been tried and approved after long and triumphant experience. But, in consequence of the extraordinary financial prosperity which the United States enjoy, the question merits examination, whether, whilst the general government steadily retains the control of this great national resource in its own hands, after the payment of the public debt, the proceeds of the sales of the public lands, no longer needed to meet the ordinary expenses of government, may not be beneficially appropriated to some other objects for a limited time.

Governments, no more than individuals,

should be seduced or intoxicated by prosperity, however flattering or great it may be. The country now happily enjoys it in a most unexampled degree. We have abundant reason to be grateful for the blessings of peace and plenty, and freedom from debt. But we must be forgetful of all history and experience if we indulge the delusive hope that we shall always be exempt from calamity and reverses. Seasons of national adversity, of suffering, and of war, will assuredly come. A wise government should expect and provide for them. Instead of wasting or squandering its resources in a period of general prosperity, it should husband and cherish them for those times of trial and difficulty which, in the dispensations of Providence, may be certainly anticipated. Entertaining these views, and, as the proceeds of the sales of the public lands are not wanted for ordinary revenue, which will be abundantly supplied from the imposts, the committee respectfully recommend that an appropriation of them be made to some other purpose, for a limited time, subject to be resumed in the contingency of war. Should such an event unfortunately occur, the fund may be withdrawn from its peaceful destination, and applied, in aid of other means, to the vigorous prosecution of the war, and, afterwards, to the payment of any debt which may be contracted in consequence of its existence. And, when peace shall be again restored, and the debt of the new war shall have been extinguished, the fund may be again appropriated to some fit object other than that of the ordinary expenses of government. Thus may this great resource be preserved, and rendered subservient, in peace and in war, to the common benefit of all the states composing the Union.

The inquiry remains, what ought to be the specific application of the fund under the restriction stated? After deducting the ten per cent. proposed to be set apart for the new states, a portion of the committee would have preferred that the residue should be applied to the objects of internal improvement, and colonization of the free blacks, under the direction of the general government. But a majority of the committee believes it better, as an alternative for the scheme of cession to new states, and as being most likely to give general satisfaction, that the residue be divided among the twenty-four states, according to their federal representative population, to be applied to education, internal improvement, or colonization, or to the redemption of any existing debt contracted for internal improvements, as each state, judging for itself, shall deem most conformable with its own interests and policy. Assuming the annual product of the sales of the public lands to be three millions of dollars, the table hereto annexed, marked C, shows what each state would be entitled to receive, according to the principle of division which has been stated. In order that the propriety of the proposed appropriation should again, at a day not very far distant, be brought under the review of Congress, the committee would recommend that it be limited to a period of five years, subject to the condition of war not breaking out in the mean time. By an appropriation so restricted as to time, each state will be enabled to estimate the probable extent of its proportion, and to adapt its measures of education, improvement, or colonization, or extinction of existing debt, accordingly.

In conformity with the views and principles which the committee have now submitted, they beg leave to report the accompanying bill, entitled "An act to appropriate, for a limited time, the proceeds of the sales of the public lands of the United States."

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Extract from the Report of Mr. Grundy, of Tennessee, made January 31, 1840:

"But if the proceeds of land sales, and the income of the government from other sources, are to be considered different funds, and one can be applied to purposes to which the other cannot, what will be the practical result? That the United States can purchase lands with the revenue raised from duties on imports, has never been doubted. Out of those means has Louisiana and the Floridas been paid for, and numerous purchases made of the Indians. Can it be maintained that the money with which these purchases were made could not be distributed among the states for the objects contemplated, but that the money arising from the sales of the same property may be? Can the nature of the public money be altered by being invested in lands, and then replaced from the proceeds of sales? If so, the United States have only to convert their money into lands, and their lands into money again, to acquire a power over the public revenue which is not given them by the Constitution. At this moment a portion of the revenue arising from customs, is, in fact, invested in public lands. If the cost of Louisiana and the Floridas be included, the public lands have not refunded the amount paid for their acquisition and preparation for sale, by a large amount; and if the principle were now introduced, that the proceeds of land sales may be given to the states, although the money paid for them could not, we should see a gross inconsistency adopted in the practice of our government, the results of which it would be impossible to foresee. In every view we take of the subject, we are satisfied that there is no difference between the power which Congress possesses over the revenue which arises from customs and the money received from the sales of the public lands; and to construe a difference out of the language used in the compact of cession, would be to defeat the very object for which that language was employed. The whole scope and object of the conditions annexed to the cessions were evidently to make the lands common property, and their proceeds a revenue to be applied to general purposes, precisely like that derived from all other

sources. To make these cessions so read as to defeat the great object they had in view, would not be favorable to the faith of compacts, or the preservation of constitutional restraints.

"We, therefore, conclude that the application of the moneys arising from the sales of public lands to the payment of said debts, or their distribution among the states for such purposes, is as unjust, inexpedient, and unconstitutional as a similar application of any other portion of the public revenue; and, moreover, in direct violation of the terms and spirit of the compacts of cession.

"Nor can such a measure be palliated by the plea that there is, or is likely to be, a surplus in the treasury, over and above what is wanted for the ordinary purposes of the general government. On the contrary, the progressive reduction of the tariff of duties now in operation will so reduce the revenue as to make the proceeds of the public lands necessary to meet the wants of the most economical administration; and if they are diverted from their present objects, their place must be supplied by an increased tariff, or a tax directly on the people; and what is the difference between a tax to raise money for distribution, and a tax to enable the government to distribute, or to supply the place of moneys distributed? The practical effect is precisely the same. If three or four millions of dollars—the proceeds of the sales of the public lands—be annually distributed to the states, and thereby a necessity be created, as no doubt it will be, to increase the tariff to that amount, is it not the same thing as though the tariff were increased for the purpose of distribution? And by this operation what is gained? The general government has given away to the states three or four millions of dollars annually, and has taxed the people to the same amount, to make up the deficit in its own revenue.

"Your committee cannot refrain from noticing some of the consequences which must follow from the measure proposed, with regard to the public lands. It must retard the settlement of the new states; it must operate against the allowance of pre-emption rights; against the graduation of the price of the public lands, and every other indulgence which a liberal spirit towards the new states might dictate and recommend.

"It is believed that a different policy ought to be pursued; that the strength and wealth of the nation consist, not so much in the money to be exacted as the price of the public lands, as in the increase of its population and the cultivation of its soil.

"Your committee cannot but look with distrust and apprehension upon every scheme calculated to disturb the balance of power, as constitutionally and practically adjusted between the state and general governments. Each state reserved to itself, in the formation of the Constitution, an unrestricted power of taxation, competent to supply them with the means of executing all their constitutional powers. At the same time the power of taxation was conferred upon the general government, merely as the means of enabling it to execute its few delegated powers. So far the system has worked well; and each government has provided for itself. Why shall we not permit them to travel quietly on in the paths of safety and peace? Is there any danger in the beaten track, or any certain good to be obtained by departing from it? Whether taxes are laid by the states or by the United States, they are still taxes on the people; whether the states or the United States be in debt, it is still the debt of the people. To throw the burden from one sovereignty upon another will not pay the debt, nor detract from its oppressiveness upon the people, except so far as it may produce the unjust result of compelling one part of the people to pay the debts of another. If it produce the further effect of lessening the responsibility of the representative to his constituency, in the contracting of debts and laying of taxes, it should for that reason alone be opposed by every friend of republican government.

"All is well as it is. The intelligence and energy of the people, in the various states, are competent to extricate them from present embarrassments, and guard against their recurrence by means much more cheap and safe than by deranging our system of government and entailing a debt on the United States, calculated to oppress and impoverish our children and our children's children. The states did not come into the Union with the expectation to be taxed for the payment of the debts of their sister states, having agreed only to contribute what may be necessary for the legitimate purposes of the general government. To compel them to pay the debts of their neighbors, contracted for internal improvements or any other object of a state character, is to impose upon them burdens not anticipated, and to which they have never, by any concession, agreed to submit."

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Address of the Hon. Chas. Jas. Faulkner of Virginia, to his Constituents, against Distribution.

Land System of the United States, with its general results upon the prosperity and happiness of the people.—"At an early period of our history Congress adopted a system for surveying and selling the public lands, devised with much care and great deliberation, the advantages of which have been fully tested by experience. According to that system, all public lands offered for sale are previously accurately surveyed by skilful surveyors in ranges of townships of six miles square each, which townships are subdivided into thirty-six equal divisions or square miles, called sections, by lines crossing each other at right angles, and generally containing 640 acres. These sections are again divided into quarters, and prior to the year 1820 no person could purchase a less quantity than a quarter. In that year a

provision was made for the further division of the sections into eighths, thereby allowing a purchaser to buy only eighty acres if he wished to purchase no more. Since that time, further to extend accommodation to the purchasers of the public lands, and especially to the poorer classes, the sections have again been divided into sixteenths, admitting a purchase of only forty acres.

"This uniform system of surveying and dividing the public lands applies to all the states and territories within which they are situated. Its great advantages are manifest. It insures perfect security of title and certainty of boundary, and consequently avoids those perplexing land disputes—the worst of all species of litigation—the distressing effects of which have been fatally experienced in some of the states. But these are not the only advantages, great as they unquestionably are. The system lays the foundation of useful civil institutions, the benefit of which is not confined to the present generation, but will be transmitted to posterity."

Under the operation of the system thus briefly sketched, the progress of the settlement and population of the public domain of the United States has been altogether unexampled.

Many of our ablest statesmen have portrayed, in strains of the highest eloquence, the wonderful results of this system upon the comfort and happiness of the individual citizen, as well as upon the general growth and prosperity of the republic.

Mr. Webster thus speaks of it:—

"Sir, I maintain Congress has acted wisely, and done its duty on this subject. I hope it will continue to do it. Departing from the original idea, so soon as it was found practicable and convenient, of selling by townships, Congress has disposed of the soil in smaller and still smaller portions, till at length it sells in parcels of no more than eighty acres, thus putting it into the power of every man in the country, however poor, but who has health and strength, to become a freeholder if he desires—not of barren acres, but of rich and fertile soil. The government has performed all the conditions of the grant. While it has regarded the public lands as a common fund, and has sought to make what reasonably could be made of them as a source of revenue, it has also applied its best wisdom to sell and settle them as fast and as happily as possible; and, whensoever numbers would warrant it, each territory has been successively admitted into the Union, with all the rights of an independent state."

Mr. Clay, in a strain of still more fervent oratory, thus descants upon the system:—

"And if there be in the operations of this government one which more than any other displays consummate wisdom and statesmanship, it is that system by which the public lands have been so successfully administered. We should pause, solemnly pause before we subvert it. We should touch it hesitatingly and with the gentlest hand. The prudent management of the public lands, in the hands of the general government, will be more manifest by contrasting it with that of several of the states which had the disposal of large bodies of waste lands. Virginia possessed an ample domain west of the mountains and in the present state of Kentucky, over and above her munificent cession to the general government. Pressed for pecuniary means by the revolutionary war, she brought her wild lands during its progress into market, receiving payment in paper money. There were no previous surveys of the waste lands, no townships, no sections, no official definition or description of tracts; each purchaser made his own location, describing the land bought as he thought proper. These locations or descriptions were often vague and uncertain. The consequence was that the same tract was not unfrequently entered various times by different purchasers, so as to be literally shingled over with conflicting claims. The state, perhaps, sold in this way much more land than it was entitled to, but then it received nothing in return that was valuable; whilst the purchasers, in consequence of the clashing and interference between their rights, were exposed to tedious, vexatious, and ruinous litigation. Kentucky long and severely suffered from this cause, and is just emerging from the troubles brought upon her by improvident land legislation. Western Virginia has also suffered greatly, though not to the same extent."

After referring to the evils of their system of management as displayed in the history of Georgia and Kentucky, he proceeds:—

"These observations in respect to the course of the respectable states referred to, in relation to their public lands, are not prompted by any unkind feeling towards them, but to show the superiority of the land system of the United States."

* * * * * * * *

"The progress of settlement and the improvement in the fortunes and conditions of individuals under the operation of this beneficent system, are as simple as they are manifest. Pioneers of a more adventurous character, advancing before the tide of emigration, penetrate to the uninhabited regions of the west. They apply the axe to the forest, which falls before them, or the plough to the prairie, deeply sinking its share in the unbroken wild grasses in which it abounds. They build houses, plant orchards, enclose fields, cultivate the earth, and rear up families around them. Meantime the tide of emigration flows upon them; their improved farms rise in value; a demand for them takes place; they sell to the new comers at a great advance, and proceed further west with ample means to purchase from government, at reasonable prices, sufficient land for all the members of their families. Another and another tide succeeds, the first pushing on westwardly the previous settlers, who in their turn sell out their farms, constantly augmenting in price, until they arrive at a fixed and stationary value. In this way thousands and tens of thousands are daily improving their circumstances and bettering their condition. I have often witnessed this gratifying progress. On the same farm you may sometimes behold standing together the first rude cabin of round and unhewn logs and wooden chimneys, the hewed log-house, chinked and shingled, with stone or brick chimneys, and, lastly, the comfortable brick or stone dwelling; each denoting the different occupants of the farm, or the several stages of the condition of the same occupant. What other nation can boast of such an outlet for its increasing population—such bountiful means of promoting their prosperity and securing their independence?

"To the public lands of the United States, and especially to the existing system by which they are distributed with so much regularity and equity, are we indebted for these signal benefits in our national condition. And every consideration of duty to ourselves and to posterity enjoins that we should abstain from the adoption of any wild project that would cast away this vast national property holden by the general government in sacred trust for the whole people of the United States, and forbids that we should rashly touch a system which has been so successfully tested by experience."

* * * * * * * *

"Such is a rapid outline of this invaluable national property, of the system which regulates its management and distribution, and of the effects of that system. We might here pause and wonder that there should be a disposition with any to waste or throw away this great resource, or to abolish a system fraught with so many munificent advantages. Nevertheless there are such who, impatient with the slow and natural operation of wise laws, have put forth various pretensions and projects concerning the public lands within a few years past."

Quantity of public land and its actual present value.—The entire area of the public domain is estimated at about 1,584,000,000 acres. Of that amount there is within the states, exclusive of California, 471,892,439 acres.

This immense quantity of unsold and unoccupied public land has led to many erroneous estimates of its true value, and has suggested many of those wild and disorganizing schemes for its disposition which have been forced upon the public attention of late years. Regarding the entire public domain as productive capital, available for present and imme-

diate use, the most visionary and extravagant hopes have been excited as to the benefits to be derived from its division and distribution. These errors have been exposed with such marked ability in a report from the Committee on Public Lands, submitted to the Senate in January, 1840, that I shall take the liberty of presenting again before the public mind, its clear and irresistible reasoning. That report, it is true, was made prior to our purchase of that portion of the public domain which lies within the state of California and the territories of Utah and New Mexico, but that fact does not, in the very slightest degree, affect the force of the argument, or even vary its calculations and conclusions. The average annual proceeds of the public domain do not materially vary now from what they were prior to those important additions to our territorial possessions.

* "It appears from a report from the Commissioner of the General Land Office (see Doc. 46, 3d sess. 25th Congress), that the whole quantity in acres of the public domain, on the 30th September, 1838, to which the Indian title was not extinguished, amounted to 766,000,000, in round numbers. There were, at the same time, as appears by the same report, in the states and territories, 319,000,000 of acres to which the Indian title was extinguished, making the whole public domain in the aggregate, at that time, to be 1,085,000,000 of acres; from which about 5,000,000 of acres may be deducted for sales since made, leaving now about 1,080,000,000 of acres. It appears that, on the 1st of January last, there were, in the new states, 154,000,000 of acres to which the Indian titles were extinguished, and 9,500,000 acres to which the Indian title was not extinguished; making, in the aggregate, 163,500,000 acres. From this deduct, for disputed grants, many of which are large, to which the right of the government may not be established, 3,500,000 acres, which would leave 160,000,000 subject to the operation of this bill, being less than one-sixth of the whole public domain.

"Those who have not reflected on the subject are liable to form very erroneous estimates of the true value of the public lands. It is very natural to conclude that, as none are sold for less than $1.25 per acre, the 160,000,000 of acres unsold, in the new states, are worth $200,000,000; but such a conclusion would be utterly fallacious. If the whole could be sold at once, at that price, for cash in hand, or on perfectly safe security, with interest, and without expense, the conclusion would be correct; but such is far from being the case. They can only be sold at that price, through a long period of years, in small portions at a time, and at a heavy expense, all of which must be taken into the estimate to form a correct opinion of their real value, or, to express the idea differently, their actual present value.

"In order to determine what that really is, it will be necessary to assume what would probably be the gross annual proceeds of the sales of the public lands embraced by the bill, on the supposition that the present price, and the land system, as it now stands, will be continued. The committee are fully aware that the assumption must be, in a great measure, conjectural. There are not, and cannot be, from the nature of the subject, any certain data on which to rest calculation. All that can be done is, to assume a sum sufficiently liberal to guard against the possibility of an under estimate; and, proceeding on that principle, after a full consideration of the whole ground, the committee have come to the conclusion that it would be a liberal assumption to take the sum of $2,500,000 as their average gross annual income, on the supposition of the continuance of the system till the whole shall be sold. The assumption supposes that the whole of the lands embraced in the bill will be sold at $1.25 per acre, and that the average sales annually will yield $2,500,000, till the last acre is sold; an assumption which all, the least conversant with the subject, will readily allow to be ample.

"Taking, then, that sum as the annual gross income, it is clear that the real value of the lands in question cannot exceed a sum which, at the legal interest of 6 per cent., would give an annual income of $2,500,000; or, to express it differently, cannot exceed the present value of a permanent annuity of that amount—that is, a fraction over $41,000,000.

"So far is clear, and it is equally so that it must be less than that sum. The reason is obvious: to derive an income of $2,500,000 from lands at $1.25 per acre, there must be annually sold 2,000,000 of acres, which would dispose, at that rate, of the whole 160,000,000 of acres in eighty years. It follows, of course, that their true present value, instead of being worth a permanent annuity of $2,500,000, would be worth one of that amount for eighty years only, which is little more than $34,000,000. That sum, then, it is manifest, would be the true present value of all the unsold lands in the new states, on the data assumed, provided they could be sold without expense, trouble, or cost by the government; but as that cannot be, it becomes necessary to determine what deduction ought to be made on that account to ascertain what, in fact, is their real present value.

"In determining this, the committee have taken experience as their guide. They have carefully ascertained, under the actual operation of the system, to the present time, what deductions ought to be made, under all the various heads, as incident to the system, on the actual quantity of land sold by the government, and have apportioned them rateably on the lands to be sold, on the supposition that what remains to be sold will be subject to as great a reduction, in proportion, as that which has been; in other words, that the administration of the public lands hereafter, if

* The report from which this extract is taken, though made by Mr. Norvell, of Michigan, was written by Mr. Calhoun.

the present system should be continued as it stands, would be neither more nor less economical or prudent than it has been. In making their estimates, they have included under expense not only what is appropriately comprehended under it, but whatever goes to diminish the net income from the lands—such as grants and donations other than the 16th section reserved for schools, the two and three per cent. fund reserved out of the sales for internal improvement, the expenditures on internal improvement incident to the public domain, but not charged to that fund, and the increased expense of legislation.

"The result is, that the expense of the management of the public lands embraced in the bill (on the supposition that the administration will be neither more nor less economical than the past, and that they will yield annually the sum supposed, and of course be sold in the period assigned) would amount to a fraction over $44,000,000, which, divided by eighty, the number of years required to dispose of the lands, would give $550,000 as the average annual expense. This sum, regarded as an annuity for eighty years, and estimated as a present charge, would make a fraction less than $7,600,000, which, deducted from the sum of $34,000,000, the present value of the lands, without estimating expenses, would give for the actual present value of the lands the sum of $26,400,000.

"But as small as this sum may appear to many, the committee believe that it is over, rather than under, the true estimate. It makes no allowance for defalcations and losses incident to the management of the fiscal concerns of the land system, and assumes that every acre will be sold at $1.25 per acre, which no one can expect who will recollect that a large portion is sterile and worthless, consisting of pine barrens, swamps, unproductive prairies, and stony and mountainous tracts, which are at present unsaleable at any price, and will be so for a long time to come. To this may be added that more than one half has been in market for five, ten, fifteen, and twenty years and upwards without being sold, and are the remnants left, after the repeated selections of all that were considered as valuable, even under the late rage for speculation, stimulated to the greatest excess by a bloated currency. Against this it is admitted that there is a considerable quantity not yet surveyed and brought into market, of which a portion may sell for more than $1.25 per acre; but experience shows that the quantity sold above that price is so small that its effect on the general average price does not exceed 2 4-5 cents per acre, and is too inconsiderable to take into the estimate.

"Taking, then, all circumstances into consideration, the committee feel assured that the result to which they have been brought is too high rather than too low; but they do not deem it material whether it be, in truth, a few millions more or less. Their object is not perfect precision, but to give a correct general impression of the value of the lands embraced in the bill, in order to correct the utterly fallacious conception which even many of the well informed entertain on the subject. So long as the value of the lands embraced in the bill is estimated at hundreds of millions of dollars, instead of the few millions which they are really worth, so long it will be impossible to obtain for the measure which it proposes that impartial and deliberate consideration necessary to a correct decision, and hence the necessity of removing such erroneous impressions preliminary to the discussion of the general merits of the bill, to which the committee will now proceed."

Extraordinary efforts have been made within the last few months, by the opposition papers of this district and state, to excite discontent by vivid and reiterated declarations of the gross mismanagement of the public domain. Tabular statements have been paraded before your eyes of the enormous donations made by Congress to the new states for school, railroad, and other purposes. Editors and orators have dwelt with real or affected indignation upon the reckless squandering of the public lands, the extraordinary favors shown to the new states and the injustice done to the old, the rapid decline of Virginia and the unparalleled growth of the northwestern states, all the result of a concerted movement, originating in party purposes, and all designed to prepare the public mind for a revival of the oft-repeated and discarded policy of distribution.

That there is not some just ground for discontent with the legislation of Congress for the last seven or eight years I do not deny. One might naturally infer such to be my opinion at least, for my vote has been uniformly arrayed against every bill disposing in any form of the public lands submitted to the body of which I was a member, during the six years of my service. But it will be found, upon examination, that much of this clamor grows out of a misconception of the true character of the legislation of Congress, or is ascribable to natural and unavoidable causes, over which Congress and human government can have no control.

I will examine separately the three classes of grants, which are the theme of greatest denunciation by the opposition press, and submit to your consideration the reasons of just policy upon which they respectively rest, and you will thus have the means of deciding for yourselves whether you have been robbed or plundered to the extent that you are led to suppose by those vigilant sentinels, who claim now to be the only safe depositories of the public interest.

The new states, created out of the territory of the United States, have always had, at the period of their admission, large vacant and unappropriated public lands within their limits. Coming into the confederacy, as members of the federal alliance, with all the rights of independent states, subject to the Constitution of the United States, they would have the

unquestioned power to tax for state purposes all the lands within their jurisdiction, whether belonging to the federal government or to individuals. To guard against this exercise of state power, it has been the practice of the government, from our earliest history, to enter into a compact, as follows, with the state seeking admission into the Union, by which the United States agree to transfer to the state one section of land in each township for "the use of schools," and five per cent. of the net proceeds of the sale of the public lands lying within the state, after deducting all expenses incident to the same, for public roads.

"Provided that the foregoing propositions herein offered are on the condition, that the said convention which shall form the constitution of said state, shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said state shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents."

It will be seen that the grant of school lands, &c., is made by Congress as a consideration for the attainment of three important objects:—

1st. That the state shall never interfere with the primary disposal of the soil within the same by the United States.

2d. That no tax shall be imposed on lands the property of the United States.

3d. That in no case shall non-resident proprietors be taxed higher than residents.

The importance of those stipulations to the United States may be at once seen by reference to the fact, that we have at this time (exclusive of California) 471,892,439 acres of land lying within the jurisdiction of the states, which is altogether exempt from taxation. As Mr. Webster remarked in January, 1839, "whilst held by the United States these lands are not subject to state taxation. They contribute nothing to the burdens thrown on other lands. Here is a great proprietor in a state, holding large territory, exempt from common burdens."

It is also important in securing to those citizens of Virginia, and other states, who may think proper to purchase, but do not find it convenient to reside in the new states, immunity from unjust and unequal taxation.

Swamp Lands.—In almost every state or territory of the United States, where the government holds public lands, and more particularly in the southern states of Louisiana, Arkansas, Missouri, and Florida, are found large parcels of it overflowed by water. These lands are entirely unfit for cultivation, indeed not susceptible of being surveyed, and serve but to infect the states in which they are situated with disease, not confined to the lands themselves, but spreading far and wide in the adjacent country, and depreciating the domain belonging to the government within the reach of the misama arising from them. The existence of such a nuisance in the states was for many years a subject of loud complaint. Congress at length yielded to these just complaints, and by act of the 28th of Sept., 1850, granted to the states in which they were located, "the whole of those swamp and overflowed lands made unfit thereby for cultivation," * * * "provided, that the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands." The states would, doubtless, have much preferred that the general government had retained the lands and undertaken itself the work of drainage. But in the absence of any such improbable action by the federal government, it was not to be endured that these lands should remain in their then condition—unfit for sale—destructive of the value of the adjacent public domain; and a source of disease and death to the inhabitants of the states. So manifest seemed the propriety of this measure, granting the "swamp lands" to the states for that purpose, that the bill passed the Senate without a dissenting voice, whilst in the House it passed by a vote of 120 yeas to 53 nays; but eight southern men, and amongst them but one member, from Virginia, voting against it.

Railroad Grants.—The policy and results of these grants by Congress have been so clearly exhibited in the annual report of the Secretary of the Interior of December 5, 1853, that it will only be necessary to take from it the following extract:—

"In the territories and new states, where many of the public lands remain for a long period unsold, liberal grants should be made for those great highways, which to a certain extent may be considered local in their character, though general in their influence, and not conflicting with the interests of the old states. In this way, without any expenditure of money, the general government can greatly increase the value of the public domain. It has never made such a donation without being fully repaid. The principle of granting alternate sections and selling those reserved at double the ordinary price, has been found by experience to be most salutary. By reason of the improvements made with such grants, large tracts of land that had long lain waste have been brought into market and found a ready sale; the surrounding country has been peopled; the revenue has been augmented by the increased consumption of foreign merchandise; and the state in which the improvements have been thus made, and not unfrequently the adjacent states, have been largely benefited. Without these donations and consequent improvements, some of the finest portions of the new states would have continued a wilderness; lands that had been for fifteen or twenty years in the market might have remained as much longer unsold, and thus the prosperity and advancement of the whole country greatly retarded. The loss to the government would have been serious, without any corresponding benefit. The true policy is to bring the lands into market, and by all legitimate means dispose of them as speedily as possible; justice to those who have been induced to settle in the new states and territories and the interest of the government alike demand it. The strongest political and economical considerations, therefore, dictate this course.

"On the 20th of September, 1850, a grant of lands was made to the states of Illinois, Mississippi, and Alabama, to aid in the construction of the great central railroad from Chicago to Mobile. To afford these states an opportunity of making their selections, the lands along the supposed routes of the road were for a short period withdrawn from market, most of them being of little value to the states in which they were, or to the general government, until the grants were made and it was ascertained the road would be constructed; but then they were bought up with avidity, and are now considered as most choice and valuable.

"The Illinois Central Railroad Company was incorporated, and the route of the road and its branches within that state designated by an act of the legislature in February, 1851. During the half-year ending December 31, 1850, the quantity of land sold and located with bounty land warrants in the district traversed by the road was 342,487.88 acres. The

alternate sections reserved to the United States were released from reservation and brought into market, in July, August, and September, 1852, and during that and the next succeeding quarter the sales and locations amounted to 1,274,522.28 acres; showing an increase over the corresponding half-year next preceding the location of the road of 932,034.40 acres.

"The unselected lands in the Augusta and Columbus districts of the state of Mississippi were restored to market in the month of September last, and notwithstanding the sales in those districts had been for many years very limited, the lands thus restored met with ready sales at enhanced prices. The quantity sold at Augusta in the month of September, 1849, was only 424 acres, and in the same month in the years 1850, 1851, and 1852, much less; and yet, in five days in September last, after the route of the road had been established and the alternate sections designated by the state, 19,530 acres were sold for $34,056; being $9643 more than their aggregate value at the minimum price. In the Columbus district, in the short space of twelve days, in the month of September last, 22,504 acres were disposed of; whereas, in all the month of September, 1849, the quantity sold was only 2358 acres.

"The lands withdrawn from market in June, 1852, to enable the state of Missouri to locate the routes and select the lands granted to her by the act approved the 10th of that month for the construction of certain railroads, were restored to market on the 5th of July last, and between that day and the 30th of September following 318,839 acres were sold; being nearly 150,000 acres more than were sold in the corresponding quarters in 1850, 1851, and 1852 combined. A like effect has been produced upon the sales of the alternate sections reserved to the United States, wherever similar grants have been made.

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"There can be as little doubt of the constitutionality of such grants as of their propriety. The right to donate a part for the enhancement of the value of the residue can no longer be questioned. The principle has been adopted and acted upon for nearly thirty years; and since experience has shown it to be productive of so much good, no sound reason is perceived why it should now be abandoned. It has been of incalculable importance to the great West, and either directly or indirectly to all the states.

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"Something is manifestly due to the hardy pioneer, without whose labor, industry, and enterprise, the West would now be of little moment. No one who has not been an eyewitness can appreciate the hardships and privations endured by him, and government should certainly not hesitate to aid him, especially when it can be done without detriment to the other states, or to any other interests."

I will now proceed to examine some of the most prominent of the schemes or plans which, as Mr. Clay has well remarked, "restless men, impatient of the slow operation of wise laws, are constantly throwing before the popular mind in reference to the public lands." The first I shall notice is the scheme for a

Division of the Public Lands among the States.—Several plans having this object in view have been laid before Congress during the last few years; and although at times pressed with some seeming earnestness, they have attracted but little favor, and have been soon abandoned. The practical difficulties in the way of any fair and equal division of the public domain—the striking imperfection and injustice of all the schemes so far submitted, the pernicious consequences which must flow from such an unwise measure, if adopted, and the constitutional impediments to the execution of all such plans—have made them rather the subject of just ridicule than of grave discussion, being regarded rather as bids for local popularity at home than designed by their projectors as serious efforts of legislative policy.

Mr. Webster, in his celebrated speech delivered in the Senate in 1829 upon Foote's resolution, has placed the duties and obligations of the national government on this subject in their true light. After reciting the conditions and trusts upon which the federal government held this public property, and for the fulfilment of which the national faith was and is pledged, he says:—

"One of these conditions or trusts, as I have already said, was that the lands should be sold and settled at such time and manner as Congress shall direct. The government has always felt itself bound in regard to sale and settlement to exercise its own best judgment, and not to transfer that discretion to others. It has not felt itself at liberty to dispose of the soil, therefore, in large masses to individuals, thus leaving to them the time and manner of settlement. It had stipulated to use its own judgment."

Again, in the same speech, he said:—

"I look upon the public lands as a public fund, and that we are no more authorized to give them away gratuitously, than to give away gratuitously the money in the treasury."

Again, in 1837, he repeats, with still greater emphasis, the same ideas:—

"Now, I ask, where is the power to make this grant? If we look upon it as a cession for the benefit of the states in which the lands lie, if it was a gratuitous grant in any degree, whence is the power obtained to authorize Congress to give away the public lands? Well, the answer to this question might be, that the proposition is not to make a gift of it, as certain returns were to be made to Congress by the new states. Now, by the Constitution of the country, the trust, the disposition of the public lands was conferred on Congress; and I ask, is it possible that any man can maintain the proposition that as they were placed in their hands, as belonging to the whole people of the United States, they could transfer the general disposition of them? It appears to me that they might just as well entertain this proposition as to farm out the custom house in New York on certain terms.

"Nor do I know that Congress has any more authority to give away the public lands than the proceeds of a custom house on particular stipulations; nor can they surrender the control of it any more than they can assign to others the power of collecting the revenue of the custom house in Boston, or elsewhere. I see, therefore, objections insurmountable, whether they assume the shape of a gratuitous cession or a trust. In either case, it transcends the power of Congress. It is to make the public lands a common fund for the benefit of the whole people of the Union. The great object is to sell the public lands gradually; and whilst it is in a state of ownership I have always held that Congress might make it more valuable by the creation of railroads, canals, and other improvements of this sort. I have felt no difficulty, therefore, in supporting grants to accomplish these objects, because it was a very efficient mode of increasing the value of the public domain."

Mr. Clay, in a report made to the Senate in 1832, said:—

"By the clear and positive terms of the acts of cession a great public national trust was created and assumed by the general government. It became solemnly bound to hold and administer the lands ceded as a common fund for the use and benefit of all the states, and for no other use or purpose whatever. To divert it from the common benefit for which it was conveyed, would be a violation of the trust."

But apart from the constitutional difficulties so apparent and so clearly set forth by Messrs. Webster and Clay, how would it be possible to make any partition of the public lands that could be at all satisfactory to Virginia and the other Atlantic states? According to every bill which has been submitted on the subject—and indeed from the very necessity of the case, the portion coming to the new states would have to be assigned to them within their respective jurisdictions. And would Virginia and her sister states of the South be content to have hers allotted to her in Utah, New Mexico, Oregon, or Washington, or the other distant or remote territories? If any such partition were made, such would be the inevitable assignment of the remote lands. And if the

share of Virginia were assigned to her in some distant territory, in what manner would she make it available? It now costs the federal government near one million of dollars annually to keep up its Land Office. What would be the cost of thirty-one land offices kept up by the several states? It now costs the federal government some eleven millions of dollars to maintain one army to defend her land and protect her settlers. What would it cost to maintain thirty-one armies for the same purpose? Mr. Clay, in his celebrated report, presents other pernicious consequences which would result from this scheme of dividing the lands amongst the states:—

"The lands are now sold under one uniform plan, regulated and controlled by a single legislative authority, and the practical operation is perfectly understood. If they were transferred to the states, the subsequent disposition would be according to laws emanating from various legislative sources. Competition would probably arise between the states in the terms which they would offer to purchasers. Each state would be desirous of inviting the greatest number of emigrants, not only for the laudable purpose of populating rapidly its own territories, but with the view to the acquisition of funds to enable it to fulfil its engagements to the general government. Collisions between the states would probably arise, and their injurious consequences may be imagined. A spirit of hazardous speculation would be engendered. Various schemes in the new states would be put afloat to sell or divide the public lands. Companies and combinations would be formed in this country, if not in foreign countries, presenting gigantic and tempting but delusive projects, and the history of legislation in some of the states of the Union admonishes us that a too ready ear is sometimes given by a majority, in a legislative assembly, to such projects."

But I will not pursue this reckless and revolutionary scheme further. Politicians may find such hobbies useful in riding successfully over a Congressional district. But the sober judgment of the country cannot regard them otherwise than as either visionary or wicked.

I now approach the examination of another scheme, which being less radical, revolting and disorganizing, has more supporters than the preceding; but which is obnoxious to many of the objections which apply to a partition of the public lands. I mean the—

Distribution of the proceeds of the Public Lands.—This measure, as a practical question of public policy, was first brought before the country in 1832. There were peculiar circumstances in the then condition of the country, which caused it to be looked upon with favor when first proposed. But the able and searching scrutiny to which it was subjected by the statesmen of that period, soon revealed the pernicious principles which lay concealed under its imposing exterior, and after a fitful struggle of ten or twelve years it passed from the political issues of the day, and from that period it has hardly been deemed to possess vitality sufficient to render it worthy of a passing newspaper paragraph.

It has recently been revived by the opposition press, as a political issue peculiarly adapted to the condition and circumstances of Virginia. We hear not a word of it beyond the limits of this commonwealth. In every other state it reposes in the same quiet grave in which it was deposited in 1844. But here in this state, where, at no period of its history, it ever obtained the slightest countenance and favor, it has alone been deemed worthy of resurrection.

To whom are we indebted for its revival? To any spontaneous movement of the popular mind? No! To the action of any organized political body? No. But to the wild and erratic editorials of the Richmond Whig. Month after month was it occupied in drumming, urging, and pressing this question upon the public mind before the slightest response was heard to its rabid and fiery appeals. But at length the admirable bearing which it might have in dividing and distracting the overgrown Democratic party of this state was seen—and instantly it was seized upon by every opposition press in the state, and made the rallying cry of the approaching election.

It was believed that the condition of our treasury, the high rate of our taxes, and the just desire to complete many railroad projects now lying in an unfinished condition, would render the people not very scrupulous as to the means by which their burdens might be lessened, and their improvements finished. They flattered themselves that the occasion was particularly opportune to break down the Democratic organization of this state. It was known that that party had, for a quarter of a century, arrayed itself against the expediency and constitutionality of the distribution policy; and if, under the pressure of taxation, and the eager thirst for public improvement, they would now enlist the people in these views, they saw, in such a movement, the certain means of destruction to that party which had made the opposite doctrine cardinal principles of its political faith.

The thin disguise of attempting to treat a fundamental canon of the Democratic policy as no party question, and of postponing their own aspirations to those of some Democrat who would side with their policy, was only confirmatory of the motives in which the agitation had its recent origin. For without the aid of the Democrats—without detaching a segment of the party from the main body—how could they accomplish their cherished object, the destruction and disorganization of the party itself?

Does any man who advocates the distribution policy, for one moment believe that we shall ever hear of it again after the approaching spring election is over, unless it be referred to simply as the springe in which many an incautious Democrat has been caught? Does he believe there is the slightest chance of carrrying such a measure through the national legislature. From whence is it to derive its support? Not from a Democratic President, a Democratic Senate, or a Democratic House of Representatives. For they all stand pledged by the Democratic platform to regard it both as unwise and unconstitutional. Not from the representatives of the land states, who have been consistent in their hostility to the policy. Not from the representatives of the planting states, who regard it but as the harbinger of a return to high protective duties. It has no prospect

of support from any quarter except the manufacturing states of New England, and they constitute too small a force to justify the belief that they can succeed in the establishment of that policy.

Looking, therefore, to the time and source of this movement—to the impracticability of its success—to the insignificant amount that would be received from distribution if it could be accomplished—and its utter inadequacy to any of the objects contemplated by it, I do not feel that I am uncharitable in saying, that the sole purpose, real, sought or anticipated by its originators, is to distract and divide the Democratic party of this state.

But whilst these are my own firm convictions, I will proceed to examine it, not as a party question, but as a question of national policy and constitutional law, and address myself to the reason and judgment of all men in this district, totally irrespective of party.

Is distribution constitutional.—The first inquiry of every Southern man, in the discussion of a question of federal policy, is whether the measure is in accordance with the Constitution of the United States, an instrument to which he looks with peculiar reverence, and which all who take part in the government are sworn to support.

The constitutional view of this subject has been treated by Mr. Calhoun with such consummate ability, and with such brevity and precision, that I cannot afford a richer treat to my readers than by incorporating it into this address.

Speech of Mr. Calhoun, January 23, 1841.

"Whether the government can constitutionally distribute the revenue from the public lands among the states must depend on the fact whether they belong to them in their united federal character, or individually and separately. If in the former, it is manifest that the government, as their common agent or trustee, can have no right to distribute among them, for their individual, separate use, a fund derived from property held in their united and federal character, without a special power for that purpose which is not pretended. A position so clear of itself and resting on the established principles of law, when applied to individuals holding property in like manner, needs no illustration. If, on the contrary, they belong to the states in their individual and separate character, then the government would not only have the right but would be bound to apply the revenue to the separate use of the states. So far is incontrovertible, which presents the question: In which of the two characters are the lands held by the states?

"To give a satisfactory answer to this question, it will be necessary to distinguish between the lands that have been ceded by the states, and those that have been purchased by the government out of the common funds of the Union.

"The principal cessions were made by Virginia and Georgia. The former of all the tract of country between the Ohio, the Mississippi, and the lakes, including the states of Ohio, Indiana, Illinois, and Michigan, and the territory of Wisconsin; and the latter, of the tract included in Alabama and Mississippi. I shall begin with the cession of Virginia, as it is on that the advocates for distribution mainly rely to establish the right.

"I hold in my hand an extract of all that portion of the Virginia deed of cession which has any bearing on the point at issue, taken from the volume lying on the table before me, with the place marked, and to which any one desirous of examining the deed may refer. The cession is 'to the United States in Congress assembled, for the benefit of said states.' Every word implies the states in their united federal character. That is the meaning of the phrase United States. It stands in contradistinction to the states taken separately and individually; and if there could be, by possibility, any doubt on that point, it would be removed by the expression 'in Congress assembled'—an assemblage which constituted the very knot that united them. I regard the execution of such a deed to the United States, so assembled, so conclusive that the cession was to them in their united and aggregate character, in contradistinction to their individual and separate character, and, by necessary consequence, that the lands so ceded belonged to them in their former and not in their latter character. that I am at a loss for words to make it clearer. To deny it, would be to deny that there is any truth in language.

"But strong as this is, it is not all. The deed proceeds and says, that all the lands so ceded 'shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of said states, Virginia inclusive, and concludes by saying, 'and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatever.' If it were possible to raise a doubt before, those full, clear, and explicit terms would dispel it. It is impossible for language to be clearer. To be 'considered a common fund' is an expression directly in contradistinction to separate or individual, and is, by necessary implication, as clear a negative of the latter as if it had been positively expressed. This common fund to 'be for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance.' That is as clear as language can express it, for their common use in their united federal character, Virginia being included as the grantor, out of abundant caution."

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"The concluding words of the grant are, 'shall be faithfully and bona fide disposed of for that use, and no other use or purpose whatsoever.' For that use—that is the common use of the states in their capacity of members of the confederation or federal alliance—and no other; as positively forbidding to use the fund to be derived from the lands for the separate use of the states, or to be distributed among them for their separate or individual use, as proposed by this amendment, as it is possible for words to do."

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"The residue of the public lands, including Florida, and all the region beyond the Mississippi, extending to the Pacific Ocean, and constituting by far the greater part, stands on a different footing. They were purchased out of the common funds of the Union collected by taxes, and belong, beyond all question, to the people of the United States in their federal and aggregate capacity. This has not been and cannot be denied; and yet it is proposed to distribute the common fund derived from the sales of these, as well as from the ceded lands, in direct violation of the admitted principle, that the agent or trustee of a common concern has no right without express authority to apply the joint funds to the separate use and benefit of its individual members."

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"The Senator from Kentucky (Mr. Clay), and, as I now understand, the Senator from Massachusetts (Mr. Webster), agree, that the revenue from taxes can be applied only to the objects specifically enumerated in the Constitution. Thus repudiating the general welfare principle, as applied to the money power, so far as the revenue may be derived from that source. To this extent they profess to be good State Rights Jeffersonian Republicans. Now, sir, I would be happy to be informed by either of the able senators, by what political alchemy the revenue from taxes, by being vested in land, or other property, can, when again turned into revenue by sales, be entirely freed from all the constitutional restrictions to which they were liable before the investment, according to their own confessions. A satisfactory explanation of so curious and apparently incomprehensible a process would be a treat.

"When I look, Mr. President, to what induced the states, and especially Virginia, to make this magnificent cession to the Union, and the high and patriotic motives urged by the old Congress to induce them to do it, and turn to what is now proposed, I am struck with the contrast and the great mutation to which human affairs are subject. The great and patriotic men of former times regarded it as essential to the consummation of the Union and the preservation of the public faith that the lands should be ceded as a common fund; but now, men distinguished for their ability and influence are striving with all their might to undo their holy work. Yes, sir; distribution and cession are the very reverse, in character and effect; the tendency of one is to union, and the other to disunion. The wisest of modern statesmen, and who had the keenest and deepest glance into futurity (Edmund Burke), truly said that the revenue is the state; to which I add, that to distribute the revenue, in a confederated community, amongst its members, is to dissolve the community—that is, with us, the Union—as time will prove, if ever this fatal measure should be adopted."

Having disposed of the constitutional question, the next inquiry is, What are the objections to it on the score of expediency and sound policy?

They are numerous.

1. *Distribution is deceptive.*—It is an imposture upon the public mind. It seeks to produce the impression that it is giving money to the people, when it is in fact, taking money from them. It professes to lessen taxes, when it in fact increases them. We have two governments to support—a federal government and a state government. They are both supported by taxation. The first by indirect, the latter by direct taxation. If you withdraw the proceeds of the public lands from the national treasury, to distribute them among the states, you must supply the deficiency by taxation in the form of duties upon consumption. The result of such an operation, therefore, is to put money in the hands of the legislature for state expenditures, whilst the farmer and mechanic must, with superadded costs, repay the amount by increased price upon every article of foreign growth and production which he buys from the stores.

General Jackson clearly perceived and exposed this imposture in his message of December, 1833, in which he assigns his reasons for disapproving the bill. He said :—

"It is difficult to perceive what advantages would accrue to the old states or the new from the system of distribution which this bill proposes, if it were otherwise unobjectionable. It requires no argument to prove that if three millions of dollars a year, or any other sum, shall be taken out of the treasury by this bill for distribution, it must be replaced by the same sum collected from the people by some other means. The old states will receive annually a sum of money from the treasury, but they will pay in a larger sum, together with the expenses of collection and distribution."

Mr. Buchanan, our present distinguished Chief Magistrate, with equal clearness, exposed its trickery in 1841 :—

"But the absurdity of the measure at this time did not stop here. This bill was made the pretext or the reason why we should pass the tax or revenue bill. The deficiency created by the one bill, it is said, must be supplied by the other. And how supplied? By a tax of twenty per cent. upon coffee and tea—articles which the habits of the people of Pennsylvania had rendered necessaries of life, and which entered largely into the consumption of every family, poor or rich. While that bill thus taxed coffee and tea, it left railroad iron imported for the use of corporations free of duty; and yet, strange as it might seem, a Pennsylvania Senator was asked to violate the express language of his instructions, and vote for the land bill which it was avowed would render this odious tax absolutely necessary. The annual distribution under the land bill would be equal to but a little more than an eleven-penny-bit to each individual in Pennsylvania, whilst the tax to which each of them would be subjected, in consequence of its passage, on the articles of coffee and tea alone, must considerably exceed that amount. This, truly, was wise legislation!"

2. *Distribution impairs the simplicity and economy of the state governments.*—It stimulates extravagant expenditures—increased indebtedness—and will result in additional burdens upon the people, in the form of higher and more oppressive taxation. Does any man for a moment believe that the annual distribution paid by the federal government to the states would be applied to lessen the existing taxes? Does he not know that small as the distributive share of Virginia might be, it would only be used as a stimulant to new and larger appropriations? Why are all the unfinished railroads now so clamorous for distribution? Why are the people on the line of these projected improvements so anxious for the triumph of the policy? Is it not because they believe and avow that the fund, if received, will be applied to the construction of these roads, or made the basis upon which new state bonds would be issued?

General Jackson, whose keen sagacity and genuine fidelity to the interests of the people cannot be questioned, has left upon the record the following emphatic declaration of his views on this aspect of the subject. In his eighth annual message he said :—

"All will admit that the simplicity and economy of the state governments mainly depend on the fact that money has to be supplied to support them by the same men, or their agents, who vote it away in appropriations. Hence, when there are extravagant and wasteful appropriations, there must be a corresponding increase in taxes; and the people, becoming awakened, will necessarily scrutinize the character of measures which thus increase their burdens. By the watchful eye of self-interest, the agents of the people in the state governments are repressed and kept within the limits of a just economy. But if the necessity of levying the taxes be taken from those who make the appropriations and thrown upon a more distant and less responsible set of public agents, who have power to approach the people by an indirect and stealthy taxation, there is reason to fear that prodigality will soon supersede those characteristics which have thus far made us look with so much pride and confidence to the state governments as the main stay of our Union and liberties. The state legislatures, instead of studying to restrict their state expenditures to the smallest possible sum, will claim credit for their profusion, and harass the general government for increased supplies. Practically, there would soon be but one taxing power, and that vested in a body of men far removed from the people, in which the farming and mechanic interests would scarcely be represented. The states would gradually lose their purity, as well as their independence; they would not dare to murmur at the proceedings of the general government, lest they should lose their supplies; all would be merged in a practical consolidation, cemented by wide-spread corruption, which would only be eradicated by one of those bloody revolutions which occasionally overthrow the despotic systems of the old world."

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"A system liable to such objections can never be supposed to have been sanctioned by the framers of the Constitution when they conferred on Congress the taxing power; and I feel persuaded that a mature examination of the subject will satisfy every one that there are insurmountable difficulties in the operation of any plan which can be devised of collecting revenue for the purpose of distributing it. Congress is only authorized to levy taxes 'to pay the debts and provide for the common defence and general welfare of the United States.' There is no such provision as would authorize Congress to collect together the property of the country, under the name of revenue, for the purpose of dividing it, equally or unequally, among the states or the people."

3. *Distribution leads to consolidation and the concentration of all power in the national government.*—Upon this point, also, I take great pleasure in fortifying my views by an extract from General Jackson's message, disapproving the land distribution bill of 1833. He says :—

"But this bill assumes a new principle. Its object is not to return to the people an unavoidable surplus of revenue paid in by them, but to create a surplus for distribution among the states. It seizes the entire proceeds of one source of revenue and sets them apart as a surplus, making it necessary to raise the moneys for supporting the government and meeting the general charges from other sources. It even throws the entire land system upon the customs for its support, and makes the public lands a perpetual charge upon the treasury. It does not return to the people moneys accidentally or unavoidably paid by them to the government, by which they are not wanted, but compels the people to pay moneys into the treasury for the mere purpose of creating a surplus for distribution to their state governments. If this principle be once admitted, it is not difficult to perceive to what consequences it may lead."

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"It appears to me that a more direct road to consolidation cannot be devised. Money is power, and in that government which pays all the public officers of the states will all

political power be substantially concentrated. The state governments, if governments they might then be called, would lose all their independence and dignity. The economy which now distinguishes them would be converted into a profusion limited only by the extent of the supply. Being the dependants of the general government, and looking to its treasury as the source of all their emoluments, the state officers, under whatever names they might pass, and by whatever forms their duties might be prescribed, would, in effect, be the mere stipendiaries and instruments of the central power."

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"It is too obvious that such a course would subvert our well-balanced system of government, and ultimately deprive us of all the blessings now derived from our happy Union."

4. *Distribution is a virtual recognition of the power of Congress to appropriate money from the national treasury for objects of local internal improvement.*—This power, which for a quarter of a century has been repudiated and disavowed by all political parties in this country, bids fair to be again recognised if the distribution policy becomes triumphant. Of what avail is it to assert that Congress cannot make a direct appropriation from the treasury for such objects, if you concede the power of Congress to do the same act indirectly by placing its funds into the state treasuries to be applied for such purposes? What now gives energy and power to this general movement in favor of distribution? Is it not in a great measure the local internal improvement enterprises of the state? Do they not expect and are they not struggling to construct and complete their roads by federal money, first to be distributed by Congress to the states, and by the states to be transferred to them?

Upon this point, too, I take pleasure in fortifying my position by the opinion of President Jackson. In the veto message, before referred to, he said:—

"But there are other principles asserted in the bill which would have impelled me to withhold my signature, had I not seen in it a violation of the compacts by which the United States acquired title to a large portion of the public lands. It reasserts the principle, contained in the bill authorizing a subscription to the stock of the Maysville, Washington, Paris, and Lexington Turnpike Road Company, from which I was compelled to withhold my consent, for reasons contained in my message of the 27th of May, 1830, to the House of Representatives. The leading principle then asserted was, that Congress possesses no constitutional power to appropriate any part of the moneys of the United States for objects of a local character within the states. That principle, I cannot be mistaken in supposing, has received the unequivocal sanction of the American people, and all subsequent reflection has but satisfied me more thoroughly that the interests of our people and the purity of our government, if not its existence, depend on its observance. The public lands are the common property of the United States, and the moneys arising from their sale are a part of the public revenue. This bill professes to raise from and appropriate a portion of this public revenue to certain states, providing expressly that it shall 'be applied to objects of internal improvement or education within those states,' and then proceeds to appropriate the balance to all the states, with the declaration that it shall be applied 'to such purposes as the legislature of the said respective states shall deem proper.' The former appropriation is expressly for internal improvements or education, without qualification as to the kind of improvements, and therefore in express violation of the principle maintained in my objections to the turnpike-road bill above referred to. The latter appropriation is more broad, and gives the money to be applied to any local purpose whatsoever. It will not be denied, that under the provisions of the bill a portion of the money might have been applied to making the very road to which the bill of 1830 had reference, and must, of course, come within the scope of the same principle. If the money of the United States cannot be applied to local purposes through its own agents, as little can it be permitted to be thus expended through the agency of the state governments."

5. *Distribution is a virtual recognition of the power and duty of Congress to assume the debts of the states.*—Does not every distributionist, who argues with you on the subject, place prominently before you, as one of the very objects of his policy, the application of the funds to the payment of the existing debt of the states? When some years ago a resolution was introduced into the Senate of the United States, declaring that the federal government had no power to assume the debt of the states, Mr. Clay, in an impassioned manner, exclaimed, "When, where, and by whom was the extravagant idea ever entertained of an assumption of the state debts by the general government?" There was not a solitary voice raised in favor of such a measure in the Senate. Little did Mr. Clay imagine that in so short a time many who now profess to be devotedly attached to his memory, should be found maintaining the policy of distribution upon the express and exclusive ground that the federal government will thereby be assuming and paying so much of the debt of the states.

6. *Distribution in its operation injurious to the interests of the poor man.*—In that admirable system which has heretofore distinguished the disposition and management of our public lands, two important results have constantly been kept in view—*settlement* and *revenue*. By certainty of title and cheapness of price, proper inducements have been offered to the poor man to abandon the crowded marts of the East, and to find in the West a home where, by his hardy toil and honest labor, he may rear his family in comfort and affluence. To enable the government successfully to promote settlement—the paramount leading object of the national trust—it was essential that the price of the public lands should be fixed at a sum so reasonable as to bring the purchase within the means of every poor man in the country. Whilst the government has not been indifferent to revenue, it has nevertheless made that consideration subordinate to the other higher and nobler purpose of the trust. But if the system of distribution be adopted, you will immediately reverse the former wise and liberal policy of the government. Then revenue—not settlement—will become the primary, paramount, and leading object of the system; and relying as the states will upon their annual stipends from the national treasury, the government will be required to adjust prices with the scales of a Shylock, and fix the price of the land at that sum which will bring the most money into the treasury for the purpose of distribution. Settlement, as the primary policy of the government, will then be abandoned; the interests of the poor man seeking a home in the West will be disregarded amidst the clamor for large dividends, and the management and disposal of the public lands will be regulated by all the paltry and selfish considerations which govern a close corporation in making its annual report of profits to a body of hungry stockholders.

From the Democratic National Platforms for the last twenty years.

"That the federal government is one of limited power, derived solely from the Constitution; and the grants of power made therein ought to be strictly construed by all the departments and agents of the government; and that it is inexpedient and dangerous to exercise doubtful constitutional powers.

"That the Constitution does not confer authority upon the federal government, directly or indirectly, to assume the debts of the several states, contracted for local and internal improvements or other state purposes, nor would such assumption be just or expedient.

"That the proceeds of the public lands ought to be sacredly applied to the national objects specified in the Constitution, and that we are opposed to any law for the distribution of such proceeds among the states as alike inexpedient in policy, and repugnant to the Constitution."

What would be the amount for annual distribution?—Amongst the artifices resorted to by the opposition press to dignify the present issue, and to attract the attention and cupidity of the people, are the false and fallacious statements of the amount that would be for distribution. In this discreditable game, I regret to see that the respectable editors of the National Intelligencer have played so conspicuous a part. They have prepared tabular statements designed for general circulation, and which have been eagerly seized upon by our editors in this state, exhibiting the total gross aggregate receipts from the public lands, from 1789 to the 1st July, 1856, amounting, according to the statement, to $122,311,294, which they very generously proceed to distribute; and they announce the wonderful discovery, that if this amount, instead of having been applied to the national objects specified in the Constitution, such, for example, as fighting the battles of our country against foreign invaders, were at this moment in the national treasury and ready for distribution, the share of Virginia would be $9,337,773, all duly set forth in flaring capitals.

Wonderful discovery! And they might, with equal fairness, have made out tabular statements to show that if all the money which had been collected from customs, from the foundation of the government to the present time, was at this moment in the national treasury ready for distribution, what an amazing pile it would be! But I beg leave to assure the editors of the National Intelligencer, that, as poor and needy as they may suppose the people of Virginia to be, and as fond of money, they prefer their laws, liberties, institutions, and independence even to the golden visions which they have portrayed before them; nor do they look back with any regret to the expenditures of the last seventy years, when they feel that the money has been nobly applied to the acquisition of their liberties, the preservation of their national independence, and the maintenance of that noble system of civil government under which we live. But why are such visionary statements placed before the popular mind? Is it not to bewilder and mislead the public judgment? Is there a sane politician in the country who would countenance a distribution of money not now in the treasury, and which during a period of seventy years has been expended in support of the government? Then why parade such statements before the popular mind, if not designed purposely to produce false hopes which they know are utterly absurd and unattainable?

The editors of the National Intelligencer, in giving to the public the gross aggregate receipts of the public lands, do not favor us with the sums with which that fund is chargeable for costs of original purchase, extinguishment of Indian titles, expenses of surveys, &c. Had they condescended to do so, we should have the remarkable idea boldly presented of distributing a fund which is already many millions in debt to the public treasury, added to the absurdity of distributing a fund which had already many years since been disposed of by Congress in accordance with the constitutional necessities of the government.

I shall supply the omission of the editors of the National Intelligencer, by the following exhibit of the charges upon the land fund:—

Extinguishing Indian titles	$106,179,000
Purchase of Louisiana, principal and interest	23,600,000
Purchase of Florida, principal and interest	6,500,000
Paid to Georgia	3,082,000
Paid to Mexico (Mesilla purchase included)	25,000,000
Released claims	6,000,000
Paid Texas	10,000,000
Land Office expenses, surveys and explorations	15,000,000
	$195,361,000

But what would be the actual amount annually for distribution, if any such unwise measure should become a law? Mr. King, of Alabama, in his report, estimated the average annual proceeds at $1,750,000. Mr. Calhoun estimates them, in his report, in a previous part of this address, at $2,500,000. Mr. Clay estimated them at $3,000,000. By referring to the tabular statements contained in that curious exposition of the National Intelligencer, before referred to, it will be seen that, for the last sixteen years, to wit, since 1840, there are but four years in which the amount of the proceeds of the public lands exceeded three millions of dollars; twelve years in which they fell below three millions; six years in which they fell below two millions, and one year in which they fell below one million. It is true, the receipts for the year ending the 1st of July, 1856, were $8,917,644; and yet we are informed by the Secretary of the Treasury, in his last annual report, that the receipts for the first quarter, of the present fiscal year, have fallen below the corresponding quarter of the last year $1,463,345.48, rendering it probable that the receipts for the present year will not much exceed three millions of dollars.

I think it may then be fairly assumed that the annual average proceeds of the public lands are about $3,000,000, of which sum, upon the principle of all the bills which have heretofore been presented and passed, Virginia would receive $141,666—a sum not sufficient to construct five miles of railroad a year, and not sufficient, if so applied, to diminish, in any perceptible degree, the burden of our existing taxes.

I cannot withhold the following characteristic specimen of Mr. Benton's style of oratory, which exhibits, in a striking manner, the small game which the distributionists are pursuing. Speaking in the Senate in 1841 on the land distribution bill, he said:—

"I scorn the bill. I scout its vaunted popularity. I detest it. Nor can I conceive of an object more pitiable and contemptible than that of the demagogue haranguing for votes, and exhibiting his tables of dollars and acres, in order to show each voter or each state, how much money they will be able to obtain from the treasury if the land bill passes. Such haranguing, and such exhibition is the address of impudence and knavery to supposed ignorance, meanness, and folly. It is treating the people as if they were penny wise and pound foolish, and still more mean than foolish. Why, the land revenue, after deducting the expenses, if fairly divided among the people, would not exceed nine-pence a head per annum; if fairly divided among the states, and applied to their debts, it would not supersede above nine-pence per annum of taxation upon the units of the population. The day for land sales has gone by. The sales of this year do not exceed a million and a half of dollars, which would not leave more than a million for distribution, which, among sixteen millions of people, would be exactly four-pence half-penny, Virginia money, per head; a fip in New York, and and a picaillon in Louisiana. At two millions, it would be nine-pence a head in Virginia, equivalent to a levy in New York, and a bit in Louisiana; precisely the amount which, in specie times, a gentleman gives to a negro boy for holding his horse a minute at the door. And for this miserable doit—this insignificant subdivision of a shilling—a York shilling—can the demagogue suppose that the people are base enough to violate their Constitution—mean enough to surrender the defence of their country, and stupid enough to be taxed in their coffee, tea, salt, sugar, coats, hats, blankets, shoes, shirts, and every article of comfort, decency, or necessity, which they eat, drink, or wear, or on which they stand, sit, sleep, or lie?"

And yet, with no professed object in view but to plunder the national treasury of this contemptible pittance, and then to supply that deficiency thus created by a new tax upon consumption, has a bold and defiant issue been joined this spring with the Democratic party; the opposition press of this state everywhere glittering in steel and calling to arms; conventions summoned to bring forth candidates for Congress and for the General Assembly; and even some well meaning and most excellent Democrats seduced from their allegiance to confederate with the bitter and uncompromising enemies of their party and principles.

Tariff of 1857.—The time selected for the revival of the distribution policy is not less remarkable than the policy itself. When it was urged upon the consideration of Congress between 1833 and 1841, there was then this palliation for it, to wit, that the tariff was then regulated by a formal compact for a period of nine years, and under which compact there would necessarily be a surplus in the treasury resulting from duties on imports. But now it is sought to be revived upon the heel of the legislation of the last Congress reducing the receipts from customs below the revenue standard of the government. The average expenditure of the federal government is now ascertained to be, with our immensely extended territory, about $48,000,000 a year. The rate of taxation during the last session of Congress has been so reduced, in connexion with the extended list of free articles, that by the tariff which goes into operation on the 1st of July, 1857, the revenue, if the importations of the present year and coming year be the same, will be diminished some $17,000,000, making our revenue from customs for the next fiscal year some $47,000,000—one million less than the ordinary expenses of the government. We looked to the public lands as supplying at least $3,000,000 more, which would give a federal revenue of $50,000,000, against an expenditure of $48,000,000, leaving but $2,000,000 to cover those contingencies to which every government is liable. Withdraw from the national treasury the proceeds of the lands, and it is manifest, from this statement, the revenue will fall below the average expenses of the government. Congress would then be compelled to recede from the advances which it made last winter in the direction of free trade, and to revive the burdens which it has heretofore imposed upon the commercial industry of the nation. This would be especially unfortunate, in view of the fact, that, by the tariff which goes into operation on the 1st of July, 1857, many articles which enter into the mechanical labor of the country, and add to the profit of the mechanic, without injury to the consumer, are placed upon the free list, or pay a mere nominal duty. Looking, then, to the necessary operation of the tariff of 1857 upon the interests of the mechanic, and regarding distribution as inconsistent with the provisions and policy of that act, I can but regard every movement to promote distribution at this time but as a blow deliberately aimed at the mechanical interests of the country.

Mr. Clay.—His bill in 1832.—No politician was in principle more opposed to distribution than Mr. Clay. To that extent, at least, he retained the benefits of his early republican training, and coincided with the policy of the Democratic party. Many passages might be extracted from his speeches in proof of this fact; but I will content myself with two. In his speech of January 28, 1841, he said:—

"The Republican party of 1798, in whose school I was brought up, and to whose rule of interpreting the Constitution I have ever adhered, maintained that this was a limited government; that it had no powers but granted powers, or powers necessary and proper to carry into effect the granted powers; and that, in any given instance of the exercise of power, it was necessary to show the specific grant of it, or that the proposed measure was necessary and proper to carry into effect a specifically granted power or powers."

"There is, then, I repeat, no power or authority in the general government to lay and collect taxes, in order to distribute the proceeds among the states. Such a financial project, if any administration were mad enough to adopt it, would be a flagrant usurpation."

Again: Mr. Clay, upon another occasion, said:—

"For one, however, I will again repeat the declaration which I made early in the session, that I unite cordially with those who condemn the application of any principle of distribution among the several states to surplus revenue derived from taxation."

It is true, Mr. Clay modified his opinions upon this subject so far as he yielded his assent to the bill for the distribution of the proceeds of the public lands; and yet it is difficult to see any distinction, either in principle or practical results, between a distribu-

tion from the national treasury of moneys collected from customs, or moneys derived from the sale of the public lands. They both do now, and have from the foundation of the government, constituted the revenue of the Union; and the same objections must apply to the withdrawal of either for the purposes of gift or donation to the states. Mr. Clay was a bold and dashing politician. He did not permit himself in the latter period of his life to be trammelled by nice constitutional limitations. His construction of the power of the national government became broad, liberal, and Hamiltonian; and when the political necessity was sufficiently urgent, he never failed to see in the Constitution ample authority to do anything which he believed to be essential to the interests of the country. Originally opposed to a national bank as a measure in conflict with the Constitution of the United States, he promptly sacrificed his constitutional objections when he believed the necessities of the government required such an instrument of finance. Clear in his opinions as to the rights of the people of the South to an unrestricted enjoyment of the benefits of the public domain, he nevertheless did not hesitate, when the hurricane of 1820 was passing over the country, with the hope of staying its destructive ravages, to give his approval to that unconstitutional prohibition by which the people of the South were excluded from any fair participation in the occupation and settlement of two-thirds of the national territory. So in 1832, as deeply impressed as he was with the inexpediency and unconstitutionality of distribution, he, nevertheless, with a view, as he believed, of saving the public lands from being ceded to the states in which they lay, recommended a plan for the distribution of their proceeds amongst the states. Time does not permit me to go into any extended history of the events of that day. It may be sufficient to say that powerful influences were at work to force from Congress a cession of the public lands to the land states. A proposition to cede prospectively, after the 1st of July, 1835, all the lands remaining unsold on that day, had actually passed the Senate, but was defeated in the House. The proposition to inquire into the expediency of making a cession of these lands to the land states was, in 1832, against his own solemn protestations, referred by the Senate to Mr. Clay, as chairman of the Committee on Manufactures, for a report. He believed the condition of the land question at that time to be such that either the government must surrender its interests in the lands to the states in which they lay, or adopt some other measure less objectionable. From this emergency resulted his bill for the distribution of the proceeds of their sale — a measure which, I believe, he would not at that day have sanctioned if he had not believed it was the only alternative for cession.

Accordingly, in his celebrated report, he says:—

"A majority of the committee believes it better as an alternative for the scheme of cession to the new states, and as being most likely to give general satisfaction, that the residue be divided among the twenty-four states, according to their federal representative population," &c.

And again, at a subsequent period, when the same measure was before the Senate, brought forward by Mr. Crittenden, he and his party were reproached with attempts to force it upon the country. Mr. Clay, referring to certain projects before the Senate to squander the public domain, and among others cessions to the land states of the whole within their limits, said:—

"Under these circumstances, my colleague presents a conservative measure, and proposes, in lieu of one of these wasteful projects, by way of amendment, an equitable distribution among all the states of the avails of the public lands. With what propriety, then, can it be said that we, who are acting solely on the defensive, have forced the measure upon our opponents? Let them withdraw their bill, and I will answer for it that my colleague will withdraw his amendment, and will not at this session press any measure of distribution. No, sir; no."

I am prepared to do Mr. Clay the justice to say that his bill did accomplish the great object which its illustrious author had in view when he introduced it. It has performed its functions. It destroyed the greater monster cession. For fifteen years we have seen no man rise in either House of Congress the advocate of ceding the public lands to the states. We hear of no such class of politicians now in the country; and it is well known that Mr. Clay himself, although a long time in Congress subsequent to 1844, was never known after that day to revive any such proposition again in that body.

Webster, Rives, and Benton.—It is manifest to all who have read the extracts previously taken from the speeches of Mr. Webster, that, with his strong constitutional impressions of the public lands being a public fund for the common benefit of the United States in their federal capacity, he must have yielded a very reluctant assent to the proposition to divide these funds amongst the states for their separate use. I have therefore sought, with no little labor, to find amongst his writings or speeches some argument in support of that proposition. But I have looked in vain. Although in Congress many years, during which time the bill was pressed upon the country, and when, doubtless, as a party measure, he gave it his vote, I can find no vindication by him, in that body, of a policy so directly in conflict with his earlier and unanswerable opinions on that subject.

Knowing, too, that Mr. Rives was one of the Whig Senators from Virginia, at the extra session of 1841, when the bankrupt bill, the land distribution bill, and a batch of similar measures were forced upon the country, destined scarcely to survive the Congress which passed them, I felt curious to know what a Senator from Virginia, raised at the feet of James Madison, and intimate with Jefferson, could say in support of a measure so directly in conflict with all the teachings of these great masters. Mr. Rives voted for the bill—Mr. Rives made a speech in the Senate in support

of the bill—Mr. Rives procured his notes of the reporter for revision—a vacant space appears in the index of the Congressional Globe inviting its insertion. Mr. Rives yet lives, but no speech of Mr. Rives has yet appeared to vindicate his position on that occasion. Did he find, when he came to review his position, and in the still and quiet repose of his chamber to ponder over the principles involved in that measure, that they were such as he could not exactly reconcile to his judgment and patriotism? Did a more careful scrutiny satisfy him that his arguments were fallacious and his positions irreconcileable with the true theory and with the honest practice of the government? Did he shrink from a submission of the grounds of his opinion to the stern and impartial judgment of his state? And was he content to let it pass as the vote of the mere partisan, to be defended upon such considerations as might justify and excuse an exact compliance with the behests of party?

Does Virginia derive no benefit from the public lands?—Notwithstanding the clear and unanswerable exposition of facts contained in this address, we shall still, as in the days of our revolutionary struggle, have our Johnny Hooks running through the country, exclaiming beef! beef! money! money! land! land! and declaring that Virginia derives no benefit from the public domain, but that all its advantages are monopolized by the southern and northwestern land states. Is this true? Does not Virginia derive every benefit from the public lands, and in a higher and greater degree than she herself anticipated when she united with her sister states in a surrender of them to the federal government? Were they not granted for the "common defence and support of the Union," and have their proceeds not been so applied? Have they not gone into your national treasury, and been applied to pay off the debts of your revolutionary war? of your second war of independence? and of the Mexican war? to the maintenance of your army, your navy, and your judiciary—to defend you in war, and give wings to your commerce in peace? Did she not make large reservations of land between the Scioto and Miami rivers for the benefit of her officers and soldiers of the revolutionary war? and have not these reservations been most liberally and bountifully applied to their relief, and in amount far beyond their extent? Did she not impose it as a condition of the grant, "that the territory so ceded shall be laid out and formed into states, containing a suitable extent of territory, and that the states so formed shall be distinct republican states, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other states?" And has not this condition been faithfully fulfilled? Five free, prosperous, and sovereign states—co-equal members of our federal alliance—now occupy that territory, which at the period of the grant was the cheerless abode of the untutored savage and the untameable wild beast. From every part of that then wild and uncultivated wilderness is now heard the voice of Christian and civilized man, doing homage to his great Creator, and rejoicing in the blessings of the freest and noblest system of popular government which the world has ever seen. Is it no source of pride to Virginia? Does it inspire her with no lofty reminiscences to reflect that she has had some agency in this mighty work of Christianity, civilization, and liberty? But what is meant by those who say the people of Virginia derive no benefit from these public lands? Who, in their opinion, are the people of Virginia? Are they those alone who happen to be presidents, stockholders, or persons interested in railroad corporations? Is it even alone the rich, the high born, the prosperous, the wealthy, who feel that they are in the enjoyment of a goodly heritage of broad acres, and who are content to spend their lives under the shades of their patrimonial oaks? Are there no other persons born upon our soil who are entitled to be called the people of Virginia? Are there no poor, no destitute, no unfortunate, and no heart-broken amongst our people, who, unblessed by the advantages of birth and fortune, have, for the last fifty years, are now, and will for centuries yet to come, look to our great possessions in the West as a refuge where they can find a cheap home, and protect themselves and their children from penury and want? Every poor man in Virginia feels at this moment that he has, under our present system, a valuable appreciable interest in the public domain, of which he can avail himself at any moment, and which he would be very reluctant to surrender. Again, has not Virginia, in common with her sister states, derived a large benefit from these public lands, in the vast increase of consumers which it has added to the country, and who, by contributing their proportion to the general expenditures of the federal government, lessen the burden which would otherwise fall upon her people? The celebrated Edmund Burke, in his speech recommending that the forest lands of the British crown should be brought into market and converted into private property, at a moderate price, laid down the following just and profound maxims of political economy:—

"The revenue to be derived from the sale of the forest lands will not be so considerable as many have imagined; and I conceive it would be unwise to screw it up to the utmost, or even to suffer bidders to enhance according to their eagerness, wherein the expense of that purchase may weaken the capital to be employed in their cultivation. * * * The principal revenue which I propose to draw from these uncultivated wastes is to spring from the improvement and population of the kingdom, events infinitely more advantageous to the revenues of the crown, than the rents of the best landed estates which it can hold. * * * It is thus that I would dispose of the unprofitable landed estates of the crown, throw them into the mass of private property, by which they will come, through the course of circulation and through the political secretions of the state, into well-regulated revenue."

The history of the landed system of our country furnishes the most convincing proof of the value of cultivation. At the time that public lands were first acquired by the United

States, the most extraordinary expectations were indulged in with reference to them. It was supposed that they could be converted into the means at once of paying off the large public debt, of supporting the government, and after doing all this, of leaving a nice sum over and above what would be required for these purposes. The experience of the government for seventy years has exposed the fallacy of these expectations, and established conclusively that it is from their cultivation, and not their sale, that great benefit is to be derived. The products from sale have been proportionately meagre, whilst the revenue from cultivation has defrayed the expenses of three wars, and enabled the government to be supported in a style infinitely beyond the expectation of those who framed it. The gross proceeds of the sales of the public lands has been but a little over $122,000,000, whilst that derived from the customs, after paying all the expenses of collection, amounts to $1,000,000,000. "This immense amount of revenue springs from the use of soil reduced to private property. For the duties are derived from imported goods; the goods are received in exchange for exports; and the exports, with a small reduction for the profits of the sea, are the produce of the farm and forest. This is but half the picture. The other half must be shown, and will display the cultivation of the soil in its immense exports, as giving birth to commerce and navigation, and supplying employment to all the trades connected with these two grand branches of national industry, while the business of selling the land is a meagre and leaner operation. While such has been the difference between sale and cultivation, no powers of calculation can carry out the difference and show what it will be; for whilst the sale of the land is a single operation, and can be performed but once, the extraction of revenue from its cultivation is an annual and perpetual process, increasing in productiveness through all time with the increase of population, the amelioration of soil, the improvement of the country, and the application of science to the industrial pursuits."

What possible benefit, in the very nature of things, could Virginia derive from the public lands that she does not now enjoy? Unlike Alabama, Florida, Louisiana, Mississippi, Arkansas, &c., she has none of the public domain within her limits; and whilst therefore she cannot participate in the incidental benefits derived from having them within her borders, so likewise is she not exposed to the burdens, disadvantages, and annoyances incident to having immense wastes of land without cultivation or improvement, in a state yielding no revenue and paying no taxes. With the single exception, then, of such advantages as might accrue to her from having the public lands within her limits, of what other is she deprived? The proceeds of their sale go into the common treasury of the Union, and to that extent diminish taxes which her people would otherwise have to pay. Her poor can there find cheap homes, embracing every variety of soil, climate, and production. Her moneyed men, if they do not choose to take up their abode in the new states, may invest their spare cash for the advantage of their children, looking to the day when population and settlement will have given increased value to the investment; and in this act of provident foresight they are protected by compacts between the federal government and the states, by which the latter for ever debar themselves of the right of making any injurious discrimination in the matter of taxation between resident and non-resident proprietors. I again repeat, what higher or other benefit can it be possible to give to Virginia on the public domain?

Is Virginia on the decline?—This is one of those favorite topics upon which the distributionists, chiming in with the abolition orators of the North, and stealing from them both their figures of speech and figures of arithmetic, descant with more than their customary eloquence and power. We are told Virginia is poor and oppressed by debt; that her population is rapidly flying beyond her limits; that her lands are depreciating in value, and that we shall soon return to our primeval condition of a wilderness, unless we can get from the national treasury our dividend of the land fund—a fund averaging a little more than ten cents per head to each white inhabitant of the state. Our condition is feelingly compared with that of Indiana, Illinois, and Iowa, &c., and their rapid growth contrasted with our rapid and hopeless decline. It is true that Virginia, taken altogether as a state, does not exhibit at this time the rapid growth which we secin the young republics of the northwest. It would be strange, indeed, if it were so—quite as strange as if a man of mature years should grow as rapidly in height as a boy of fourteen. But to assert that Virginia is declining in wealth, population, improvement, or anything else that contributes to form the material power of a great commonwealth, is utterly false and unfounded, and exhibits a total unacquaintance with her actual condition. In the extent, value, and variety of our mineral resources, ours is beyond all question the richest state in the Union, and the time is near at hand when they will be in the full progress of development. Our population is surely and steadily on the increase; our lands are becoming every day more productive; large wastes are being brought into successful cultivation; public improvements are penetrating every portion of the state, and immigration is seeking the advantages of our genial climate and adding every day to our resources and capacity to bear taxation.

The official statistics of our state, which have just come to hand, enable us very conclusively to overthrow the theories of the northern abolition writers and the southern distribution advocates, founded upon the supposed decline of Virginia. The returns of the recent reassess-

ment of the real estate of this commonwealth exhibits an extent of progress and improvement of the highest and most gratifying character. By referring to the reassessment of lands made in 1856, and comparing it with the assessment made in 1850, less than six years ago, it will be seen that within that short time there has been an increase in the value of real estate of upwards of one hundred millions of dollars.

Total assessment of 1850 . .	$274,680,226
Total assessment of 1856 . .	376,297,227
Assessment of 1856 over that of 1850	$101,617,001

As the result in each of the counties in this Congressional district cannot fail to be a subject of interest to the public, I herewith insert them.

Counties.	Assessment of 1850.	Assessment of 1856.	Increase per cent.
Berkeley	$4,408,018	$5,097,188	15
Clarke	3,381,165	3,832,537	13
Frederick	3,256,112	5,742,751	76
Hampshire	2,963,778	3,863,845	30
Jefferson	6,135,047	6,708,899	9
Loudon	9,156,846	11,600,097	26
Morgan	687,259	727,152	6
Page	1,701,563	2,100,422	23
Warren	1,594,217	2,200,099	38
	33,284,005	41,872,990	

Increase of value in gross . . . $8,588,985
Per-centage of increase . . . . 25 per cent.

There is another subject developed by the recent assessment of striking interest to every Virginia statesman, and that is the rapid increase of population and rapid appreciation of property observable in many portions of the western part of this state. To enable you to form some judgment of this gratifying fact, I hereunto append the results from several of those counties.

Counties.	Assessment of 1850.	Assessment of 1856.	Increase per cent.
Braxton	$495,647	$1,120,293	125
Carrol	440,812	4,282,451	871
Floyd	658,951	1,615,068	145
Preston	1,168,799	2,980,604	155
Raleigh	240,504	510,266	112
Wyoming	127,397	380,196	198
	3,132,110	10,888,878	

Increase of value in gross . . . $7,756,768

Is there anything in the progress of Illinois, Indiana, or Iowa, or any of the new and growing communities of the northwest, that can exhibit an advancement in wealth more striking and wonderful than these? And yet in attaining these results, Virginia has not had to depend upon the charities of the national government. She has not had to feed upon the crumbs that fall from the table of the federal Dives—to invoke the aid of that annual gratuity more fatal to her than the cup of Circe which the distributionists are so loudly clamoring for; nor has she been compelled so far to sell her birthright for a mess of pottage.

Self-reliance is the great element of success in this world with states and with individuals. Teach your sons to work—teach them to look to their own labor as the means of living—teach them to rely upon the energies and resources that they find within themselves, and you will have taught them a lesson of far greater value than all the lands and slaves which you can bequeath to them. A child differently reared will, in nine cases out of ten, prove a burden to himself and a curse to his parents. So it is with nations and states. Virginia can alone prosper by the labor, the enterprise, the means of Virginia. Let the distributionist succeed in instilling his fatal poison into the public mind—let him succeed in persuading the people of Virginia that their proper policy is to depend not upon themselves, but upon the strong arm of the federal government—that they are too poor or too proud to work, and that their necessities should be supplied from the overflowings of the national treasury—and you will not only arrest the now onward march of material improvements in this state, but you will so enervate and emasculate your people as to make them unfit depositaries of that high and holy trust of popular government under which they at this moment live in such prosperity and happiness.

Difference between deposite and distribution.—The difference is vital both in the power asserted and in the practical operation of the principles involved. Congress may deposite; it cannot constitutionally distribute. Again, distribution, as proposed, is to be an act of annual recurrence, a fixed and established policy, causing an habitual dependence of the states upon the federal government for their annuities, stimulating them to extravagance by an absence of all responsibility for its return, and creating a surplus for the mere purpose of distribution. Whilst a deposite, so far as it has ever been countenanced by any respectable statesman in this country, can only be of rare occurrence, growing out of an unforeseen and unexpected condition of the treasury, designed as a temporary expedient to relieve its plethora, and always accompanied by efficient legislation to arrest the recurrence of a similar surplus. The one is advocated as a regular mode of supplying a state with the means of expenditure; the other is justified as a rare and occasional alternative to protect the currency and business of the nation from evils of the most disturbing and alarming character.

I can think of but one contingency in which it is probable that the federal government will ever call upon the states for the sums deposited with them, and that might take place, if we should ever be involved in a war with some great naval power like Great Britain, when our commerce might be swept from the ocean and the federal revenues from imports wholly cut off. And in that event a call upon the states would be far less onerous to the people than a resort to direct taxation, a power vested in Congress by the Constitution, and which it exercised in 1813—'14 during our late war with Great Britain.

The condition of our treasury during the session of the late Congress, was not unlike what it was in 1836, when the deposite act of that year passed. Owing to causes wholly unforeseen and unexpected we found that we should have, under the existing rate of duties, a surplus in the treasury on the 30th of June, 1857, of $25,000,000, and on the 30th of June, 1858, of $50,000,000, all of which being in specie, taken from general circulation and locked up in the treasury, could not fail to derange the moneyed affairs of the country and spread bankruptcy and ruin from one extremity of the Union to the other. To guard against these evils it became our imperative duty to reduce the duties on imports, and thus lessen the revenue. This we did, but our new tariff could only go into operation at the beginning of the new fiscal year, the 1st of July, 1857. It could not, therefore, affect the surplus of $25,000,000 which would be in the treasury on that day. What was to be done with that surplus? If there had been any just national and constitutional objects demanding that expenditure, and of which there was any probability it would have been so applied, I should have preferred that direction to have been given to it. But we had conclusive evidence, by the rejection of the bill for constructing ten steam sloops, and other bills of equal national importance, that no hope could be entertained of giving that direction to the surplus, but on the contrary, that our redundant treasury was stimulating to wild, corrupting, and extravagant schemes of expenditure. With this state of facts before me—and the Committee of Ways and Means having reported a bill framed upon the principles of the act of 1836, to deposit that surplus with the states, I cast my vote without hesitation for the bill. It passed the House of Representatives by a very decided vote—I think by a majority of 40—but was lost in the Senate from their inability, as I learn, to reach it before the close of Congress, from the pressure of other business having precedence over it.

Congressional History of Distribution, and Votes thereon.

On the 16th of April, 1832, in the Senate of the United States, Mr. Clay, from the Committee on Manufactures, reported a bill from that committee for a distribution of the prodeeds of the public lands. It was brought to a vote, in the Senate, on the 3d of July, 1832, and passed by yeas and nays as follows:—

Yeas.—Messrs. Bell of N. H., Chambers of Md., Clay of Ky., Clayton of Del., Dallas of Pa., Dickerson of N. J., Dudley of N. Y., Ewing of O., Foot of Conn., Frelinghuysen of N. J., Hendricks of Ind., Holmes of Me., Johnston of La., Knight of R. I., Naudain of Del., Poindexter of Miss., Prentiss of Vt., Robbins of R. I., Ruggles of O., Seymour of Vt., Silsbee of Mass., Sprague of Me., Tomlinson of Conn., Waggaman of La., Webster of Mass., Wilkins of Pa.—26.

Nays.—Messrs. Benton of Mo., Brown of N. C., Ellis of Miss., Forsyth of Ga., Grundy of Tenn., Hayne of S. C., Hill of N. H., Kane of Ill., King of Ala., Mangum of N. C., Marcy of N. Y., Miller of S. C., Robinson of Ill., Smith of Md., Tazewell of Va., Troup of Ga., Tyler of Va., White of Tenn.—18.

On the 3d of July, 1832, in the House of Representatives, Mr. Wilde of Georgia moved to lay the bill on the table, which was carried:—

Yeas.—Messrs. Alexander of Va., Anderson of Me., Archer of Va., Ashley of Mo., J. S. Barbour of Va., Barnwell of S. C., Jas. Bates of Me., Beardsley of N. Y., J. Bell of Tenn., Bergen of N. Y., Bethune of N. C., Jas. Blair of S. C., Boon of Ind., Bouck of N. Y., Bouldin of Va., Branch of N. C., Jno. C. Brodhead of N. Y., Cambreleng of N. Y., Carr of Ind., Chandler of N. H., Chinn of Va., Claiborne of Va., Clay of Ala., Clayton of Ga., Coke of Va., Lewis Condict of N. J., Conner of N. C., Coulter of Pa., Warren R. Davis of S. C., Dayan of N. Y., Doubleday of N. Y., Drayton of S. C., Felder of S. C., Fitzgerald of Tenn., Ford of Pa., Foster of Ga., Gaither of Ky., Gilmore of Pa., Gordon of Va., Griffin of S. C., Thos. H. Hall of N. C., Wm. Hall of Tenn., Harper of N. H., Hawes of N. Y., Hawkins of N. C., Hoffman of N. Y., Holland of Me., Horn of Pa., Howard of Md., Hubbard of N. H., Isacks of Tenn., Jarvis of Me., Jenifer of Md., Cave Johnson of Tenn., Kavanaugh of Me., Jno. King of N. Y., Lamar of Ga., Lansing of N. Y., Lecompte of Ky., Lewis of Ala., Lyon of Ky., Mann of Pa., Mardis of Ala., Mason of Va., McCarty of Ind., McDuffie of S. C., McIntire of Me., McKay of N. C., Mitchell of S. C., Muhlenberg of Pa., Newman of Ga., Nuckolls of S. C., Patton of Va., Pierson of N. C., Plummer of Miss., Polk of Tenn., Reed of Mass., Roane of Va., Soule of N. Y., Speight of N. C., Standifer of Tenn., Stephens of Ga., Francis Thomas of Md., Wiley Thompson of Ga., Verplanck of N. Y., Ward of N. Y., Wayne of Ga., Weeks of N. H., Campbell P. White of N. Y., Wickliffe of Ky., Wilde of Ga.—91.

Nays.—Messrs. J. Q. Adams of Mass., C. Allen of Ky., H. Allen of Vt., Allison of Pa., Appleton of Mass., Armstrong of Va., Arnold of Tenn., Babcock of N. Y., Banks of Pa., Barber of Conn., Barringer of N. C., Barstow of N. Y., Isaac C. Bates of Mass., Jno. Blair of Tenn., Briggs of Mass., Bucher of Pa., Bullard of La., Burd of Pa., Burges of R. I., Choate of Mass., Collier of N. C., Condit of N. J., Eleutheros Cooke of O., Bates Cooke of N. Y., Cooper of N. J., Corwin of O., Crane of O., Crawford of Penn., Creighton of O., Daniel of Ky., Davis of Mass., Dearborn of Mass., Denny of Pa., Dewart of Pa., Doddridge of Va., Ellsworth of Conn., G. Evans of Me., J. Evans of Pa., H. Everett of Vt., Findlay of O., Grennell of Mass., Hodges of Mass., Heister of Pa., Hughes of N. J., Huntington of Conn., Ihrie of Pa., Ingersoll of Conn., Irvin of O., Kendall of Mass., Kennon of O., A. King of Pa., H. King of Pa., Leavitt of O., Letcher of Ky., Marshall of Ky., Maxwell of Va., McCoy of Va., McKennan of Pa., Mercer of Va., Milligan of Del., Pearce of R. I., Pitcher of N. Y., Potts of Pa., Randolph of N. J., Reed of N. Y., Root of N. Y., Russel, W. B. Shepard of N. C., A. H. Shepperd of N. C., Slade of Vt., S. A. Smith of Va., Southard of N. J., Stanberry of O., Stewart of Pa., Sutherland of Pa., Taylor of N. Y., Thomas of La., J. Thomson of O., Tompkins of Ky., Vance of O., Vinton of O., Washington of Md., Watmough of Pa., Wheeler of N. Y., E. Whittlesey of O., Wilkin of N. Y., Williams of N. C., Young of Conn.—88.

So the bill was in effect repealed.

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Mr. Clay's bill, appropriating for a limited time the proceeds of the sale of the public lands, being a distribution bill, passed the Senate on the 25th of January, 1833, by yeas and nays as follows:—

Yeas.—Messrs. Bell of Tenn., Chambers of Md., Clay of Ky., Clayton of Del., Dallas of Pa., Dickerson of N. J., Dudley of N. Y., Ewing of O., Foot of Conn., Frelinghuysen of N. J., Hendricks of Ind., Holmes of Me., Johnston of La., Knight of R. I., Poindexter of Miss., Prentiss of Vt., Robbins of R. I., Ruggles of O., Seymour of Vt., Silsbee of Mass., Sprague of Me., Tomlinson of Conn., Waggaman of La., Wilkins of Pa.—24.

Nays.—Messrs. Benton of Mo., Black of Miss., Brown of N. C., Buckner of Mo., Calhoun of S. C., Forsyth of Ga., Grundy of Tenn., Hill of N. H., Kane of Ill., King of Ala., Mangum of N. C., Miller of S. C., Moore of Ala., Rives of Va., Robinson of Ill., Smith of Md., Tipton of Ind., Tyler of Va., White of Tenn., Wright of N. Y.—20.

It passed the House, on the 2d of March, 1833, by yeas and nays as follows:—

Yeas.—Messrs. Adams of Mass., Chilton Allen of Ky., Heman Allen of Vt., Arnold of Tenn., Babcock, Banks of Pa., Noyes Barber of Conn., Jno. S. Barbour of Va., Barringer of N. C., Barstow of N. Y., Beardsley of N. Y., Briggs of Mass., Bucher of Pa., Bullard of La., Burd of Pa., Eleutheros Cooke of O., Bates Cooke of N. Y., Cooper of N. J., Corwin of O., Coulter of Pa., Crane of O., Crawford of Pa.,

Creighton of O., Daniel of Ky., John Davis of Mass., Dearborn of Mass., Denny of Pa., Dewart of Pa., Dickson of N. Y., Ellsworth of Conn., George Evans of Me., Joshua Evans of Pa., Edward Everett of Mass., Horace Everett of Vt., Gilmore of Pa., Grennell of Mass., Hiland Hall of Vt., Hiester of Pa., Hodges of Mass., Hogan of N. Y., Hughes of N. J., Huntington of Conn., Ihrie of Pa., Irvin of O., Jenifer of Md., Joseph Johnson, Kavanaugh of Me., Kendall of Mass., Kennon of O., Adam King of Pa., Henry King of Pa., Kerr of Md., Leavitt of O., Letcher of Ky., Marshall of Ky., Maxwell of Va., McCarty of Ind., Robert McCoy of Va., McKennan of Pa., Mercer of Va., Milligan of Del., Muhlenberg of Pa., Nelson of Mass., Newton of Va., Pearce of R. I., Pendleton of N. Y., Pierson of N. Y., Pitcher of N. Y., Potts of Pa., Randolph of N. J., John Reed of Mass., Root of N. Y., Russell of O., Augustine H. Shepperd of N. C., Slade of Vt., Smith of Pa., Southard of N. J., Stanberry of O., Stewart of Pa., Sutherland of Pa., Taylor of N. Y., Philemon Thomas of La., John Thomson of Ga., Tompkins of Ky., Verplanck of N. Y., Vinton of O., Wardwell of N. Y., Washington of Md., Watmough of Pa., Wilkin of N. Y., Elisha Whittlesey of O., Frederick Whittlesey of N. Y., Edward White of La., Wickliffe of Ky., Williams of N. C.—96.

NAYS.—Messrs. Alexander of Va., Archer of Va., Ashley of Mo., Barnwell of S. C., Bethune of N. C., John Blair of S. C., Boon of Ind., Cambreleng of N. Y., Carr of Ind., Chinn of Va., Claiborne of Va., Clay of Ala., Coke of Va., Duncan of Ill., Felder of S. C., Gordon of Va., Griffin of S. C., Wm. Hall of N. C., Hawkins of N. C., Horn of Pa., Isaacs of Tenn., Jarvis of Maine, Richard M. Johnson of Ky., Lecompte of Ky., Lewis of Ala., Lyon of Ky., Mardis of Ala., Mason of Va., Wm. McCoy of Va., McIntire of Me., McKay of N. C., Plummer of Miss., Roane of Va., Sewall of Md., Standifer of Tenn., Wiley Thomson of Ga., Ward of N. Y., Campbell P. White of N. Y., Worthington of Md.—39.

On the 29th of December, 1835, Mr. Clay again introduced his Land Distribution Bill. It passed the Senate on the 4th of May, 1836, by yeas and nays as follows:—

YEAS.—Messrs. Black of Miss., Buchanan of Pa., Clay of Ky., Clayton of Del., Crittenden of Ky., Davis of Mass., Ewing of O., Goldsborough of Md., Hendricks of Ind., Kent of Md., Knight of R. I., Leigh of Va., McKean of Pa., Mangum of N. C., Naudain of Del., Nicholas of La., Porter of La., Prentiss of Vt., Preston of S. C., Robbins of R. I., Southard of N. J., Swift of Va., Tomlinson of Conn., Webster of Mass., White of Tenn.—25.

NAYS.—Messrs. Benton of Mo., Calhoun of S. C., Cuthbert of Ga., Ewing of Ill., Grundy of Tenn., Hill of N. H., Hubbard of N. H., King of Ala., King of Ga., Linn of Mo., Moore of Ala., Morris of O., Niles of Conn., Rives of Va., Robinson of Ill., Ruggles of Me., Shepley of Me., Tallmadge of N. Y., Walker of Miss., Wright of N. Y.—20.

In the House on the 22d of June, 1836, Mr. Haws of Ky. moved to lay the bill on the table, which motion was carried by the following vote:—

YEAS.—Messrs. Ash of Pa., Beal of Va., Bockee of N. Y., Boon of Ind., Borden of Mass., Bouldin of Va., Boyd of Ky., Brown of N. Y., Burns of N. H., Bynum of N. C., Cambreleng of N. Y., Carr of Ind., Casey of Ill., Chaney of O., Chapman of Ala., Chapin of N. Y., Cleveland of Ga., Coles of Va., Connor of N. C., Craig of Va., Cramer of N. Y., Cushman of N. H., Dickerson of N. J., Doubleday of N. Y., Dromgoole of Va., Dunlap of Tenn., Fairfield of Me., Farlin of N. Y., Fowler of N. J., Fry of Pa., W. K. Fuller of N. Y., J. Garland of Va., Gillett of N. Y., Grantland of Ga., Grayson of S. C., Haley of Conn., J. Hall of Me., A. G. Harrison of Mo., Hawes of Ky., Hawkins of N. C., Haynes of Ga., Hopkins of Va., Howard of Md., Huntington of N. Y., Huntsman of Tenn., Ingham of Conn., W. Jackson of Mass., J. Jaekson of Ga., Jarvis of Me., J. Johnson of Va., R. M. Johnson of Ky., C. Johnson of Tenn., J. W. Jones of Va., B. Jones of O., Judson of Conn., Kilgore of O., Lansing of N. Y., Lawler of Ala., G. Lee of N. Y., J. Lee of N. Y., F. Lee of N. J., Leonard of N. Y., Logan of Pa., Loyall of Va., Lucas of Va., Lyon of Ala., Martin of Ala., J. Y. Mason of Va., W. Mason of N. Y., M. Mason of Me., May of Ill., McKeon of N. Y., McKim of Ind., McLene of O., Miller of Pa., Montgomery of N. C., Moore of N. Y., Morgan of Va., Muhlenberg of Pa., Page of N. Y., Patterson of O., Patton of Va., F. Pierce of N. H., D. J. Pearce of R. I., Phelps of Conn., Pinckney of S. C., Jno. Reynolds of Ill., Jos. Reynolds of N. Y., Roane of Va., Seymour of N. Y., Shields of Tenn., Shinn of N. J., Sickles of N. Y., Smith of Me., Speight of N. C., Sutherland of Pa., Taylor of N. Y., J. Thompson of O., Toucey of Conn., Towns of Ga., Ward of N. Y., Wardwell of N. Y., Webster of O., T. T. Whittlesey of Conn.—104.

NAYS.—Messrs. John Q. Adams of Mass., C. Allen of Ky., H. Allen of Vt., Anthony of Pa., Bond of O., Briggs of Mass., Buchanan of Pa., Bunch of Tenn., J. Calhoun, of Ky., W. B. Calhoon of Mass., Carter of Tenn., Childs of N. Y., N. H. Clairborne of Va., J. F. H. Clairborne of Miss., Clark of Pa., Corwin of O., Crane of O., Cushing of Mass., Darlington of Pa., Deberry of N. C., Denny of Pa., Dickson of Miss., Everett of Vt., Forester of Tenn., French of Ky., R. Garland of La., Granger of N. Y., Graves of Ky., Grennell of Mass., Hard of N. Y., Hardin of Ky., Harlan of Ky., Harper of Pa., Hazeltine of N. Y., Henderson of Pa., Heister of Pa., Hoar of Mass., Howell of O., Hubley of Pa., Hunt of N. Y., Ingersoll of Pa., James of Vt., Jenifer of Md., H. Johnson of La., Kinnard of Ind., Lane of Ind., Laporte of Pa., Lawrence of Mass., Lay of N. Y., L. Lea of Tenn., Lincoln of Mass., Love of N. Y., J. Mann of Pa., S. Mason of O., Maury of Tenn., McCarty of Ind., McKay of N. C., McKennan of Pa., Mercer of Va., Milligan of Del., Morris of Pa., Parker of N. J., J. A. Pearce of Md., Pettigrew of N. C., Peyton of Tenn., Phillips of Mass., Potts of Pa., Reed of Mass., Rencher of N. C., Robertson of Va., Russell of N. Y., W. B. Shepard of N. C., A. H. Shepperd of N. C., Slade of Vt., Spangler of O., Standifer of Tenn., Storer of O., Taliaferro of Va., Underwood of Ky., Vinton of O., White of Fa., E. Whittlesey of O., L. Williams of N. C., S. Williams of Ky., Wise of Va.—85.

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On the 22d of June, 1841, Mr. W. C. Johnson of Md., from the Committee on Public Lands, reported a bill to appropriate, for a limited time, the proceeds of the public lands. On the 6th of July, 1841, the bill was brought to a vote in the House, and passed by yeas and nays as follows:—

YEAS.—Messrs. Adams of Mass., Allen of Maine, L. W. Andrews of Ky., S. J. Andrews of O., Arnold of Tenn., Ayerigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Birdseye of N. Y., Black of Pa., Blair of N. Y., Boardman of Conn., Borden of Mass., Botts of Va., Briggs of Mass., Brockway of Conn., Bronson of Me., J. Brown of Pa., Burnell of Mass., Calhoun of Mass., Thos. J. Campbell of Tenn., Caruthers of Tenn., Chittenden of N. Y., Jno. C. Clark of N. Y., Stanley N. Clark of N. Y., Cooper of Pa., Cowen of O., Cranston of R. I., Cravens of Ind., Cushing of Mass., Deberry of N. C., J. Edwards of Pa., Everett of Vt., Fessenden of Me., Fillmore of N. Y., A. Lawrence Foster of N. Y., Gates of N. Y., Gentry of Tenn., Giddings of O., Goggin of Va., Patrick G. Goode, of O., Green of Ky., Greig of N. Y., Hall of Vt., Halstead of N. J., Wm. S. Hastings of Mass., Henry of Pa., Hudson of Mass., Hunt of N. Y., Jas. Irvin of Pa., Wm. W. Irvin of Pa., James of Pa., Wm. Cost Johnson of Md., Isaac D. Jones of Md., J. P. Kennedy of Md., Lane of Ind., Lawrence of Pa., Linn of N. Y., Thos. F. Marshall of Ky., Samson Mason of O., Mathiot of O., Mattocks of Vt., Maynard of N. Y., Moore of La., Morgan of N. Y., Morris of O., Morrow of O., Osborne of Conn., Owsley of Ky., Pearce of Md., Pendleton of O., Pope of Ky., Powell of Va., Proffit of Ind., Benj. Randall of Me., Alex. Randall of Md., Randolph of N. J., Rayner of N. C., Ridgway of O., Rodney of Del., Russell of O., Saltonstall of Mass., Sergeant of Pa., Simonton of Pa., Slade of Vt., Smith of Conn., Sollers of Md., Sprigg of Ky., Stanly of N. C., Stokeley of O., Stratton of N. J., Stuart of N. C., Summers of Va., Taliaferro of Va., Jno. B. Thompson of Ky., Richd. W. Thompson of Ind., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Triplett of Ky., Trumbull of Conn., Underwood of Ky., Van Rensselaer of N. Y., Wallace of Ind., Washington of N. C., Edward D. White of La., Jos. L. White of Ind., Thos. W. Williams of Conn., Lewis Williams of N. C., Jos. L. Williams of Tenn., Winthrop of Mass., Yorke of N. J., Agustus Young of Vt., Jno. Young of N. Y.—116.

NAYS.—Messrs. Alford of Ga., Arrington of N. C., Atherton of N. H., Banks of Va., Beeson of Pa., Bidlack of Pa., Bowne of N. Y., Boyd of Ky., Brewster of N. Y., A. V. Brown of Tenn., Milton Brown of Tenn., Burke of N. H., Sampson H. Butler of S. C., Wm. Butler of S. C., W. O. Butler of Ky., Green W. Caldwell of N. C., P. C. Caldwell of S. C., Jno. Campbell of S. C., Cary of Va., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va., Daniel of N. C., R. D. Davis of N. Y., J. B. Dawson of La., Dean of O., Dimock of Pa., Doan of O., Doig of N. Y., Eastman of N. H., J. C. Edwards of Mo., Egbert of N. Y., Ferris of N. Y., Jno. G. Floyd of N. Y., Fornance of Pa., T. F. Foster of Ga., Gamble of Ga., Gilmer of Va., Wm. O. Goode of Va., Gordon of N. Y., Graham of N. C., Gustin of Pa., Habersham of Ga., Harris of Va., John Hastings of O., Hays of Va., Holmes of S. C., Hopkius of Va., Houck of N. Y., Houston of Ala., Hubbard of Va., Hunter of Va., Jack of Pa., C. Johnson of Tenn., J. W. Jones of Va., Keim of Pa., A. Kennedy of Ind., King of Ga., Lewis of Ala., Littlefield of Me., Lowell of Me., A. McClellan of Tenn., Robt. McClelland of N. Y., McKay of N. C., McKeon of N. Y., Mallory of Va., Marchand of Pa., Alfred Marshall of Me., Jno. Thompson

Mason of Md., Mathews of O., Medill of O., Meriwether of Ga., Miller of Mo., Newhard of Pa., Nisbet of Ga., Oliver of N. Y., Parmenter of Mass., Partridge of N. Y., Payne of Ala., Pickens of S. C., Plumer of Pa., Reding of N. H., Rencher of N. C., Rhett of S. C., Riggs of N. Y., Rogers of S. C., Roosevelt of N. Y., Sanford of N. Y., Saunders of N. C., Shaw of N. H., Shepperd of N. C., Shields of Ala., Snyder of Pa., Steenrod of Va., Sumter of S. C., Sweney of O., Turney of Tenn., Van Buren of N. Y., Ward of N. Y., Warren of Ga., Watterson of Tenn., Weller of O., Westbrook of Pa., J. W. Williams of Md., Wise of Va., Wood of N. Y.—108.

On the 26th of August, 1841, the bill passed the Senate by yeas and nays as follows:—

YEAS.—Messrs. Archer of Va., Barrow of La., Bates of Mass., Bayard of Del., Berrien of Ga., Choate of Mass., Clay of Ky., Clayton of Del., Dixon of R. I., Evans of Me., Graham of N. C., Henderson of Miss., Huntington of Conn., Kerr of Md., Mangum of N. C., Merrick of Md., Miller of N. J., Morehead of Ky., Phelps of Vt., Porter of Mich., Prentiss of Vt., Rives of Va., Simmons of R. I., Smith of Ind., Southard of N. J., Tallmadge of N. Y., White of Ind., Woodbridge of Mich.—28.

NAYS.—Messrs. Allen of O., Benton of Mo., Buchanan of Pa., Calhoun of S. C., Clay of Ala., Cuthbert of Ga., Fulton of Ark., King of Ala., Linn of Mo., McRoberts of Ill., Mouton of La., Nicholson of Tenn., Pierce of N. H., Preston of S. C., Sevier of Ark., Smith of Conn., Sturgeon of Pa., Tappan of O., Walker of Miss., Williams of Me., Woodbury of N. H., Wright of N. Y., Young of Ill.—23.

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GRANTS OF PUBLIC LANDS TO STATES FOR RAILROAD PURPOSES.

The first bill which ever passed Congress granting land to a sovereign state, to aid in the construction of railroads, was introduced by Mr. Douglas, in the Senate of the United States, on the 3d of January, 1850. It was referred to the Committee on Public Lands, and reported back by Mr. Shields, from that committee, on the 13th of February, 1850, with amendments. As reported, it was entitled "A bill granting the right of way and making a donation of land to the state of Illinois, in aid of the construction of the Central Railroad." The bill having been amended, on motion of Mr. King of Ala., so as to give the same rights and privileges to the states of Alabama and Mississippi, to aid in extending the same to Mobile, Ala., its title was amended in the Senate, in which shape it passed the House, so that, as it became a law, it was entitled "An act granting the right of way and making a grant of land to the states of Illinois, Mississippi, and Alabama, in aid of the construction of a railroad from Chicago to Mobile."

It made a grant of alternate sections for six sections in width, on each side of said road, and increased the price of the remaining sections to not less than double the minimum price of the public lands when sold, and provided for carrying the mails on the road for such price as Congress may by law direct.

Number of acres contained in grant:—2,595,053.

The bill was approved September 20, 1850, and may be found in vol. 9, Statutes at Large, p. 466.

It passed the Senate on the 2d of May, 1850, by yeas and nays as follows:—

YEAS.—Messrs. Atchison of Mo., *Badger* of N. C., *Bell* of Tenn., Benton of Mo., Borland of Ark., Bright of Ind., Cass of Mich., *Corwin* of O., Davis of Miss., Dodge of Wis., Dodge of Ia., Douglas of Ill., Downs of La., Foote of Miss., Houston of Tex., Jones of Ia., King of Ala., *Mangum* of N. C., *Morton* of Fla., Sebastian of Ark., *Seward* of N. Y., Shields of Ill., *Smith* of Conn., Sturgeon of Pa., *Underwood* of Ky., and Walker of Wis.—26.

NAYS.—Messrs. Bradbury of Me., Butler of S. C., CHASE of O., *Clarke* of R. I., *Dawson* of Ga., *Dayton* of N. J., Hunter of Va., *Miller* of N. J., Norris of N. H., *Phelps* of Vt., *Pratt* of Md., Turney of Tenn., *Wales* of Del., Yulee of Fla.—14.

RECAPITULATION.—18 Democrats and 8 Whigs in the affirmative; 6 Democrats, 1 Free Soiler, and 7 Whigs in the negative.

It passed the House September 17, 1850, without amendment, by yeas and nays as follows:—

YEAS.—Messrs. Albertson of Ind., ALLEN of Mass., *Alston* of Ala., *Anderson* of Tenn., *Andrews* of N. Y., *Ashmun* of Mass., *Baker* of Ill., Bingham of Mich., Bissell of Ill., *Bokee* of N. Y., Bowden of Ala., *Bowie* of Md., Bowlin of Mo., *Briggs* of N. Y., *Brooks* of N. Y., Brown of Miss., Brown of Ind., Buel of Mich., *Burrows* of N. Y., *Butler* of Conn., *Cabell* of Fla., *Calvin* of Pa., *Casey* of Pa., *Chandler* of Pa., Cleveland of Conn., *Clingman* of N. C., Cobb of Ala., Cole of Wis., *Corwin* of O., Doty of Wis., *Duncan* of Mass., Dunham of Ind., DURKEE of Wis., *Eliot* of Mass., Featherston of Miss., Freedley of Pa., *Gentry* of Tenn., Gilbert of Cal., Gorman of Ind., *Gott* of N. Y., *Gould* of N. Y., Green of Mo., *Grinnell* of Mass., Hall of Mo., *Holloway* of N. Y., Harlan of Ind., Harris of Ala., Harris of Ill., *Hay* of N. J., *Haymond* of Va., Hoagland of O., Howard of Tex., Hubbard of Ala., Inge of Ala., Jackson of Ga., Johnson of Ark., JULIAN of Ind., Kaufman of Tex., *King* of N. J., *J. A. King* of N. Y., La Sere of La., Leffler of Ia., MANN of Mass., *Matteson* of N. Y., McClernand of Ill., McLane of Md., McWillie of Miss., *Morehead* of Ky., Morse of La., Orr of S. C., *Otis* of Me., Phelps of Mo., *Phœnix* of N. Y., *Pitman* of Pa., *Putnam* of N. Y., Richardson of Ill., *Risley* of N. Y., Robinson of Ind., *Rose* of N. Y., *Schermerhorn* of N. Y., *Schoolcraft* of N. Y., *Spaulding* of N. Y., SPRAGUE of Mich., *Stanley* of N. C., Stanton of Tenn., Stanton of Ky., *Stephens* of Ga., *Taylor* of O., Thompson of Miss., *Thurman* of N. Y., *Underhill* of N. Y., Walden of N. Y., Waldo of Conn., Wentworth of Ill., *White* of N. Y., Whittlesey of O., *Williams* of Tenn., Wood of O., Wright of Cal., Young of Ill.—101.

NAYS.—Messrs. *Alexander* of N. Y., Ashe of N. C., Averett of Va., Beale of Va., BOOTH of Conn., Burt of S. C., Cable of O., *Caldwell* of N. C., *Campbell* of O., Carter of O., *Clarke* of N. Y., Colcock of S. C., *Dickey* of Pa., Dimmock of Pa., Disney of O., *Dixon* of R. I., *Duer* of N. Y., Edmondson of Va., *Evans* of Md., *Evans* of O., *Fowler* of Mass., Fuller of Me., Gerry of Me., Gilmore of Pa., Hamilton of Md., *Hampton* of Pa., Haralson of Ga., Harris of Tenn., Hibbard of N. H., Holladay of Va., *Howe* of Pa., HUNTER of O., *Jackson* of N. Y., Johnson of Tenn., Jones of Tenn., *Kerr* of Md., *King* of R. I., P. KING of N. Y., Littlefield of Me., Mason of Ky., *Marshall* of Ky., McDowell of Va., *McGaughey* of Ind., *McKissock* of N. Y., McLanahan of Pa., McMullen of Va., McQueen of S. C., Miller of O., Millson of Va., *Moore* of Pa., Morris of O., *Nelson* of N. Y., *Outlaw* of N. C., *Parker* of Ind., Peaslee of N. H., Potter of O., *Reed* of Pa., Robins of Pa., *Ross* of Pa., *Rumsey* of N. Y., Savage of Tenn., Sawtelle of Me., *Schenck* of O., Seddon of Va., *Sheppard* of N. C., *Stephens* of Pa., Stetson of Me., Thomas of Tenn., Thompson of Pa., Venable of N. C., *Vinton* of O., Wallace of S. C., *Watkins* of Tenn., Wildrick of N. J., Woodward of S. C.—75.

RECAPITULATION.—48 Democrats, 48 Whigs, and 5 Freesoilers in the affirmative; 43 Democrats, 29 Whigs, and 3 Free Soilers in the negative.

Democrats in roman, Whigs in *italics*, Freesoilers in SMALL CAPITALS.

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During the 32d Congress, the following acts, of a similar character, passed:—

"An act granting the right of way to the state of Missouri, and a portion of the public lands, to aid in the construction of certain railroads in said state."

This bill aided the building of two roads, with a grant of alternate sections on each side of said roads, for six sections of land in width, &c.

Number of acres contained in grant:—1,818,436.

It was originated in the Senate on the 2d

day of December, 1851, by Mr. Atchison, Democrat, of Mo.; and in the House on the 10th of the same month, by Mr. Hall, Democrat, from the same state. It passed the Senate without a division, on the 18th of March, 1852. It was passed in the House on the 28th of May, 1852, with an amendment, which was concurred in by the Senate on the 3d of June, 1852, and was approved by the President on the 10th of June, 1852. It was only in the House that the yeas and nays were had upon it.

48 Whigs, 51 Democrats, and 4 Free Soilers voted for the bill; 17 Whigs and 59 Democrats against it.

"An act granting the right of way and making a grant of land to the states of Arkansas and Missouri, to aid in the construction of a railroad from a point on the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary line, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river," (approved February 9, 1853,) with a like grant to that contained in the previous bill.

Number of acres in grant:—1,456,287.

This bill was originally introduced in the House, by Mr. Johnson of Ark., on the 7th of January, 1852. It passed that body on the 27th of August, 1852, and in the Senate, without a division, on the 5th of February, 1853. The yeas and nays were had upon it in the House.

During the 33d Congress but one railroad land bill was passed, and that was a bill to aid the territory of Minnesota in the construction of a railroad therein. The grant of land in this was identical with that contained in the other railroad land bills. This bill was passed in the House on the 20th of June, 1854; in the Senate, without a division, on the 28th of June, 1854, and was approved by the President on the 29th of June, 1854. By an act passed August 4, 1854, it was repealed, on account of the word "or" having been stricken out of the bill, after it had passed the House, and was engrossed, and the word "and" placed in lieu thereof. The vote in the House, on the passage of the original bill, was by yeas and nays. 63 Democrats and 36 Whigs voted for it; 51 Democrats, 19 Whigs, and 1 Free Soiler against it.

Grants of Land by Thirty-Fourth Congress for Railroad Purposes.

FIRST SESSION.

Seven Railroad Bills were passed during the first session of the Thirty-Fourth Congress. The following table shows their purport. They all originated in the House, were reported by the House Committee on Public Lands, and made grants of alternate sections of land, six sections in width, on each side of the respective roads:

States to which the grants were made.	No. of roads embraced.	By whom reported.	Date of passage in the House.	Date of passage in the Senate.	Date of approval of act.	No. of acres in each grant.
Iowa, ...	4	Mr. Bennett, of New York,	May 8, 1856.	May 9, 1856.	May 15, 1856.	3,456,000
Florida and Alabama,	4	" "	" 14, "	" 15, "	" 17, "	1,814,400
Alabama, ...	2	Mr. Cobb, of Alabama,	" 21, "	" 29, "	June 3, "	1,632,918
Louisiana, . . .	3	Mr. Bennett, of New York,	" 28, "	" " "	" " "	1,602,560
Wisconsin, . . .	2	" "	" 21, "	" " "	" " "	1,662,800
Michigan	3	Mr. Walbridge, of Michigan.	" 27, "	" " "	" " "	3,096,096
Mississippi, . . .	3	Mr. Bennett, of New York,	Aug. 6, "	Aug. 8, "	Aug. 11, "	1,687,530

All of these bills passed the Senate without a division, except the Iowa and Mississippi railroad land bills.

In the Senate of the United States of the 34th Congress, third session, a bill introduced by Mr. Toombs of Ga., entitled "a bill granting lands to the territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said territory," was passed on the 14th of February, 1857, by yeas and nays as follows:—

YEAS.—Messrs. Allen, BELL of Tenn., Benjamin, Brown, Cass, CRITTENDEN, Dodge, Douglas, *Durkee*, *Fish*, Fitch, *Foote*, *Foster*, Geyer, Green, Iverson, James, Johnson, Jones, Mallory, *Norris*, Pearce, Rusk, Sebastian, *Seward*, Stewart, Toombs, *Trumbull*, *Wade*, Weller, *Wilson*, Yulee.—32.

NAYS.—Messrs. Biggs, Bigler, Brodhead, Clay, Evans, Hunter, Mason, Pugh, Reed, Slidell.—10.

21 Democrats, 9 Republicans and 2 Fillmore Americans in the affirmative; 10 Democrats in the negative.

Democrats in roman, Republicans in *italic*, Fillmore Americans in SMALL CAPITALS.

The bill was amended in the House so as to make a like grant to the state of Alabama to aid in the extension of the Savannah and Albany Railroad Company, from the line of Georgia to Mobile, with a branch from Eufala to Montgomery. The bill, as amended, passed the House on the 2d of March, 1857, by yeas and nays as follows:—

YEAS.—Messrs. Allen, *Ball*, *Barbour*, *Barclay*, *Henry Bennett*, Hendley S. Bennett, *Benson*, *Billinghurst*, Bishop, Bowie, *Bradshaw*, *Brenton*, BROOM, *Buffinton*, *Burlingame*, *Lewis D. Campbell*, Caruthers, *Chaffee*, *Ezra Clark*, *Comins*, *Covode*, *Cragin*, *Timothy Davis*, *Dean*, Denver, *Dickson*, *Edie*, EVANS, HENRY M. FULLER, Granger, Greenwood, Augustus Hall, Thomas L. Harris, *Thomas R. Horton*, *Hughston*, Kelley, *Kelsey*, KENNETT, *King*, *Knapp*, *Knight*, *Knowlton*, *Knox*, LAKE, *Leiter*, *Mace*, ALEXANDER K. MARSHALL, Samuel S. Marshall, *McCarty*, *Killian Miller*, *Millward*, *Nichols*, *Parker*, Peck, *Pelton*, *Pennington*, *Pettit*, *Pike*, *Pringle*, Quitman, *Robbins*, *Roberts*, Rust, *Sabin*, *Sage*, *Sapp*, Seward, Shorter, William R. Smith, *Thorington*, *Thurston*, *Trafton*, UNDERWOOD, VALK, *Wakeman*, *Walbridge*, *Waldron*, Walker, *Cadwalader C. Washburn*, *Elihu B. Washburn*, *Watson*, *Welch*, Wells, *Williams*, *Woodruff*, *Wentworth*.—87.

NAYS.—Messrs. *Albright*, *Bingham*, Bocock, Branch, Burnett, Cadwalader, *James H. Campbell*, CARLILE, Caskie, Williamson R. W. Cobb, *Colfax*, Craige, Crawford, CULLEN, *Cumbach*, Dowdell, DUNN, Elliot, Faulkner, *Flagler*, Florence, *Galloway*, *Harlan*, J. MORRISON HARRIS, HAVEN, *Holloway*, *Valentine B. Horton*, Houston, Jewett, G. W. Jones, Letcher, Lumpkin, HUMPHREY MARSHALL, McMullin, McQueen, Smith Miller, Millson, *Morgan*, *Mott*, *Murray*, *Andrew Oliver*, Orr, PAINE, *Perry*, Powell, PUREAR, RICAUD, Ruffin, *Scott*, Samuel A. Smith, William Smith, *Spinner*, *Stanton*, Stewart, *Stranahan*, *Tappan*, *Israel Washburne*, Winslow, *Wood*, ZOLLICOFFER.—60.

60 Republicans, 18 Democrats, and 9 Fill-

more Americans in the affirmative; 22 Republicans, 28 Democrats, and 10 Fillmore Americans in the negative.

Democrats in roman, Republican in *italic*, and Fillmore Americans in SMALL CAPITALS.

The amendment of the House was agreed to by the Senate and the bill approved March 3, 1857. In all of these classifications of votes, the Senators, members, &c., are classified according to the political position they occupied at the time of each vote.

The old line Whigs in the last Congress who supported Mr. Buchanan are classified as Democrats.

Quitman, John A., of Mississippi.

SPEECH ON THE BILL TO REPEAL THE NEUTRALITY LAWS.

THE leading features of the eight sections of the act of April 20, 1818, which my bill proposes to repeal, are, in my opinion, not only unnecessary and impolitic, but are repugnant to the intention of the Constitution, and must be regarded as infringements of the personal rights of the citizen. This act, as may be shown by the debates at the time of its passage, is supposed to have been suggested by the representatives of European courts, for the purpose of crippling the practical sympathy manifested by the people of the United States in favor of some of the Spanish colonies in America then struggling for their freedom. Mr. Clay, then Speaker of the House, and a warm advocate of the cause of the young republics, descended from the Speaker's chair, and strenuously opposed some of the provisions of the act, denouncing them as placing our government in the attitude of an ally of European despotism, and an enemy to the extension of liberal political institutions on this continent. That bold and sagacious statesman saw the deep schemes of European sovereigns whose colonial possessions in America were jeopardized, and dared to assail the suicidal policy attempted to be foisted upon us, under the specious pretence of non-interference and national morality. In the History of Congress, published by Gales & Seaton, p. 1403, in reference to the discussion of this bill, I find the following:—

"Mr. Clay offered some general remarks on the offensive nature of the bill, which he said, instead of an act to enforce neutrality, ought to be entitled an act for the benefit of his majesty the King of Spain."

Again, on the 18th of March, it is reported of Mr. Clay:—

"In the threshold of this discussion, he confessed he did not like much the origin of that act. There had been some disclosures—not in an official form, but in such shape as to entitle them to credence—that showed that act to have been the result of a *teasing* on the part of foreign agents in this country, which he regretted to have seen. But from whatever source it sprung, if it was an act necessary to preserve the neutral relations of the country, it ought to be retained; but this he denied."

"In its provisions it went beyond the obligations of the United States to other powers, and that part of it was unprecedented in any nation which compelled citizens of the United States to give bonds not to commit acts without the jurisdiction of the United States, which it is the business of foreign nations, and not of this government, to guard against."

Again, on the same day, this bill being still under consideration, Mr. Clay, alluding to the Spanish minister, said:—

"He (Mr. C.) would not treat with disrespect even the minister of Ferdinand, whose cause this bill was intended to benefit; he is a faithful minister, if, not satisfied with making representations to the foreign department, he also attends the proceedings of the Supreme Court to watch its decisions; he affords but so many proofs of the fidelity for which the representatives of Spain have always been distinguished. And how mortifying is it, sir, to hear of the honorary rewards and titles, and so forth, granted for these services; for, if I am not mistaken, our act of 1817 produced the bestowal of some honor on this faithful representative of his majesty; and, if this bill passes which is now before us, I have no doubt he will receive some new honor for his *further success*."

Mr. Clay concluded his speech thus:—

"Let us put all these statutes out of our way except that of 1794. When was that passed? At a moment when the enthusiasm of liberty ran through the country with electric rapidity; when the whole country *en masse* was ready to lend a hand and aid the French nation in their struggle, General Washington, revered name! the father of his country, could hardly arrest this inclination. Yet, under such circumstances, the act of 1794 was found abundantly sufficient. There was, then, no gratuitous assumption of neutral debts. For twenty years that act has been found sufficient. But some keen-sighted, sagacious foreign minister finds out that it is not sufficient, and the act of 1817 is passed. That act we find condemned by the universal sentiment of the country; and I hope it will receive further condemnation by the vote of the House this day."

In the course of the same debate, Mr. Robertson also intimated the charge that foreign influence, more than domestic policy, produced the passage of that law. He argues:—

"This might be a sufficient ground for the ministers of Portugal, of England, and of France to proceed upon; but shall we sympathize in their feelings on the subject, and be induced by them to pass acts to shackle our citizens, when it is so easy to trace their remonstrances to a general hostility to the cause of any people who are engaged in a struggle to ameliorate their condition by changing their form of government? It does not appear now that that act was passed so much with a view to do what is just to ourselves, as to accommodate the views of foreign nations."

But, alas! European ideas were too much venerated; European influence prevailed, and this unfortunate system was engrafted upon us.

The objections to this act, as interpreted in our day, are:

Its creation of constructive crime;

Its denial of the right of expatriation, and, under certain circumstances, of emigration even;

Its prohibition of the right of the citizen, in some cases, to avail himself of the rewards of his skill, his ingenuity, or his labor;

Its loading with onerous burdens, and punishing with severe penalties, fair commercial enterprises and speculations;

Its conferring upon the President and the collectors of ports powers inconsistent with the principles and dangerous to the institutions of our country;

Its branding as criminal, acts noble, generous, and patriotic in themselves;

Its assuming to treat the citizens of a free country as the subjects or property of the government.

If all these obnoxious features do not appear distinctly in the act, the construction which has been placed upon them by, at least, one of the judges of the Supreme Court, has marked them in bold and unmistakable outlines.

There is, however, at the start, a still more

serious objection to the whole of this legislation. It is not only not warranted by the Constitution—it is an attempt to take away from a free people rights which they have never surrendered. It is, to say the least, founded on an entire misconception of the relations which exist between the government and the people under our peculiar system.

This federal government is a limited one. Constituted by the states in their sovereign capacity, it possesses no powers but those clearly delegated to it in the compact of union. This character of our government is not left to inference: it is stamped in express words upon the instrument that created it. There it rests, and casuistry cannot blot it out. The "powers not delegated are reserved." "The enumeration of certain rights shall not be construed to deny or disparage others retained by the people." When, therefore, it is proposed to legislate upon any subject, the first inquiry must be, whether that subject is within the jurisdiction of Congress. The broadest constructionist does not pretend that crimes and misdemeanors, generally, are within the jurisdiction of the federal government. Whence, then, are derived the powers claimed under the act in question? To what clause of the Constitution do you trace them? There is no semblance of a warrant for them to be found in the Constitution, unless they be included in the power to define and punish "*offences* against the law of nations." If the grant of power be not contained in that clause, it is not to be found in any place. The act, to be defined and punished, must be an offence *against the law of nations*. To offences of that class is this power limited; to them alone can it be applied. Will it be pretended, that under this power to define and punish, Congress has power to go out of the law of nations, and *make* offences or crimes of those acts which, by the law of nations, are not condemned? If so, the whole field of criminal jurisprudence is thrown open to federal legislation, and the specification of a limitation becomes absurd. For instance, the sale of breadstuffs, or of clothing, by one of our citizens, to a nation at war with a friendly power, is not forbidden by the law of nations. Will it be assumed, then, that Congress, under the power above quoted, can make such a sale a penal offence? Why can this not be done? Because the act is not an offence against the law of nations. That law is referred to in the Constitution as a positive existence. No authority is given to Congress to alter or change it, or to create new offences. Judging the act of 1818 by these rules, its leading provisions are clearly without the pale of the authority of Congress. The very title of the act, as if in contempt of the limitations of the Constitution, proclaims it an usurpation. Instead of an act to define and punish offences against the law of nations, it purports to be "An act for the punishment of certain *crimes against the United States*." Like the alien and sedition laws, it attempts to make a crime of that which was before not even an offence. Now, the law of nations, even as known and acted upon in Europe, where the government, generally, has entire control over the citizen, or rather the subject—there, I repeat, the law of nations does not regard it as an offence for the citizen to take service under a foreign government at war with a friendly power. The usage is the reverse. Vattel, b. 3, ch. 7, sec. 110, gives the rule and example:—

"The quarrels of another cannot deprive me of the free disposition of my rights in the pursuit of measures which I judge advantageous to my country. Therefore, when it is a custom in a nation, in order for employing and exercising its subjects, to permit levies of troops in favor of a power in whom it is pleased to confide, the enemy of this power cannot call these permissions hostilities. * * He cannot even claim, with any right, that the like should be granted him," &c. * * * "The Switzers grant levies of troops to whom they please, and nobody has thought proper to quarrel with them on this head."

If, then, it be not an offence against the law of nations, even according to the European code, for the citizen of any neutral state to take service under a belligerent nation, what constitutional power has Congress to prohibit the right of a free American citizen to lend his intellect, his wealth, or his sword, to any cause which he believes to be just? And yet the first and second sections of the act of 1818 declare the exercise of this right to be a high crime, and worthy of fine and imprisonment.

The third, fifth, eighth, ninth, and eleventh sections of the act are obnoxious to objections of a similar character. They, in substance, forbid, under severe penalties, the selling, fitting out, arming, furnishing, or adding to the force of any ship or vessel intended to be employed in the service of any foreign state, or to cruise or commit hostilities against the citizens, subjects, or property of any foreign state; and, furthermore, they invest the President and the collectors of ports with extraordinary powers, to seize and detain suspected vessels. Now, many of these acts, if not all of them, thus made criminal and severely penal, are in strict conformity with the rights of neutrals, acknowledged by the law of nations. The property thus risked may, if seized by a belligerent, be confiscated; but the neutrality of the country whose citizens are engaged in such trade has never been considered as violated thereby. Vattel, in the same connexion, proceeds thus:—

"Further, it may be affirmed, on the same principles, that if a nation trades in arms, timber, ships, military stores, &c., I cannot take it amiss that it sells such things to my enemy, provided it does not refuse to sell them to me also. It carries on its trade without any design of injuring me; and in continuing it the same as if I was not engaged in war, that nation gives me no just cause of complaint. * * * It is certain that, as they have no part in my quarrel, they are under no obligations to abandon their trade, that they may avoid furnishing my enemy with the means of making war. * * * They only exercise a *right* which they are under no obligations of sacrificing to me."

The question, then, recurs, has Congress a right to brand as criminal, acts clearly permitted by the law of nations?

The sixth section of the act proposed to be repealed, although in its phraseology, and still more in the interpretation which judicial advocates of constructive powers have placed

upon it, it is more odious to the unaffected impulses of the American heart than any of the others, is still not so palpably at variance with the rights of neutrals, conceded by the laws of nations. This section forbids, under severe penalties, any person within our territory to begin, set on foot, provide, or prepare the means for any military expedition or enterprise to be carried from this country against the territories of any foreign prince or people with whom we are at peace. This clause, if strictly construed, according to the rules which should govern the interpretation of penal statutes, means only to forbid military associations in the United States, intended to proceed from thence in full military organization; but it has been construed by government officials, executive and judicial, to embrace in its penal denunciations those who separately, as private individuals, and without military organization, may choose to leave our country, with or without arms, to combine together elsewhere, for the purpose of aiding an oppressed people to achieve their political independence. Such acts, on the part of citizens, do not involve the neutrality of our country; therefore, penal laws to punish them are not only beyond the scope of Congressional powers, but are also infringements on the unquestionable right of the citizen as well to expatriate himself, and unite his fortunes with those of another political community, as to emigrate to foreign lands, and there follow pursuits which may not be inconsistent with his allegiance to his country.

I have thus, Mr. Chairman, in this brief argument, considered the constitutionality of this law, with reference to the European views of the law of nations. I have shown that the act of 1818 restrains individual rights, private enterprise, and personal liberty, beyond the requirements of the international code; and, consequently, is without the pale of Congressional powers. The power "to define and punish offences against the law of nations" was confided by the Constitution to Congress, not to the executive or judiciary, for the sole purpose of preventing individuals from compromising the neutrality of the United States. It was never intended to control the private enterprises or speculations of the people. So far, then, as these enterprises do not, according to the established international code, involve the neutrality of the government, it is powerless to restrain them, because the right to do so has never been delegated. The government is responsible to the citizen, but not for him. He may commit, without responsibility to any earthly power, many deeds which the government cannot so commit. The latter is always responsible. The American citizen sits enthroned within the charmed circle of his reserved rights, the monarch of his own actions. The reservation of these individual rights is the noblest feature of our system; and he is its worst enemy who, by legislative usurpation or judicial construction, would seek to impair them. The true patriot should watch and guard them from secret as well as open foes.

Even if the penal laws which I have arraigned were strictly constitutional, I would still oppose them as unwise, impolitic, and against the genius of our free institutions. They are founded upon the false assumption that the government should direct the morals and control the sentiment of the people. It is sheer political hypocrisy, or, at least, self-stultification, to crown with honor the memory of the good man Lafayette, whose portrait is deemed worthy to decorate this republican hall, in company with that of our own Washington, in our gratitude for the aid which, in despite of his country's laws, he rendered us in the dark hour of our revolutionary struggle, if we are by legislation to stigmatize as criminal the efforts of our own citizens, to bear assistance to a neighboring people, groaning under the yoke of an iron despotism—a despotism to which the condition of our ancestors was almost a state of freedom.

Railroad to the Pacific.

On the 19th of February, 1855, a bill was brought to a vote, in the Senate, for the construction of a Northern, a Southern, and a Central Pacific Railroad. Its origin was this. It was introduced by Senator Douglas, and referred to the Select Committee on the Pacific Railroad. Mr. Gwin reported back a substitute for it, which was the same bill which he had reported the session before. The bill was passed by the following vote:—

YEAS.—Messrs. Badger, Bell, Benjamin, *Dodge* of Wis., *Dodge* of Io., *Douglas*, Foot, GILLETTE, *Gwin*, *Hamlin*, *James*, *Johnson*, *Jones* of Io., Jones of Tenn., Morton, *Rusk*, *Sebastian*, Seward, *Shields*, *Slidell*, *Stuart*, *Toucey*, Wade, *Weller*.

NAYS.—Messrs. *Adams*, *Allen*, *Bayard*, Brainard, *Brodhead*, *Brown*, *Butler*, CHASE, *Clay*, Clayton, Dawson, *Evans*, *Fitzpatrick*, Geyer, *Hunter*, *Mason*, Pearce, Pratt, SUMNER, Thompson of Ky., *Wells*.

Democrats in *italics;* Free Soilers in SMALL CAPS; Whigs in roman.

The classification politically in both houses of the vote on the Pacific Railroad is according to the position of members as they were elected. Some of them who are marked Democrats and Whigs had, about that time, undergone a political change, and united themselves with the American party.

This bill was never acted upon by the House.

During the second session of the 33d Congress a bill for the establishment of telegraphic and railroad communication, from the Atlantic States to the Pacific Ocean, came near passing the House. It had been reported from a select committee on the subject, by Mr. McDougall of California. The bill proposed to grant, for the purpose of aiding in construction of three roads to the Pacific, alternate sections of land, for twelve miles in width, on each side of said roads; and the following vote, on the 22d of January, 1855, was one of the many test votes upon the bill. It was on a motion to recommit the bill to the

select committee. The opponents of the bill, with a few exceptions, voting "ay," the friends of it, with a few exceptions, "no."

YEAS.—Messrs. *Abercrombie*, Aiken, David J. Bailey, Thomas H. Bayly, *Ball*, Barksdale, Barry, Belcher, *Bennett, Benson*, Bocock, Boyce, Bridges, Brooks, *Campbell, Carpenter*, Caskie, *Chase*, Chastain, Clingman, Cobb, Colquitt, Craige, *Crocker, Caliom*, Curtis, *Dick*, Dunbar, Eastman, Faulkner, Fenton, *Flaglr, Franklin*, Full r, GIDDINGS, Goode, *Goodrich, Goodwin*, Grow, Hamilton, *Aaron Harlan*, Sampson W. Harris, Wiley P. Harris, Hastings, *Haven*, Hibbard, Hillyer, Houston. *Hunt*, Ingersoll, D. T. Jones, G. W. Jones, J. Glancy Jones, Roland Jones. *Kerr*, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, May, *Middleswarth*, Millson, *Morgan*, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, *Pennington*, Bishop Perkins. John Perkins, Powell, *Pringle, Puryear, Reese, Rogers*, Ruffin, *Russell, Sapp*. Shaw, Shower, *Simmons*, Singleton, William Smith, William R. Smith. George W. Smyth, Stratton, John J. Taylor, Trout, Vansant. *Wade*, Walsh, John Wentworth, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright.—103.

NAYS.—Messrs James C. Allen, Willis Allen, *Appleton*, Banks, Bell, Benton, Bliss. Breckenridge, *Bristow, Bugg, Caruthers*, Chamberlain, Chrisman, Churchwell, Clark, *Cook, Corwin, Cox*, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, *De Witt, Dickinson*, Disney, Drum, Dunham, Eddy, Edgerton, *Edmands*, John M. Elliott, Ellison, English, *Etheridge, Everhart, Farley*, Florence, Gamble, Green, Greenwood, *Grey*, Ardrew J. Harlan, *Harrison*, Hendricks, Henn, Hughes. Johnson, Keitt, *Knox*, Lamb, Lane, Latham, *Lindley*, Lindsley, *McCulloh*, McDougall, Mace, Macy, *Matteson*, Maxwell, *John G. Miller*. Smith Miller, Nichols, Noble, *Norton*, Olds, *Mordecai Oliver, Parker*, Phelps, Pratt. *Preston, Ready*, Richardson, *David Ritchie*, Thomas Ritchey, Robbins, Rowe, *Sabin*, Seward, Shannon, Samuel A. Smith. *Sollers*, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stewart, David Stewart, *John L. Taylor, Nathaniel G. Taylor*, Thurston. Tweed. *Upham*, Walbridge, Walker, *Walley*, Warren, *Elihu B. Washburne, Israel Washburne*, Wells, *Tappan Wentworth*, Westbrook, *Yates, Zollicoffer*.—103.

Democrats in roman; Whigs in *italics*; Free Soilers in SMALL CAPS.

This vote was finally reconsidered, and the bill recommitted: in effect killed.

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MR. CALHOUN'S VIEWS THEREON.

At the session of 1845–'6, Mr. Calhoun, as chairman of a select committee, to whom was referred a memorial from the Memphis Convention, made an elaborate report to the Senate, from which this is an extract:—

"Your committee will next proceed to consider that portion of the memorial which relates to the communication by railroad between the valley of the Mississippi and the southern Atlantic States. They regard works of the kind as belonging to internal improvements (that is, improvements within the body of the states), and as such, are, in their opinion, not embraced in the power to regulate commerce. But they are, nevertheless, of opinion that where such roads or other works of internal improvement may pass through public lands, the United States may contribute to their construction in their character of proprietors, to the extent that they may be enhanced in price thereby. This has usually been done by ceding alternate sections on the projected line of such works; and it is believed that no mode of contributing, more fair or better calculated to guard against abuses, can be devised. That Congress has a right to make such contributions, where there is reasonable ground to believe that the public lands will be enhanced in proportion, under its right to dispose of 'the territory and other public property of the United States,' your committee cannot doubt. In making this assertion, they hold to the rule of strict construction, and that this power, like all the other powers of the government, is a trust power, and, as such, is strictly limited by the nature and object of the trust. In this case, the rule requires that the lands and other public property of the United States should be disposed of to the best advantage; and where that can be done by contributing a portion to works which would make the residue equally or more valuable than the whole would be without it, as is supposed, they hold it would be strictly within the rule. Your committee go further. They are of the opinion, not only that Congress has the right to contribute to the extent stated, in such cases, but that it is in duty bound to do so, as the representative of a part of the proprietors of the land to be benefited. It would be neither just nor fair for it to stand by and realize the advantage they would derive from this work, without contributing a due proportion towards its construction. It would be still less justifiable to refuse to contribute, if its effect would be to defeat a work, the construction of which, while it would enhance the value of the land belonging to the public, and that of individual proprietors, would promote the prosperity of the country generally."

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GENERAL PIERCE'S VIEWS UPON THE SAME IN HIS FIRST ANNUAL MESSAGE.

There is one subject of a domestic nature, which, from its intrinsic importance, and the many interesting questions of future policy which it involves, cannot fail to receive your early attention. I allude to the means of communication by which different parts of the wide expanse of our country are to be placed in closer connexion for purposes both of defence and commercial intercourse, and more especially such as appertain to the communication of those great divisions of the Union which lie on the opposite sides of the Rocky Mountains.

That the government has not been unmindful of this heretofore, is apparent from the aid it has afforded, through appropriations for mail facilities and other purposes. But the general subject will now present itself under aspects more imposing and more purely national, by reason of the surveys ordered by Congress, and now in the process of completion, for communication by railway across the continent, and wholly within the limits of the United States.

The power to declare war, to raise and support armies, to provide and maintain a navy, and to call forth the militia to execute the laws, suppress insurrections, and repel invasions, was conferred upon Congress, as means to provide for the common defence, and to protect a territory and a population now widespread and vastly multiplied. As incidental to and indispensable for the exercise of this

power, it must sometimes be necessary to construct military roads and protect harbors of refuge. To appropriations by Congress for such objects, no sound objection can be raised. Happily for our country, its peaceful policy and rapidly increasing population impose upon us no urgent necessity for preparation, and leave but few trackless deserts between assailable points and a patriotic people ever ready and generally able to protect them. These necessary links, the enterprise and energy of our people are steadily and boldly struggling to supply. All experience affirms that, wherever private enterprise will avail, it is most wise for the general government to leave to that and individual watchfulness the location and execution of all means of communication.

The surveys before alluded to were designed to ascertain the most practicable and economical route for a railroad from the river Mississippi to the Pacific Ocean. Parties are now in the field making explorations, where previous examinations had not supplied sufficient data, and where there was the best reason to hope the object sought might be found. The means and time being both limited, it is not to be expected that all the accurate knowledge desired will be obtained, but it is hoped that much and important information will be added to the stock previously possessed, and that partial, if not full reports of the surveys ordered will be received, in time for transmission to the two Houses of Congress, on or before the first Monday in February next, as required by law.

The heavy expense, the great delay, and at times, fatality attending travel by either of the Isthmus routes, have demonstrated the advantage, which would result from interritorial communication by such safe and rapid means as a railroad would supply.

These difficulties, which have been encountered in a period of peace, would be magnified and still further increased in time of war. But whilst the embarrassments already encountered, and others under new contingencies to be anticipated, may serve strikingly to exhibit the importance of such a work, neither these, nor all considerations combined, can have an appreciable value, when weighed against the obligation strictly to adhere to the Constitution, and faithfully to execute the powers it confers. Within this limit, and to the extent of the interest of the government involved, it would seem both expedient and proper, if an economical and practicable route shall be found, to aid, by all constitutional means, in the construction of a road which will unite, by speedy transit, the populations of the Pacific and Atlantic states. To guard against misconception, it should be remarked that, although the power to construct, or aid in the construction of, a road within the limits of a territory is not embarrassed by that question of jurisdiction which would arise within the limits of a state, it is nevertheless held to be of doubtful power, and more than doubtful propriety, even within the limits of a territory, for the general government to undertake to administer the affairs of a railroad, a canal, or other similar construction, and therefore that its connexion with a work of this character should be incidental rather than primary. I will only add, at present, that, fully appreciating the magnitude of the subject, and solicitous that the Atlantic and Pacific shores of the republic may be bound together by inseparable ties of common interest, as well as of common fealty and attachment to the Union, I shall be disposed, so far as my own action is concerned, to follow the lights of the Constitution, as expounded and illustrated by those whose opinions and expositions constitute the standard of my political faith in regard to the powers of the federal government. It is, I trust, not necessary to say, that no grandeur of enterprise, and no present urgent inducement promising popular favor, will lead me to disregard those lights, or to depart from that path, which experience has proved to be safe, and which is now radiant with the glow of prosperity and legitimate constitutional progress. We can afford to wait, but we cannot afford to overlook the ark of our security.

Raynor, Kenneth, of North Carolina.

EXTRACTS FROM SPEECH OF, AT PHILADELPHIA, NOVEMBER 1, 1856.

My brother Americans, do you intend to let these mischief-makers put you and me together by the ears? [Many voices: "no, no."] Then let us beat James Buchanan for the Presidency. ["We will—we will," and great applause.] He is the representative of slavery agitation; he is the representative of discord between sections; he is the man whom Northern and Southern agitators have agreed to present as their candidate. If he be elected now, and the difficulties in Kansas be healed, at the end of four years they will spring upon you another question of slavery agitation. It will be the taking of Cuba from Spain, or cutting off another slice from Mexico for the purpose of embroiling the North against the South; and then, if I shall resist that agitation, I shall be called an Abolitionist, again.

* * * * *

My countrymen, God forbid that I should attempt to dictate to you or even advise you. I am not competent to do so. I know that divisions exist among you, while I feel also confident that the same purpose animates all your hearts. Do not suppose for one moment that I am the representative of any clique or faction.

Unfortunately, I find that our friends here are in the same condition in which the Jews were, when besieged by the Roman general, Titus. Whilst the battering-rams of the Romans were beating down their walls, and the firebrand of the heathen was consuming their temple, the historian tells us that that great people were engaged in intestine commotions, some advocating the claims of one, and some

of another, to the high-priesthood of that nation; and instead of the Romans devouring them, they devoured each other. God forbid that my brother Americans should devour each other, at a time when every heart and every hand should be enlisted in the same cause, of overthrowing the common enemy of us all. [Long continued applause.]

Who is that common enemy? [Voices, "The Democratic party."] Yes, that party have reviled us, abused us, persecuted us, and all only because we are determined to adhere to the Constitution of our country. Give Buchanan a lease of power for four years, and we must toil through persecution, submit to degradation, or cause the streets of our cities to run blood. But we will submit to degradation, provided we can see the end of our troubles. We are willing to go through a pilgrimage, not only of four years, but of ten, or twenty, or forty years, provided we can have an assurance that at last we shall reach the top of Pisgah, and see the promised land which our children are to inherit. God has not given to us poor frail mortals the power, at all times, of controlling events. When we cannot control events, should we not, where no sacrifice of honor is involved, pursue the policy of Lysander, and where the lion's skin is too short, eke it out with the fox's [applause] —not where principle is involved—not where a surrender of our devotion to our country is at stake. No; never, never!

I know nothing of your straight-out ticket; I know nothing of your Union ticket; I know nothing of Fremont. I do know something of Fillmore; [great applause] but I would not give my Americanism, and the hopes which I cherish of seeing Americanism installed as the policy of this nation, for all the Fillmores, or Fremonts, or Buchanans, that ever lived on the face of the earth.

St. Paul says, "if it offends my brother, I will eat no meat;" and if it offends my brothers here, I will not open my mouth. Nobody can suspect me. [Voices: "certainly not."] Then I say, can't you combine the vote of this state, and beat Buchanan? [This question was responded to in the affirmative, with the greatest enthusiasm. Repeated cheers were proposed for the straight ticket, but the responding voices were by no means numerous, and were mingled with hisses. Such was the universal excitement, that for some minutes the speaker was obliged to pause. He finally raised his voice above the subsiding storm, and said:—]

Come, my friends, we are all brothers; we are all seeking the same end. Our object is the same. We are all struggling to reach the same haven of safety. The only difference of opinion is as to the proper means by which to accomplish our common end. Will not Americans learn prudence from the past? Misfortune should have taught us charity for each other. We have passed through the ordeal of persecution together; we have been subjected to the same difficulties, and the same oppression; we have been baptized (I may say) in the same stream of calumny. Then, in the name of God—in the name of our common country—in the name of Americanism—in the name of American nationality—in the name of religious freedom—in the name of the Union, I beseech you learn charity for the difference of opinion which prevails among you. [Applause.] Let brethren forbear with brethren. Let us recollect that it is not by vituperation, by the censure of our brethren, that we can ever accomplish this great end of conquering a common enemy. My friends, how long are we to suffer? How long will it be before we shall learn that it is only by a union of counsels, a concentration of energy, a combination of purpose, that we can destroy the common enemy of every conservative man. [Great applause.]

I shall not attempt to advise you, for I am not competent to do it. You have information which I do not possess. You know all the under-currents of opinion which prevail here in your community, with which I am unacquainted; but will you allow an humble man to express his opinion to brethren whom he loves? May I do it? I am a Fillmore man—nothing but a Fillmore man, and if I resided here I would vote no ticket which had not the name of Millard Fillmore at its head, and I would advise no Fillmore man to vote a ticket with Fremont's name on it; but I would vote for that ticket which would make my voice tell at the polls.

Now let us look at this thing practically. In reading history I have always admired the character of Oliver Cromwell. What was the great motive by which he was actuated in overthrowing the house of Stuart? It was unfailing devotion to principle. His motto was, "Put your trust in God, and keep your powder dry." I admire the devotion to principle in every man who says that he does not intend to vote any but the straight ticket, for it shows that Americanism has such a lodgment in his heart, that he cannot bear even seemingly to compromise it. That is "putting your trust in God;" but, my friends, is it "keeping your powder dry?" The enemy may steal into the camp while you are asleep, and may pour water upon your cartridges, so that when the day of battle shall come, you may shoot, but you will kill nobody. I want the vote of every American, on Tuesday next, to tell. Would to God that you could give the twenty-seven electoral votes of Pennsylvania to Fillmore. Then vote the straight ticket, if that will give him the twenty-seven votes. But suppose it will not (and I am afraid it will not), then the question is, had you better give Buchanan the twenty-seven votes, or give Fillmore eight, ten, twelve, or twenty, as the case may be. I go for beating Buchanan.

Gentlemen, you do not know what we Americans suffer at the South. I am abused and reviled for standing up in defence of you. When I hear the whole North denounced as a set of Abolitionists, whose purpose it is to in

terfere with the peculiar institutions of the South, I brand such charges as slanders on the Northern people. I tell them that the great mass of the Northern people are sound on this question; that they are opposed to slavery, as I should be if I were a Northern man; but that I do not believe that the great mass of the Northern people have any idea of interfering with the constitutional rights of the people of the South. I know that such men as Garrison and Forney have. I know that Garrison believes the Constitution to be a "league with hell," and would therefore destroy it if he could; and I know that Forney loves office so well, that even at the risk of snapping the Union, he will keep alive slavery agitation. But Garrison does not represent New England, and Forney does not represent you.

As much as I have been reviled for standing by you, I am so anxious to have Buchanan beaten, that were I residing here, if I could not give Fillmore the whole twenty-seven votes, I would give him all I could, by giving him the number to which he might be entitled by the numerical proportion of the votes at the ballot-box. Yet, if there is a brother American here who feels in his "heart of hearts," that by voting that Union ticket, he would compromise his Americanism, I say to such an one, "do not vote that ticket." At the same time, candor compels me to say, that I differ in opinion with him. If I believed that that ticket was a fusion, or that it called upon any Fillmore man to vote for Fremont, I would advise no one to vote it. I would not vote a ticket that had on it the name of Fremont; but I would vote a ticket with Fillmore's name upon it, and which would give him (if not the twenty-seven electoral votes) seven, or ten, or twenty, just as the numerical proportion of the votes might decide.

I appeal to every conservative, Union-loving man in this nation, who is disposed to give to the South all the constitutional privileges to which she is entitled, and who wishes to rebuke the Democratic party for the repeal of the Missouri compromise, and for keeping up the eternal agitation of slavery. I appeal to you as a southern man—as a slaveholder. I do not ask you to be pro-slavery men, to be the advocates of slavery, when I say to you that we, your brethren of the South, expect you to preserve our constitutional rights—and, God knows, we ask nothing more—against fanatics, either north or south. Will you do it? [Yes, yes!" and applause.]

My friends, the election is fast approaching. There is but little time for deliberation left. Is there no way by which the votes of the anti-Buchanan party can be concentrated on the same ticket? I would shed tears of blood —God knows I would—if I could be instrumental in prevailing on all true Americans to combine. [Cheers.] I cannot tell you how to combine; but is it yet too late? If it is too late to do it throughout the state, cannot you in Philadelphia do it? The Presidential election may depend upon the state of Pennsylvania, and the state of Pennsylvania may depend upon the city of Philadelphia. On the vote of the city of Philadelphia may depend not only our own rights, but the rights of our children and our children's children. I appeal to my brother Americans, for I have no right to appeal to anybody else; I cannot address the Fremont party, for I have no affiliation with them; I cannot address the Buchanan party, for my object is to destroy them if possible. [Applause.] To my American brethren, then, I appeal, for God's sake, do not let the sun rise upon that wrath, which I see divides you. Your object is the same—to rescue your common country.

Let me advise you who know nothing of your divisions—who belong neither to one clique or the other. I say with the deepest sincerity that I think all parties ought to have concentrated upon the Fillmore ticket. Mr. Fillmore is a northern man. Your southern brethren were willing to support him. He had guided the ship of state safely through the storm, and it was but reasonable to suppose that in time of difficulty he would again be found the same good pilot. But if we cannot get all others to unite on Mr. Fillmore, each of us must inquire, "What is my duty?" If the mountain will not come to Mahomet, shall not Mahomet go to the mountain; and if he will not go to the mountain, in heaven's name, shall he not go half way? [Applause.]

I am fighting for the victory which we may obtain in this contest. And what an issue is now pending! We read in the Iliad how, for ten long years, a great people of antiquity were engaged in the siege of Troy. What was the stake for which they contended? It was nothing more than a beautiful woman, who had been ravished by a sprig of the royal line of Troy. What is the stake for which we contend? It is constitutional liberty—the right of the American people to govern their own country—the right of every citizen to worship God according to the dictates of his conscience. The great issue is, whether the American flag shall still wave in glory when we shall have gone to our graves, or whether it shall be trailed in dishonor—whether the "blackness of darkness" which would follow the dissolution of this Union, shall cover the land.

I do not tell you how to combine: but I urge you to resort to that mode (if there is such a mode possible), by which you can get together—by which your votes can be made effectual at the polls—by which Millard Fillmore can go before the House of Representatives with the strong moral power which a large electoral vote will give him. [Great applause.]

That is the way in which we must view the question, as practical men. Yet so different are the conditions of our nature, so different the sentiments which actuate us, that I will not be guilty of such presumption, as to tell any man what particular course he should take. You know my opinions; if they are worth anything, receive them into your hearts,

simply as the sentiments of a brother American; if they are worth nothing, let them pass as the idle wind.

In conclusion, I will only say that whether we be defeated or whether we be victorious, the only reward I ask for in the labor in which I am engaged is, that you may recollect me as one who had at heart only the welfare of his country, and who endeavored to promote it by appealing to the associations of the past, and all the hopes of the future.

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The following is an extract from the speech of Mr. Rayner on Religious Toleration in the North Carolina Convention in 1835:—

"I do not conceive that we have anything to do with the tenets of any particular creed. We have not to decide between the merits of contending sects. We have not to inquire whether the Pope of Rome is the legal custodian of the Keys of Christ's Kingdom, or whether (according to the opinion of some), he is the many-headed monster mentioned in the Apocalypse.

"But it is said, if the Catholic is excluded from office, that will not deprive him of the right of worshipping God according to the dictates of his own conscience. Sir, the right of worshipping God free from all personal pains and penalties, is a right which can now be enjoyed in any country in Christendom. An exclusion from the honors, the profits, and the emoluments of the state, is the highest persecution which public opinion will tolerate in any Christian country in this enlightened age. So that if you sanction the principle recognised in the 32d Article, you use the rod of persecution with as unsparing a hand as it is used in Spain, or the states of the Church. And if you exclude one sect, why not another and another, and finally all, except one?

"Retain that Article, and I assert it, the Catholic and Jew will be placed under the ban of proscription, no matter how great may be his merit; although he may love his country with a patriotism as pure as the first love of woman; although he may pour out his blood like water in her defence; yet, for daring to 'worship God according to the dictates of his own conscience,' you cut him off from all hope of political preferment and from all stimulus to ambition. Like the Israelites in Egypt, he will be oppressed by the land in which he lives, the soil on which he treads, and like them, he will have left no other resource but to turn back upon the graves of his fathers, and take up his march to a more tolerant clime. Sir, the exclusion from office for opinion's sake, in this enlightened age, proceeds from the same spirit of bigotry and superstition which has preyed upon mankind from the building of Babel to the present time."

Mr. Rayner concludes thus:—

"Sir, is this convention ready to incorporate into our fundamental law the doctrine, that 'honesty, capability, and faithfulness to the Constitution,' is not a sufficient qualification for office, but that he who obtains it must abjure a certain particular faith? Sir, who constituted us judges of the hearts and consciences of men? What right have we to impugn the motives of our fellow men? It is asserting one of the attributes of the Deity himself, for it is the Lord alone that pondereth the heart. Sir, you may carry on this system of persecution, but there is one point beyond which you cannot go. You may subject the body to privation and torture, but you cannot fetter the mind—fetters cannot bind it—tyrants cannot enchain it—dungeons cannot confine it—it will rise superior to the powers of fate, and aspire to Him who gave it."

Religious Freedom.

Virginia Act of, penned by Jefferson.

No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor shall any man be enforced, restrained, molested, or burthened in his body or goods, or otherwise suffer, on account of his religious opinions or belief; but all men shall be free to profess, and by argument to maintain their opinions in matters of religion, and the same shall in nowise affect, diminish, or enlarge their civil capacities. And the General Assembly shall not prescribe any religious test whatever; or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society, or the people of any district within this commonwealth, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

Religious Test.

Debate in the Convention on that article in the Constitution in regard to.

Mr. Pinkney moved that no religious test shall ever be required as a qualification to any office or public trust under the United States.

Mr. Sherman thought it unnecessary, the prevailing liberality being a sufficient security against all such tests.

Rev. Mr. Backus of Mass. I beg leave to offer a few thoughts upon the Constitution proposed to us; and I shall begin with the exclusion of any religious test. Many appear to be much concerned about it; but nothing is more evident, both in reason and the Holy Scriptures, than that religion is ever a matter between God and individuals; and, that, therefore, no man or set of men can impose any religious test without invading the essential prerogatives of our Lord Jesus Christ. Ministers first assumed this power under the Christian name, and then Constantine approved of the practice when he adopted the profession of Christianity as an engine of state

policy. And let the history of all nations be searched, from that day to this, and it will appear that the imposing of religious tests hath been the greatest engine of tyranny in the world.

Oliver Wolcott of Conn. For myself I should be content either with or without that clause in the Constitution which excludes test laws. Knowledge and liberty are so prevalent in this country, that I do not believe that the United States would ever be disposed to establish one religious sect and lay all others under legal disabilities. But as we know not what may take place hereafter, and any such test would be destructive of the rights of free citizens, I cannot think it superfluous to have added a clause which secures us from the possibility of such oppression.

Mr. Madison of Va. I confess to you, sir, that were uniformity of religion to be introduced by this system, it would, in my opinion, be ineligible; but I have no reason to conclude that uniformity of government will produce that of religion. This subject is, for the honor of America, left perfectly free and unshackled. The government has no jurisdiction over it—the least reflection will convince us there is no danger on this ground. Happily for the states, they enjoy the utmost freedom of religion. This freedom arises from that multiplicity of sects which pervades America, and which is the best and only security for religious liberty in any society. For, where there is such a variety of sects, there cannot be a majority of any one sect to oppress and persecute the rest.

Mr. Iredell of N. C. used this comprehensive and elegant language: "Every person in the least conversant in the history of mankind, knows what dreadful mischiefs have been committed by religious persecution. Under the color of religious tests, the utmost cruelties have been exercised. Those in power have generally considered all wisdom centred in themselves, that they alone had the right to dictate to the rest of mankind, and that all opposition to their tenets was profane and impious. The consequence of this intolerant spirit has been that each church has in turn set itself up against every other, and persecutions and wars of the most implacable and bloody nature have taken place in every part of the world. America has set an example to mankind to think more rationally—that a man may be of religious sentiments differing from our own, without being a bad member of society. The principles of toleration, to the honor of this age, are doing away those errors and prejudices which have so long prevailed even in the most intolerant countries. In Roman Catholic lands, principles of moderation are adopted, which would have been spurned a century or two ago. It will be fatal, indeed, to find, at the time when examples of toleration are set even by arbitrary governments, that this country, so impressed with the highest sense of liberty, should adopt principles on this subject that were narrow, despotic, and illiberal."

Republican Platform.

Adopted at Philadelphia, June 18, 1856.

This Convention of Delegates assembled in pursuance of a call addressed to the people of the United States, without regard to past political differences or divisions, who are opposed to: The repeal of the Missouri Compromise; to the policy of the present administration: To the extension of slavery into free territory; In favor of the admission of Kansas as a free state; Of restoring the action of the federal government to the principles of Washington and Jefferson; and for the purpose of presenting candidates for the offices of President and Vice President—do resolve:—

Resolved, That the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, are essential to the preservation of our republican interests, and that the rights of the states must and shall be preserved.

Resolved, That, with our republican fathers, we hold it to be a self-evident truth that all men are endowed with the inalienable right of liberty and the pursuit of happiness, and that the primary object and ulterior design of our federal government were to secure [grant] these rights to all persons under its exclusive jurisdiction; that, as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person shall be deprived of life, liberty, or property, without due process of law, it becomes our duty to maintain this provision of their Constitution, against all attempts to violate it for the purpose of establishing slavery in the territories of the United States, by positive legislation prohibiting its existence or extension therein.

That we deny the authority of Congress, of a territorial legislature, of any individual, or association of individuals, to give legal existence to slavery in any territory of the United States, while the present Constitution shall be maintained.

Resolved, That the Constitution confers upon Congress *sovereign* power over the territories of the United States for their government, and that in the exercise of this power it is both the right and the duty of Congress to prohibit in the territories those twin relics of barbarism—polygamy and slavery.

Resolved, That while the Constitution of the United States was ordained and established by the people, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, and secure the blessings of liberty, and contains ample provisions for the protection of the life, liberty, and property of every citizen, the dearest constitutional rights of the people of Kansas have been fraudulently and violently taken from them—their territory has been invaded by an armed force—spurious and pretended legislative, judicial, and executive

officers have been set over them, by whose usurped authority, sustained by the mititary power of the government, tyrannical and unconstitutional laws have been enacted and enforced—the rights of the people to keep and bear arms have been infringed—test oaths of an extraordinary and entangling nature have been imposed as a condition of exercising the right of suffrage and holding office—the right of an accused person to a speedy and public trial by an impartial jury has been denied—the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures has been violated—they have been deprived of life, liberty, and property, without due process of law—that the freedom of speech and of the press has been abridged—the right to choose their representatives has been made of no effect—murders, robberies, and arsons have been instigated and encouraged, and the offenders have been allowed to go unpunished—that all these things have been done with the knowledge, sanction, and procurement of the present administration, and that for this high crime against the Constitution, the Union, and humanity, we arraign the administration, the President, his advisers, agents, supporters, apologists, and accessories, either before or after the facts, before the country, and before the world; and that it is our fixed purpose to bring the actnal perpetrators of these atrocious outrages and their accomplices to a sure and condign punishment hereafter.

Resolved, That Kansas should be immediately admitted as a state of the Union, with her present free constitution, as at once the most effectual way of securing to her citizens the enjoyment of the rights and privileges to which they are entitled, and of ending the civil strife now raging in her territory.

Resolved, That the highwayman's plea, that "might makes right," embodied in the Ostend circular, was in every respect unworthy of American diplomacy, and would bring shame and dishonor upon any government or people that gave it their sanction.

Resolved, That a railroad to the Pacific Ocean, by the most central and practical route, is imperatively demanded by the interests of the whole country, and that the federal government ought to render immediate and efficient aid in its construction; and as an auxiliary thereto, the immediate construction of an emigrant route on the line of the railroad.

Resolved, That appropriations by Congress for the improvement of rivers and harbors, of a national character, required for the accommodation and security of our existing commerce, are authorized by the Constitution, and justified by the obligation of government to protect the lives and properties of its citizens.

Resolved, That we invite the affiliation and co-operation of the men of all parties, however different from us in other respects, in support of the principles herein declared; and believing that the spirit of our institutions, as well as the Constitution of our country, guaranties liberty of conscience and equality of rights among citizens, we oppose all legislation impairing their security.

Republican Association of Washington.

ADDRESS OF THE—TO THE REPUBLICANS OF THE UNITED STATES.

Washington, Nov. 27, 1856.

THE Presidential contest is over, and at last we have some materials to enable us to form a judgment of the results.

Seldom have two parties emerged from a conflict with less of joy in the victors, more of hope in the vanquished. The pro-slavery party has elected its Presidential candidate, only, however, by the votes of a minority, and that of such a character as to stamp the victory as the offspring of sectionalism and temporary causes. The Republicans, wherever able to present clearly to the public the real issue of the canvass—slavery restriction or slavery extension—have carried the people with them by unprecedented majorities; almost breaking up in some states the organization of their adversaries. A sudden gathering together of the people, alarmed at the inroads of the slave power, rather than a well organized party, with but a few months to attend to the complicated details of party warfare; obstructed by a secret Order, which had pre-occupied the field, and obtained a strong hold of the national and religious prejudices of the masses; opposed to an old party, commencing the canvass with the united support of a powerful section, hardened by long party drill, accustomed to victory, wielding the whole power of the federal administration—a party which only four years ago carried all but four of the states, and a majority of the popular vote—still, under all these adverse circumstances, they have triumphed in eleven, if not twelve of the free states, pre-eminent for enterprise and general intelligence, and containing one-half of the whole population of the country; given to their Presidential candidate nearly three times as many electoral votes as were cast by the Whig party in 1852; and this day control the governments of fourteen of the most powerful states of the Union.

Well may our adversaries tremble in the hour of their victory. "The Democratic and Black Republican parties," they say, "are nearly balanced in regard to power. The former was victorious in the recent struggle, but success was hardly won, with the aid of important accidental advantages. The latter has abated nothing of its zeal, and has suffered no pause in its preparations for another battle."

With such numerical force, such zeal, intelligence, and harmony in counsel; with so many great states, and more than a million voters rallied to their standard by the efforts of a few months, why may not the Republicans confidently expect a victory in the next contest?

The necessity for their organization still exists in all its force. Mr. Buchanan has always proved true to the demands of his party. He fully accepted the Cincinnati platform, and pledged himself to its policy—a policy of filibustering abroad, propagandism at home. Prominent and controlling among his supporters are men committed, by word and deed, to that policy; and what is there in his character, his antecedents, the nature of his northern support, to authorize the expectation that he will disregard their will? Nothing will be so likely to restrain him and counteract their extreme measures, as a vigorous and growing Republican organization, as nothing would be more necessary to save the cause of freedom and the Union, should he, as we have every reason to believe, continue the pro-slavery policy of the present incumbent. Let us beware of folding our arms, and waiting to see what he will do. We know the ambition, the necessities, the schemes of the slave power. Its policy of extension and aggrandizement and universal empire, is the law of its being, not an accident—is settled, not fluctuating. Covert or open, moderate or extreme, according to circumstances, it never changes in spirit or aim. With Mr. Buchanan, the elect of a party controlled by this policy, administering the government, the safety of the country and of free institutions must rest in the organization of the Republican party.

What, then, is the duty before us? Organization, vigilance, action; action on the rostrum, through the press, at the ballot-box; in state, county, city, and town elections; everywhere, at all times; in every election, making Republicanism, or loyalty to the policy and principles it advocates, the sole political test. No primary or municipal election should be suffered to go by default. The party that would succeed nationally must triumph in states—triumph in the state elections, must be prepared by municipal success.

Next to the remaining power in the states already under their control, let the Republicans devote themselves to the work of disseminating their principles, and initiating the true course of political action in the states which have decided the election against them. This time we have failed, for reasons nearly all of which may be removed by proper effort. Many thousand honest, but not well-informed voters, who supported Mr. Buchanan under the delusive impression that he would favor the cause of free Kansas will soon learn their mistake, and be anxious to correct it. The timid policy of the Republicans in New Jersey, Pennsylvania, and Indiana, in postponing their independent action, and temporizing with a party got up for purposes not harmonizing with their own, and the conduct of Mr. Fillmore's friends in either voting for Mr. Buchanan, or dividing the opposition by a separate ticket, can hardly be repeated again. The true course of the Republicans is to organize promptly, boldly, and honestly upon their own principles, so clearly set forth in the Philadelphia platform, and, avoiding coalitions with other parties, appeal directly to the masses of all parties to ignore all organizations and issues which would divert the public mind from the one danger that now threatens the honor and interests of the country, and the stability of the Union—slavery propagandism allied with disunionism.

Let us not forget that it is not the want of generous sentiment, but of sufficient information, that prevents the American people from being united in action against the aggressive policy of the slave power. Were these simple questions submitted to-day to the people of the United States:—Are you in favor of the extension of slavery? Are you in favor of such extension by the aid or connivance of the federal government? And could they be permitted to record their votes in response, without embarrassment, without constraint of any kind, nineteen-twentieths of the people of the free states, and perhaps more than half of the people of the slave states, would return a decided negative to both.

Let us have faith in the people. Let us believe, that at heart they are hostile to the extension of slavery, desirous that the territories of the Union be consecrated to free labor and free institutions; and that they require only enlightenment as to the most effectual means of securing this end, to convert their cherished sentiment into a fixed principle of action.

The times are preguant with warning. That a disunion party exists in the South, no longer admits of a doubt. It accepts the election of Mr. Buchanan as affording time and means to consolidate its strength and mature its plans, which comprehend not only the enslavement of Kansas, and the recognition of slavery in all territory of the United States, but the conversion of the lower half of California into a slave state, the organization of a new slavery territory in the Gadsden purchase, the future annexation of Nicaragua and subjugation of Central America, and the acquisition of Cuba; and, as the free states are not expected to submit to all this, ultimate dismemberment of the Union, and the formation of a great slaveholding confederacy, with foreign alliances with Brazil and Russia. It may assume at first a moderate tone, to prevent the sudden alienation of its Northern allies; it may delay the development of its plot, as it did under the Pierce administration; but the repeal of the Missouri compromise came at last, and so will come upon the country inevitably the final acts of the dark conspiracy. When that hour shall come, then will the honest Democrats of the free states be driven into our ranks, and the men of the slave states who prefer the republic of Washington, Adams and Jefferson—a republic of law, order and liberty—to an oligarchy of slaveholders and slavery propagandists, governed by Wise, Atchison, Soulé and Walker, founded in fraud and violence, and seeking aggrandizement by the spoliation of nations, will bid God speed to the labors of the Republican party to pre-

serve liberty and the Union, one and inseparable, perpetual and all powerful.

Washington, D. C., Nov. 27, 1856.

Richardson, Wm. A.

ANSWER OF TO CERTAIN INTERROGATORIES IN HOUSE OF REPRESENTATIVES, JANUARY 12, 1856.

MR. BINGHAM. Before the gentleman from Illinois [Mr. Richardson], or any other of the candidates for speaker, shall proceed to answer the interrogatories of the gentleman from Tennessee [Mr. Zollicoffer], I desire to put some questions to the honorable gentleman from Illinois [Mr. Richardson], and to which I hope to receive explicit answers from that gentleman, as also from the other candidates now before the House. In presenting these interrogatories, I desire to raise no captious objections to the sentiments of the honorable gentleman from Illinois, but to ascertain distinctly and clearly what sense that gentleman attaches to the terms used in his platform, to wit: "the principles of the Kansas-Nebraska act?" also, the sense he attaches to those other words, "squatter sovereignty," upon which the changes have been rung for the last two years from one end of the land to the other; and especially the effect he gives to the term "nationality," which has been used so often, and with such emphasis, in this hall, by that gentleman and his party? I, too, have some reverence for nationality, but it is the nationality which springs from that unity of government which constitutes us one people; and that I may know precisely the honorable gentleman's views of nationality, I beg leave to present to him the following interrogatories:—

I. Do you hold that the Constitution of the United States extends to, and is of full force within, the several territories thereof?

II. Do you hold that the people of any of said territories have the right to make any law within said territories, whereby any person therein shall be deprived of "life or liberty," except as punishment for crime on due conviction?

III. Do you hold that the people of the territory of Kansas have the right, under the Constitution, to prohibit slavery within said territory at all times, both before and after their organization into a state?

IV. Do you hold that the people of said territory, under the Constitution, have the power and the right to legalize slavery within said territory by legislative enactment; and the further power and right thereby to protect and maintain slavery therein, by making it a penal offence for any person within said territory to speak or write against such system, or to aid or assist any man held as a slave within said territory to escape therefrom, with the intent to secure the personal liberty of such slave?

V. Do you hold that, under the Constitution, a person held to service or labor within said territory, escaping therefrom into any state of this Union, can be reclaimed under the fugitive slave law, or is such person within the extradition clause of the second section of article four of the Constitution?

VI. Under the Constitution of the United States, can the people of any of its territories rightfully or legally establish any but a republican form of government therein? and do you hold that to be a republican government which converts the majority of its subjects into chattels, and subjects them to the absolute despotism of the minority?

These, sir, are the questions which I put to the honorable gentleman, and to each of which I hope to receive from that gentleman direct answers. I will not further detain the House.

MR. BARKSDALE. The interrogatories, Mr. Clerk, which I propose to put to the gentleman from Massachusetts [Mr. Banks,] I intend for all the gentlemen who are candidates for the speakership; and, in order that the House and the gentlemen to whom they are propounded may understand them, I will now read them:

Are you now a member of the American or Know Nothing party?

Are you in favor of abolishing slavery in the District of Columbia, the United States forts, dock-yards, &c?

Do you believe in the equality of the white and black races in the United States; and do you wish to promote that equality by legislation?

Are you in favor of the entire exclusion of adopted citizens and Roman Catholics from office?

Do you favor the same modification—and this question I intend particularly for the gentleman from Massachusetts [Mr. Banks,]—of the tariff now which you did at the last session of Congress?

MR. BINGHAM. I insist that, before any more interrogatories are put, those which I have propounded be answered.

MR. RICHARDSON. I have received a copy of the inquiries propounded by the gentleman from Ohio [Mr. Bingham]. I have looked over these interrogatories, and it seems to me that I have answered them substantially, with the exception of the first and fifth. I refer that gentleman, therefore, to the remarks submitted by me this morning, for my answer to his questions, with the exception of those I have indicated. The first inquiry is:—

"Do you hold that the Constitution of the United States extends to, and is of full force within the several territories thereof?"

In reply to this interrogatory I have to say that I do recognise the Constitution of the United States as extending over the territories, so far as it is applicable to their condition. That is my answer to the first.

The fifth is in the following language:—

"Do you hold that, under the Constitution, a person held to service or labor within said territory, escaping therefrom into any state in this Union, can be reclaimed under the fugitive slave law; or is such person within the extradition clause of the second section of the fourth article of the Constitution?"

In reply to this I have to say that, by the express terms of the bill organizing the territories of Kansas and Nebraska, and other territories organized subsequent to the passage of the fugitive slave law, that law goes into operation in those territories.

Now, sir, as to the other interrogatories propounded by the gentleman from Mississippi [Mr. Barksdale], I have to say that I belong to no Know Nothing or American organization. I belong to no secret political organization.

I am opposed to the abolition of slavery in the District of Columbia. I am opposed to interference with it in the dock-yards, or any place else, by the Congress of the United States.

I believe that the Almighty made the negro inferior to the white man. I do not believe you can place them upon an equality, unless you bring down the white man to his level; and I am opposed to that.

In reply to the facetious inquiries of my friend from Missouri [Mr. Kennett], I have to say I am sometimes afraid that, in that future state in which I believe, he, myself, and some of our associates here, will not be free. [Laughter.]

Mr. KENNETT. I am very glad, Mr. Clerk, that the gentleman from Illinois [Mr. Richardson] is getting a little anxious about his condition, as well as that of other members of the House. I think he has great cause. [Laughter.]

Mr. RICHARDSON. I am very anxious, not only in reference to myself, but in relation to my friend from Missouri. But, sir, I am informed that I omitted one of the questions propounded by the gentleman from Mississippi [Mr. Barksdale], in relation to Catholics and adopted citizens.

Sir, I do not know, nor care, what a man's religious opinions may be. I would as soon support a Catholic for office as a man professing any other religion, provided he was qualified, and his political sentiments corresponded with my own. I think, sir, in reference to this government of ours, that our only safety, or at least, that our greatest safety, upon this subject of religion, is in carrying out the policy never to carry our religion into politics, and never carry our polities to church. They are distinct and separate—unalterably so. A Catholic is as much entitled to protection in this country as those of any other religion. I have no prejudice against the Catholics, nor have I against foreigners. I voted, the last time I voted, in my own state, for an adopted citizen; and I expect to vote for them in future as often as they are presented, provided they are qualified.

Mr. BINGHAM. The honorable gentleman from Illinois [Mr. Richardson] has stated to the House that he has answered all of my questions except the first and fifth. I beg leave to ask that gentleman whether, in his remarks, he has given any reply to my second, third, fourth, and sixth interrogatories; and will the gentleman respond to those questions?

Mr. RICHARDSON. In reply to the gentleman from Ohio, I have to say that I substantially responded to his interrogatory this morning.

Mr. BINGHAM. In what way has the gentleman answered the second, third, fourth, and sixth questions which I had the honor to submit to him?

Mr. RICHARDSON. I said, in my remarks this morning, that, in my opinion, the people of a territory have the right either to establish or prohibit African slavery. I think that is an answer to the gentleman's question.

Mr. BINGHAM. Does the gentleman mean to be understood as saying that the people of the territory of Kansas can, by territorial enactment, establish or prohibit African slavery therein?

Mr. RICHARDSON. I do not wish to single out a particular instance.

Mr. Clerk, gentlemen have chosen, by written interrogatories, to inquire into the political opinions of gentlemen who have been voted for upon this floor in relation to questions past, present, and future. I know not, and care not, whether the object is discussion here or discussion somewhere else. I hold them to the issues presented to me, and I shall endeavor to answer their questions as fully, freely, and frankly as may be possible.

I now send to the Clerk's desk the questions which have been propounded to me, and I ask that the first of them may be read.

The Clerk read the first question, as follows:—

Question propounded by Mr. ZOLLICOFFER *to* Mr. RICHARDSON.

"Am I right in supposing that the gentleman from Illinois [Mr. Richardson] regards the Kansas-Nebraska bill as promotive of the formation of free states in the territories of Kansas and Nebraska?"

Mr. RICHARDSON. In reply to the first question of the gentleman from Tennessee [Mr. Zollicoffer], I have to say I voted for the bills organizing the territories of Nebraska and Kansas because I thought them just to all, and I defended that vote before my constituents upon that ground. I intended then, and I intend now, that the people who go there, or who have gone there, shall decide the question of slavery for themselves, and, so far as I could, admit them as states, with or without slavery, as the people should decide. In common with northern and southern gentlemen, I have said that, in my opinion, slavery would never go there; but I have never, here or elsewhere, urged that as a reason why I voted for that bill. I voted for the bill because it was just, right, and proper, and wanted nothing more to defend myself. I repeat here an argument I have made over and over again before my constituents, and it is this: if a majority of the people of Kansas or Nebraska are in favor of slavery, they will have it; if a majority are opposed to it, then they will not have it. This

is the practical result of every theory advocated by the friends of the Nebraska and Kansas bill. I gave my sanction to this principle in supporting the territorial bills of 1850, and have uniformly supported the same principles since, whenever presented for my action, and shall continue to do so in all future cases that may arise. It is a principle lying at the foundation of all popular governments, that the people of each separate or distinct community shall decide for themselves the nature and character of the institutions under which they shall live, and by this principle I am prepared to live and die. I therefore voted for the Nebraska and Kansas bill neither as a pro-slavery nor anti-slavery measure, but as a measure of equal right and justice to the people of all sections of our common country.

Will the Clerk now read the next question?

The Clerk read the second question, as follows:—

"Am I right in supposing that he advocates the constitutionality of the Wilmot proviso? that in 1850, he opposed its application to the territories acquired from Mexico only upon the ground that it was *unnecessary*, inasmuch as the Mexican local laws in those territories already *abolished slavery*, which ought to be sufficient for all free-soil men? and that he committed himself to the position, that if territorial bills (silent upon the subject of slavery, and leaving the Mexican laws to operate) were defeated, he would vote for bills with the Wilmot proviso in them?"

Mr. RICHARDSON. The next question requires a more extended reply. In the year 1803 we acquired Louisiana; it was slave territory. In 1820 we divided, by line of 36° 30′, that territory; north of the line was to be free. In 1845 we annexed Texas; that was slave territory; we divided that by extending the line of 36° 30′ through that—north, to be free. In 1848 we acquired territory from Mexico. That was free. I voted repeatedly to extend the same line west to the Pacific Ocean. I voted for that line with a few representatives from the North, and the whole body of Southern representatives. When I gave those votes, I did not believe then, nor do I believe now, that I violated the Constitution of the United States. If you have power, under the Constitution, to exclude slavery from half of a territory, I think you have power to exclude from all, though such an exercise would be unjust and wrong. I have never, therefore, voted to exercise that power, except upon the principle of compromise. In this connexion I desire to read from a speech of mine, delivered in this hall April 3, 1850, and make a word or two of comment upon it:—

"There is, I regret to say, a willingness upon the part of the Democrats of the north to see this proviso passed, that General Taylor may be compelled to show to the world, and 'the rest of mankind,' who was cheated in the last presidential election—whether it was his friends north or south. They know that a fraud was practised upon the one or the other. They know that in the south, General Taylor was represented as all that any one in favor of slavery extension could desire—that he was bound to southern institutions by two hundred bonds. At the north, it was said that he was for confining slavery to its present limits. One or the other was cheated. But I submit to my northern friends, if the peace and harmony of twenty millions of people, and the perpetuity of our free institutions, is not of more importance than the exposure of this bad faith upon the part of an admininistration that, if let alone, will fall by its own weight? The public voice everywhere indicates its certain and inevitable overthrow.

"In times past our policy sooner or later has prevailed, and we should stand firm, however dark the hour, encouraged by former success. We should not be driven from our positions because our opponents have to come to them for safety. I might ask them if they are to be driven from their firm and stern opposition to a United States bank, because those who once thought that certain ruin would lay waste the land unless such an institution was incorporated, have changed their opinions, and stand with us in opposition? Are they willing to be driven in opposition to the independent treasury, because those who once opposed now support it? Are you to be driven from all the past, now triumphantly vindicated, because opposition has ceased? We should stand firm in the support of right, truth, the Constitution of our country, no matter who shall come to their support, or desert; stand by them to the last, and if they fall let us perish with them. We should never survive the existence of this government.

"There is one thing that I wish, in this connexion, Mr. Chairman, to say to the gentlemen from the south, and the northern Whigs: if the bill for territorial governments, silent upon the subject of slavery, shall be defeated, then I am for bills with the Wilmot proviso, in order to give governments to the people in the territories; and I speak for four of my colleagues, assured that they will feel constrained to pursue a like course. And if General Taylor shall approve the proviso, then it will have passed; and it is for them to determine what shall or shall not be done, and let the responsibility rest with them."

I take this occasion to say, that the sentiment last quoted, uttered in a moment of excitement, I, upon reflection, repudiate as unjust and improper. I thank the gentleman that he has afforded me the opportunity to give this public expression of my disapproval of that statement. I uniformly voted against placing the Wilmot proviso in any territorial bill. I voted against it, because I believed it to be unjust to the people of a portion of this Union.

The Clerk then read the third interrogatory, as follows:—

"Am I right in supposing that his theory is, that the Constitution of the United States does not carry slavery to, and protect it in, the territories of the United States? That in the territory acquired from Mexico and France (including Kansas and Nebraska), the Missouri restriction was necessary to make the territory free, because slavery existed there under France at the time of the acquisition; but that the Kansas and Nebraska bill, which repeals that restriction, but neither legislates slavery into those territories nor excludes it therefrom, in his opinion, leaves those territories without either local or constitutional law protecting slavery; and that therefore the Kansas and Nebraska bill promotes the formation of slave states in Kansas and Nebraska?"

Mr. RICHARDSON. The Constitution does not, in my opinion, carry the institutions of any of the states into the territories; but it affords the same protection there to the institutions of one state as of another. The citizen of Virginia is as much entitled, in the common territory, to the protection of his property, under the Constitution, as the citizen of Illinois; but both are dependent upon the legislation of the territorial government for laws to protect their property, of whatever kind it may be. Thus, it will be seen, that though there may be upon this point a difference theoretically—involving questions for judicial decision—yet there is none, practically, among the friends of non-intervention by Congress, as the practical result is to place the decision of the questions in the hands of those who are most deeply interested in its solution, namely, the people of the territory, who have made it their home, and whose interests are the most deeply involved in the character of the insti-

tutions under which they are to live. If this great principle of non-intervention and self-government is wrong, then, indeed, the American Revolution was fought in vain, and it is time we cease to venerate the memory of the patriotic dead, who purchased with their fortunes and blood the free institutions of the several separate, independent, and coequal states, forming the Union under which we have so prosperously and happily grown to be so great.

Rivers and Harbors.

On the 13th of July, 1854, House Bill No. 392, "making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law," being in other words a River and Harbor Bill, was brought to a vote, and passed the House by yeas and nays as follows:—

YEAS.—Messrs. *Ball*, *Bennett*, *Benson*, Benton, *Bugg*, *Campbell*, *Carpenter*, *Caruthers*, Chamberlain, *Chandler*, Churchwell, Clark, *Corwin*, *Cox*, *Crocker*, Cumming, Cutting, Thomas Davis, Dawson, *Dick*, Disney, Dunbar, Eastman, Eddy, Edgerton, *Edmands*, *Thomas D. Eliot*, Ellison, English, *Ewing*, *Farley*, Fenton, *Flagler*, Florence, GIDDINGS, Green, Greenwood, *Aaron Harlan*, *Harrison*, *Haven*, Henn, *Hiester*, *Hill*, *Howe*, Hughes, Johnson, *Kerr*, *Knox*, Latham, *Lindley*, Lindsley, Mace, Macy, *Matteson*, *Middleswarth*, *John G. Miller*, *Morgan*, Nichols, Noble, *Norton*, *Mordecai Oliver*, *Parker*, *Pennington*, *Preston*, *Pringle*, *Ready*, *David Ritchie*, *Rogers*, *Russell*, *Sabin*, *Sage*, *Sapp*, Seward, Seymour, Shannon, Shower, GERRIT SMITH, Samuel A. Smith, *Sollers*, Frederick P. Stanton, Hestor L. Stevens, *John L. Tayler*, Thurston, Trout, *Upham*, Vansant, *Wade*, *Walley*, *Elihu B. Washburne*, *Israel Washburne*, Wells, John Wentworth, *Tappan Wentworth*, Wheeler, *Yates*, *Zollicoffer*.—96.

NAYS.—Messrs. *Abercrombie*, Aiken, James C. Allen, Willis Allen, Barksdale, Barry. Belcher, Bocock, Boyce, Breckenridge, Bridges, Caskie, Chrisman, Clingman, Cobb, Colquitt, Craige, John G. Davis, Dowdell, Edmundson, John M. Elliott, Goode, Grow, Sampson W. Harris, Wiley P. Harris, Hastings, Hibbard, Hillyer, Houston, Daniel T. Jones, J. Glancy Jones, Roland Jones, Keitt, Kidwell, Kittredge, Kurtz, Lamb, Letcher, Lilly, McNair, McQueen, Maurice, Maxwell, May, Mayall, Millson, Morrison, Murray, Olds, Andrew Oliver, Orr, Packer, Bishop, Perkins, John Perkins, Phelps, Phillips, Powell, Pratt, *Puryear*, *Reese*, Rowe, Ruffin, Skelton, William Smith, William R. Smith, George W. Smyth. Richard H. Stanton, Stratton, Straub, John J. Taylor, Vail. Walsh, Westbrook, Witte, Daniel B. Wright, Hendrick B. Wright.—76.

The bill was amended in the Senate, and passed that body on the 1st of August, 1854, by yeas and nays as follows:—

YEAS.—Messrs. Allen, *Bell*, *Benjamin*, Cass, CHASE, *Cooper*, Dodge of Wis., Dodge of Ia., *Fessenden*, *Fish*, *Foot*, *Geyer*, GILLETTE, James, Johnson, Jones of Ia., *Jones* of Tenn., *Pearce*, Pettit, *Pratt*, *Rockwell*, Rusk, Sebastian, *Seward*, Slidell, Stuart, SUMNER, *Thompson* of Ky., Thompson of N. J., *Wade*, Walker.—31.

NAYS.—Messrs. Adams, Atchison, Bright, Brown, Clay, Dawson, Douglas, Evans, Fitzpatrick, Houston, Hunter, Mallory, Mason, *Morton*, Norris, Toombs, Williams—17.

The House disagreed to the amendments of the Senate. A committee of conference was appointed by each House who reconciled the disagreeing votes, and the bill was passed.

The President vetoed the bill.

On the question, taken December 6, 1854, Shall the bill pass notwithstanding the veto of the President? it was lost, two-thirds, the number required by the Constitution, not voting therefor. The ayes and noes were as follows:—

YEAS.—Messrs. *Appleton*, *Ball*, Banks, *Bennett*, *Bliss*, *Bristow*, *Campbell*, *Carpenter*, *Caruthers*, *Chandler*, *Chase*, Clark, *Corwin*, *Cox*, *Crocker*, *Cullom*, Dawson, *Dick*, *Dickinson*, Dunbar, Eastman, Eddy, Edgerton, *Edmands*, *Thomas D. Eliot*, Ellison, English, *Etheridge*, *Everhart*, *Farley*, Fenton, *Flagler*, Florence, *Goodrich*, *Goodwin*, Green, Greenwood, *Grey*, *Aaron Harlan*, *Harrison*, *Haven*, Henn, *Hiester*, *Hill*, *Howe*, Hughes, *Hunt*, Johnson, *Knox*, *Lindley*, Lindsley, *McCulloch*, Mace, Macy, *Matteson*, Mayall, Meacham, *Middleswarth*, *Morgan*, Noble, *Mordecai Oliver*, *Parker*, Peck, Peckham, *Pennington*, *Preston*, *Pringle*, *Ready*, Riddle, *David Richie*, *Russell*, *Sabin*, *Sage*, *Sapp*, Seymour, Shower, *Simmons*, Frederick P. Stanton, Hestor L. Stephens, Andrew Stuart, David Stuart, *John L. Taylor*, *Nathaniel G. Taylor*, *Teller*, Thurston, *Tracy*, Trout, *Wade*, *Walley*, *Elihu B. Washburne*, *Israel Washburne*, John Wentworth, *Tappan Wentworth*, Wheeler, *Zollicoffer*.—95.

NAYS.—Messrs. James C. Allen, Willis Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry. Belcher, Bocock, Boyce, Breckenridge, Bridges, Caskie, Chastain, Chrisman, Clingman, Cobb, Colquitt, Craige, Curtis, John G. Davis, *DeWitt*, Disney, Dowdell, Edmundson, Faulkner, Fuller, Goode, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Hibbard, Hillyer, Houston, Ingersoll. Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Lamb, Latham, Letcher, Lewis, Mcdonald, McDougall, McMullin, McQueen, Maxwell, Smith Miller, Millson, Murray, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, *Pratt*, *Reese*, Rowe, Ruffin, Shannon, Shaw, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Richard H. Stanton, *Stratton*, *Straub*, *John J. Taylor*, Walbridge, Walsh, Warren, Hendrick B. Wright.—80.

Democrats in roman; Whigs in *italics;* Free Soilers in SMALL CAPITALS.

The President, in the following message, bearing date Dec. 30, 1854, treated the subject more fully than he was enabled to do in his veto message:—

To the Senate and House of Representatives:

In returning to the House of Representatives, in which it originated, a bill entitled "An act making appropriations for the repair, preservation, and completion of certain public works, heretofore commenced under authority of law," it became necessary for me, owing to the late day at which the bill was passed, to state my objections to it very briefly, announcing, at the same time, a purpose to resume the subject for more deliberate discussion, at the present session of Congress; for, while by no means insensible of the arduousness of the task thus undertaken by me, I conceived that the two Houses were entitled to an exposition of the considerations which had induced dissent, on my part, from their conclusions in this instance.

The great constitutional question, of the power of the general government in relation to internal improvements, has been the subject of earnest difference of opinion, at every period of the history of the United States. Annual and special messages of successive Presidents have been occupied with it, sometimes in remarks on the general topic, and frequently in objection to particular bills. The conflicting sentiments of eminent statesmen, expressed in Congress, or in conventions called expressly to devise, if possible, some plan calculated to relieve the subject of the embarrassments with which it is environed, while they have directed public attention strongly to the magnitude of the interests involved, have yet left unsettled the limits, not merely of expediency, but of constitutional power, in relation to works of this class by the general government.

What is intended by the phrase "internal

improvements?" What does it embrace, and what exclude? No such language is found in the Constitution. Not only is it not an expression of ascertainable constitutional power, but it has no sufficient exactness of meaning to be of any value as the basis of a safe conclusion, either of constitutional law or of practical statesmanship.

President John Quincy Adams, in claiming, on one occasion, after his retirement from office, the authorship of the idea of introducing into the administration of the affairs of the general government "a permanent and regular system" of internal improvements, speaks of it as a system by which "the whole Union would have been checkered over with railroads and canals," affording "high wages and constant employment to hundreds of thousands of laborers;" and he places it in express contrast with the construction of such works by the legislation of the states and by private enterprise.

It is quite obvious, that if there be any constitutional power which authorizes the construction of "railroads and canals" by Congress, the same power must comprehend turnpikes and ordinary carriage roads; nay, it must extend to the construction of bridges, to the draining of marshes, to the erection of levees, to the construction of canals of irrigation—in a word, to all the possible means of the material improvement of the earth, by developing its natural resources, anywhere and everywhere, even within the proper jurisdiction of the several states. But if there be any constitutional power, thus comprehensive in its nature, must not the same power embrace within its scope other kinds of improvement of equal utility in themselves, and equally important to the welfare of the whole country? President Jefferson, while intimating the expediency of so amending the Constitution as to comprise objects of physical progress and well-being, does not fail to perceive that "other objects of public improvement," including "public education," by name, belong to the same class of powers. In fact, not only public instruction, but hospitals, establishments of science and art, libraries, and indeed everything appertaining to the internal welfare of the country, are just as much objects of internal improvement, or, in other words, of internal utility, as canals and railways.

The admission of the power in either of its senses implies its existence in the other; and since, if it exists at all, it involves dangerous augmentation of the political functions and of the patronage of the federal government, we ought to see clearly by what clause or clauses of the Constitution it is conferred.

I have had occasion more than once to express, and deem it proper now to repeat, that it is, in my judgment, to be taken for granted, as a fundamental proposition not requiring elucidation, that the federal government is the creature of the individual states, and of the people of the states severally; that the sovereign power was in them alone; that all the powers of the federal government are derivative ones, the enumeration and limitations of which are contained in the instrument which organized it; and by express terms, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people."

Starting from this foundation of our constitutional faith, and proceeding to inquire in what part of the Constitution the power of making appropriations for internal improvements is found, it is necessary to reject all idea of there being any grant of power in the preamble. When that instrument says: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity,"—it only declares the inducements and the anticipated results of the things ordained and established by it. To assume that anything more can be designed by the language of the preamble, would be to convert all the body of the Constitution, with its carefully weighed enumerations and limitations, into mere surplusage. The same may be said of the phrase in the grant of the power to Congress, "to pay the debts and provide for the common defence and general welfare of the United States;" or, to construe the words more exactly, they are not significant of grant or concession, but of restriction of the specific grants, having the effect of saying that, in laying and collecting taxes for each of the precise objects of power granted to the general government, Congress must exercise any such definite and undoubted power in strict subordination to the purpose of the common defence and general welfare of all the states.

There being no specific grant in the Constitution of a power to sanction appropriations for internal improvements, and no general provision broad enough to cover any such indefinite object, it becomes necessary to look for particular powers, to which one or another of the things included in the phrase "internal improvements," may be referred.

In the discussions of this question by the advocates of the organization of a "general system of internal improvements" under the auspices of the federal government, reliance is had, for the justification of the measure, on several of the powers expressly granted to Congress: such as to establish post-offices and post-roads; to declare war; to provide and maintain a navy; to raise and support armies; to regulate commerce; and to dispose of the territory and other public property of the United States.

As to the last of these sources of power, that of disposing of the territory and other public property of the United States, it may be conceded, that it authorizes Congress, in the management of the public property, to

make improvements essential to the successful execution of the trust; but this must be the primary object of any such improvement, and it would be an abuse of the trust to sacrifice the interest of the property to incidental purposes.

As to the other assumed sources of a general power over internal improvements, they being specific powers, of which this is supposed to be the incident, if the framers of the Constitution, wise and thoughtful men as they were, intended to confer on Congress the power over a subject so wide as the whole field of internal improvements, it is remarkable that they did not use language clearly to express it; or, in other words, that they did not give it as a distinct and substantive power, instead of making it the implied incident of some other one. For such is the magnitude of the supposed incidental power and its capacity of expansion, that any system established under it would exceed each or the others, in the amount of expenditure and number of the persons employed, which would thus be thrown upon the general government.

This position may be illustrated by taking, as a single example, one of the many things comprehended clearly in the idea of "a general system of internal improvements," namely, roads. Let it be supposed that the power to construct roads over the whole Union, according to the suggestion of President J. Q. Adams, in 1807, whilst a member of the Senate of the United States, had been conceded. Congress would have begun, in pursuance of the state of knowledge at the time, by constructing turnpikes. Then, as knowledge advanced, it would have constructed canals; and at the present time, it would have been embarked in an almost limitless scheme of railroads.

Now, there are in the United States, the results of state or private enterprise, upwards of 17,000 miles of railroads, and 5000 miles of canals, in all 22,000 miles, the total cost of which may be estimated at little short of six hundred millions of dollars;—and if the same works had been constructed by the federal government, supposing the thing to have been practicable, the cost would have probably been not less than nine hundred millions of dollars. The number of persons employed in superintending, managing, and keeping up these canals and railroads, may be stated at one one hundred and twenty-six thousand, or thereabouts; to which are to be added seventy thousand or eighty thousand employed on the railroads in construction, making a total of at least two hundred thousand persons, representing in families nearly a million of souls, employed on or maintained by this one class of public works in the United States.

In view of all this, it is not easy to estimate the disastrous consequences which must have resulted from such extended local improvements being undertaken by the general government. State legislation upon this subject would have been suspended, and private enterprise paralyzed, while applications for appropriations would have perverted the legislation of Congress, exhausted the national treasury, and left the people burdened with a heavy public debt, beyond the capacity of generations to discharge.

Is it conceivable that the framers of the Constitution intended that authority, drawing after it such immense consequences, should be inferred by implication as the incident of enumerated powers? I cannot think this; and the impossibility of supposing it would be still more glaring, if similar calculations were carried out in regard to the numerous objects of material, moral, and political usefulness, of which the idea of internal improvement admits. It may be safely inferred, that if the framers of the Constitution had intended to confer the power to make appropriations for the objects indicated, it would have been enumerated among the grants expressly made to Congress. When, therefore, any one of the powers actually enumerated is adduced or referred to, as the ground of an assumption to warrant the incidental or implied power of "internal improvement," that hypothesis must be rejected, or at least can be no further admitted than as the particular act of internal improvement may happen to be necessary to the exercise of the granted power. Thus, when the object of a given road, the clearing of a particular channel, or the construction of a particular harbor of refuge, is manifestly required by the exigencies of the naval or military service of the country, then it seems to me undeniable that it may be constitutionally comprehended in the powers to declare war, to provide and maintain a navy, and to raise and support armies. At the same time, it would be a misuse of these powers, and a violation of the Constitution, to undertake to build upon them a great system of internal improvements. And similar reasoning applies to the assumption of any such power as involved in that to establish postroads and to regulate commerce. If the particular improvement, whether by land or sea, be necessary to the execution of the enumerated powers, then, but not otherwise, it falls within the jurisdiction of Congress. To this extent only can the power be claimed as the incident of any express grant to the federal government.

But there is one clause of the Constitution in which it has been suggested that express authority to construct works of internal improvement has been conferred on Congress, namely, that which empowers it "to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and *other needful buildings*." But any such supposition will be seen to be groundless, when this provision is carefully examined,

and compared with other parts of the Constitution.

It is undoubtedly true that "like authority" refers back to "exclusive legislation in all cases whatever," as applied to the District of Columbia; and there is, in the district, no division of powers as between the general and the state governments.

In those places which the United States has purchased or retains within any of the states —sites for dock-yards or forts, for example— legal process of the given state is still permitted to run for some purposes, and therefore the jurisdiction of the United States is not absolutely perfect. But let us assume, for the argument's sake, that the jurisdiction of the United States in a tract of land ceded to it for the purpose of a dock-yard or fort, by Virginia or Maryland, is as complete as in that ceded by them for the seat of government, and then proceed to analyze this clause of the Constitution.

It provides that Congress shall have certain legislative authority over all places purchased by the United States for certain purposes. It implies that Congress has otherwise the power to purchase. But where does Congress get the power to purchase? Manifestly it must be from some other clause of the Constitution, for it is not conferred by this one. Now, as it is a fundamental principle that the Constitution is one of limited powers, the authority to purchase must be conferred in one of the enumerations of legislative power. So that the power to purchase is itself not an unlimited one, but is limited by the objects in regard to which legislative authority is directly conferred.

The other expressions of the clause in question confirm this conclusion, since the jurisdiction is given as to places purchased for certain enumerated objects or purposes. Of these, the first great division, forts, magaziues, arsenals, and dock-yards, are obviously referable to recognised heads of specific constitutional power. There remains only the phrase "and other *needful* buildings." Wherefore needful? Needful for any possible purpose within the whole range of the business of society and of government? Clearly not; but only such "buildings" as are "needful" to the United States in the exercise of any of the powers conferred on Congress.

Thus the United States need, in the exercise of admitted powers, not only forts, magazines, arsenals, and dock-yards, but also court-houses, prisons, custom-houses, and post-offices, within the respective states. Places for the erection of such buildings the general government may constitutionally purchase, and, having purchased them, the jurisdiction over them belongs to the United States. So, if the general government has the power to build a light-house or a beacon, it may purchase a place for that object; and having purchased it, then this clause of the Constitution gives jurisdiction over it. Still the power to purchase for the purpose of erecting a light-house or beacon must depend on the existence of the power to erect; and if that power exists, it must be sought after in some other clause of the Constitution.

From whatever point of view, therefore, the subject is regarded, whether as a question of express or implied power, the conclusion is the same, that Congress has no constitutional authority to carry on a system of internal improvements; and in this conviction the system has been steadily opposed by the soundest expositors of the functions of the government.

It is not to be supposed that in no conceivable case shall there be doubt as to whether a given object be, or not, a necessary incident of the military, naval, or any other power. As man is imperfect, so are his methods of uttering his thoughts. Human language, save in expressions for the exact sciences, must always fail to preclude all possibility of controversy. Hence it is that, in one branch of the subject —the question of the power of Congress to make appropriations in aid of navigation— there is less of positive conviction than in regard to the general subject; and it, therefore, seems proper, in this respect, to revert to the history of the practice of the government.

Among the very earliest acts of the first session of Congress, was that for the establishment and support of light-houses, approved by President Washington on the 7th of August, 1789, which contains the following provisions:—

"That all expenses which shall accrue, from and after the fifteenth day of August, one thousand seven hundred and eighty-nine, in the necessary support, maintenance, and repairs of all light-houses, beacons, buoys, and public piers, erected, placed, or sunk before the passing of this act, at the entrance of or within any bay, inlet, harbor, or port of the United States, for rendering the navigation thereof easy and safe, shall be defrayed out of the treasury of the United States: *Provided, nevertheless,* That none of the said expenses shall continue to be so defrayed after the expiration of one year from the day aforesaid, unless such light-houses, beacons, buoys, and public piers shall, in the mean time, be ceded to and vested in the United States, by the state or states, respectively, in which the same may be, together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same."

Acts containing appropriations for this class of public works were passed in 1791, 1792, 1793, and so on, from year to year, down to the present time; and the tenor of these acts, when examined with reference to other parts of the subject, is worthy of special consideration.

It is a remarkable fact that, for a period of more than thirty years after the adoption of the Constitution, all appropriations of this class were confined, with scarcely an apparent exception, to the construction of light-houses, beacons, buoys, and public piers, and the stakeage of channels;—to render naviga-

tion "safe and easy," it is true, but only by indicating to the navigator obstacles in his way, not by removing those obstacles, nor in any other respect changing artificially the pre-existing natural condition of the earth and sea. It is obvious, however, that works of art for the removal of natural impediments to navigation, or to prevent their formation, or for supplying harbors where these do not exist, are also means of rendering navigation safe and easy; and may, in supposable cases, be the most efficient, as well as the most economical, of such means. Nevertheless, it is not until the year 1824 that, in an act to improve the navigation of the rivers Ohio and Mississippi, and in another act making appropriations for deepening the channel leading into the harbor of Presque Isle, on Lake Erie, and for repairing Plymouth beach, in Massachusetts Bay, we have any example of an appropriation for the improvement of harbors, in the nature of those provided for in the bill returned by me to the House of Representatives.

It appears not probable that the abstinence of Congress in this respect is attributable altogether to considerations of economy, or to any failure to perceive that the removal of an obstacle to navigation might be not less useful than the indication of it for avoidance; and it may be well assumed that the course of legislation, so long pursued, was induced, in whole or in part, by solicitous consideration in regard to the constitutional power over such matters vested in Congress.

One other peculiarity in this course of legislation is not less remarkable. It is, that when the general government first took charge of light-houses and beacons, it required the works themselves, and the lands on which they were situated, to be ceded to the United States. And although for a time this precaution was neglected in the case of new works, in the sequel it was provided by general laws that no light-house should be constructed on any site previous to the jurisdiction over the same being ceded to the United States.

Constitutional authority for the construction and support of many of the public works of this nature, it is certain, may be found in the power of Congress to maintain a navy and provide for the general defence; but their number, and, in many instances, their location, preclude the idea of their being fully justified as necessary and proper incidents of that power. And they do not seem susceptible of being referred to any other of the specific powers vested in Congress by the Constitution, unless it be that to raise revenue, in so far as this relates to navigation. The practice under all my predecessors in office, the express admissions of some of them, and absence of denial by any, sufficiently manifest their belief that the power to erect light-houses, beacons, and piers, is possessed by the general government. In the acts of Congress, as we have already seen, the inducement and object of the appropriations are expressly declared: those appropriations being for "light-houses, beacons, buoys, and public piers" erected or placed "within any bay, inlet, harbor, or port of the United States for rendering the navigation thereof easy and safe."

If it be contended that this review of the history of appropriations of this class leads to the inference, that, beyond the purposes of national defence and maintenance of a navy, there is authority in the Constitution to construct certain works in aid of navigation, it is at the same time to be remembered that the conclusions thus deduced from cotemporaneous construction and long-continued acquiescence are themselves directly suggestive of limitations of constitutionality, as well as expediency, regarding the nature and the description of those aids to navigation which Congress may provide as incident to the revenue power. For, at this point controversy begins, not so much as to the principle as to its application.

In accordance with long-established legislative usage, Congress may construct light-houses and beacons, and provide, as it does, other means to prevent shipwrecks on the coasts of the United States. But the general government cannot go beyond this, and make improvements of rivers and harbors of the nature, and to the degree, of all the provisions of the bill of the last session of Congress.

To justify such extended power, it has been urged that, if it be constitutional to appropriate money for the purpose of pointing out, by the construction of light-houses or beacons, where an obstacle to navigation exists, it is equally so to remove such obstacle, or to avoid it by the creation of an artificial channel; that if the object be lawful, then the means adopted solely with reference to the end must be lawful, and that therefore it is not material, constitutionally speaking, whether a given obstruction to navigation be indicated for avoidance, or be actually avoided by excavating a new channel; that if it be a legitimate object of expenditure to preserve a ship from wreck, by means of a beacon, or of revenue cutters, it must be not less so to provide places of safety by the improvement of harbors, or, where none exist, by their artificial construction; and thence the argument naturally passes to the propriety of improving rivers for the benefit of internal navigation: because all these objects are of more or less importance to the commercial, as well as the naval, interests of the United States.

The answer to all this is, that the question of opening speedy and easy communication to and through all parts of the country is substantially the same, whether done by land or water; that the uses of roads and canals, in facilitating commercial intercourse, and uniting by community of interests the most remote quarters of the country by land communication, are the same in their nature as the uses of navigable waters; and that, therefore, the question of the facilities and aids to be provided to navigation, by whatsoever means, is

but a subdivision of the great question of the constitutionality and expediency of internal improvements by the general government. In confirmation of this, it is to be remarked, that one of the most important acts of appropriation of this class, that of the year 1833, under the administration of President Jackson, by including together and providing for, in one bill, as well river and harbor works, as road works, impliedly recognises the fact that they are alike branches of the same great subject of internal improvements.

As the population, territory, and wealth of the country increased, and settlements extended into remote regions, the necessity for additional means of communication impressed itself upon all minds with a force which had not been experienced at the date of the formation of the Constitution, and more and more embarrassed those who were most anxious to abstain, scrupulously, from any exercise of doubtful power. Hence the recognition, in the messages of Presidents Jefferson, Madison, and Monroe, of the eminent desirableness of such works, with admission that some of them could lawfully and should be conducted by the general government, but with obvious uncertainty of opinion as to the line between such as are constitutional and such as are not; such as ought to receive appropriations from Congress, and such as ought to be consigned to private enterprise, or the legislation of the several states.

This uncertainty has not been removed by the practical working of our institutions in later times; for although the acquisition of additional territory, and the application of steam to the propulsion of vessels, have greatly magnified the importance of internal commerce, this fact has, at the same time, complicated the question of the power of the general government over the present subject.

In fine, a careful review of the opinions of all my predecessors, and of the legislative history of the country, does not indicate any fixed rule by which to decide what, of the infinite variety of possible river and harbor improvements, are within the scope of the power delegated by the Constitution; and the question still remains unsettled. President Jackson conceded the constitutionality, under suitable circumstances, of the improvement of rivers and harbors through the agency of Congress; and President Polk admitted the propriety of the establishment and support, by appropriations from the treasury, of light-houses, beacons, buoys, and other improvements, within the bays, inlets, and harbors of the ocean and lake coasts immediately connected with foreign commerce.

But, if the distinction thus made rests upon the differences between foreign and domestic commerce, it cannot be restricted thereby to the bays, inlets, and harbors of the oceans and lakes, because foreign commerce has already penetrated thousands of miles into the interior of the continent by means of our great rivers, and will continue so to extend itself with the progress of settlement, until it reaches the limit of navigability.

At the time of the adoption of the Constitution, the vast valley of the Mississippi, now teeming with population, and supplying almost boundless resources, was literally an unexplored wilderness. Our advancement has outstripped even the most sanguine anticipations of the fathers of the republic; and it illustrates the fact, that no rule is admissible which undertakes to discriminate, so far as regards river and harbor improvements, between the Atlantic or Pacific coasts, and the great lakes and rivers of the interior regions of North America. Indeed, it is quite erroneous to suppose that any such discrimination has ever existed in the practice of the government. To the contrary of which, is the significant fact before stated, that when, after abstaining from all such appropriations for more than thirty years, Congress entered upon the policy of improving the navigation of rivers and harbors, it commenced with the rivers Mississippi and Ohio.

The Congress of the Union, adopting, in this respect, one of the ideas of that of the Confederation, has taken heed to declare, from time to time, as occasion required, either in acts for disposing of the public lands in the territories, or in acts for admitting new states, that all navigable rivers within the same "shall be deemed to be and remain public highways."

Out of this condition of things arose a question which, at successive periods of our public annals, has occupied the attention of the best minds in the Union. This question is, what waters are public navigable waters so as not to be of state character and jurisdiction, but of federal jurisdiction and character, in the intent of the Constitution and of Congress? A proximate, but imperfect, answer to this important question is furnished by the acts of Congress and the decisions of the Supreme Court of the United States, defining the constitutional limits of the maritime jurisdiction of the general government. That jurisdiction is entirely independent of the revenue power. It is not derived from that, nor is it measured thereby.

In that act of Congress which, in the first year of the government, organized our judicial system, and which, whether we look to the subject, the comprehensive wisdom with which it was treated, or the deference with which its provisions have come to be regarded, is only second to the Constitution itself,—there is a section in which the statesmen who framed the Constitution have placed on record their construction of it in this matter. It enacts that the District Courts of the United States "shall have exclusive cognisance of all civil cases of admiralty and maritime jurisdiction, including all seizures under the law of impost, navigation, or trade of the United States, when the seizures are made on waters which are navigable from the sea by vessels of ten or more tons burden, within their respective districts, as well as upon the high seas." In this cotem-

poraneous exposition of the Constitution, there is no trace of suggestion, that nationality of jurisdiction is limited to the sea, or even to tidewaters. The law is marked by a sagacious apprehension of the fact that the great lakes and the Mississippi were navigable waters of the United States even then, before the acquisition of Louisiana had made wholly our own the territorial greatness of the west. It repudiates, unequivocally, the rule of the common law, according to which the question of whether a water is public navigable water or not, depends on whether it is salt or not, and therefore, in a river, confines that quality to tidewater: a rule resulting from the geographical condition of England, and applicable to an island with small and narrow streams, the only navigable portion of which, for ships, is in immediate contact with the ocean, but wholly inapplicable to the great inland freshwater seas of America, and its mighty rivers, with secondary branches exceeding in magnitude the largest rivers of Great Britain.

At a later period, it is true, that, in disregard of the more comprehensive definition of navigability afforded by that act of Congress, it was for a time held by many, that the rule established for England was to be received in the United States; the effect of which was to exclude from the jurisdiction of the general government, not only the waters of the Mississippi, but also those of the great lakes. To this construction it was with truth objected, that, in so far as concerns the lakes, they are in fact seas, although of fresh water; that they are the natural marine communications between a series of populous states, and between them and the possessions of a foreign nation; that they are actually navigated by ships of commerce of the largest capacity; that they had once been, and might again be, the scene of foreign war; and that therefore it was doing violence to all reason to undertake, by means of an arbitrary doctrine of technical foreign law, to exclude such waters from the jurisdiction of the general government. In regard to the river Mississippi, it was objected that, to draw a line across that river at the point of ebb and flood of tide, and say that the part below was public navigable water, and the part above not, while in the latter the water was at least equally deep and navigable, and its commerce as rich as in the former, with numerous ports of foreign entry and delivery, was to sanction a distinction artificial and unjust, because regardless of the real fact of navigability.

We may conceive that some such considerations led to the enactment, in the year 1845, of an act, in addition to that of 1789, declaring that "the District Courts of the United States shall have, possess, and exercise the same jurisdiction in matters of contract and tort, arising in, upon, or concerning steamboats, and other vessels of twenty tons burden and upwards, enrolled and licensed for the coasting trade, and at the time employed in business of commerce and navigation between ports and places in different states and territories upon the lakes, and navigable waters connecting said lakes, as is now possessed and exercised by the said courts in cases of the like steamboats and other vessels employed in navigation and commerce upon the high seas or tidewaters, within the admiralty and jurisdiction of the United States.

It is observable that the act of 1789 applies the jurisdiction of the United States to all "waters which are navigable from the sea" for vessels of ten tons burden; and that of 1845 extends the jurisdiction to enrolled vessels of twenty tons burden, on the lakes, and navigable waters connecting said lakes, though not waters navigable from the sea, provided such vessels be employed between places in different states and territories.

Thus it appears that these provisions of law, in effect, prescribe conditions by which to determine whether any waters are public navigable waters, subject to the authority of the federal government. The conditions include all waters, whether salt or fresh, and whether of sea, lake, or river, provided they be capable of navigation by vessels of a certain tonnage, and for commerce, either between the United States and foreign countries, or between any two or more of the states or territories of the Union. This excludes water wholly within any particular state, and not used as the means of commercial communication with any other state, and subject to be improved or obstructed, at will, by the state within which it may happen to be.

The constitutionality of these provisions of statute has been called in question. Their constitutionality has been maintained, however, by repeated decisions of the Supreme Court of the United States, and they are, therefore, the law of the land by the concurrent act of the legislative, the executive, and the judicial departments of the government. Regarded as affording a criterion of what is navigable water, and as such subject to the maritime jurisdiction of the Supreme Court and of Congress, these acts are objectionable in this, that the rule of navigability is an arbitrary one; that Congress may repeal the present rule, and adopt a new one; and that thus a legislative definition will be able to restrict or enlarge the limits of constitutional power. Yet this variableness of standard seems inherent in the nature of things. At any rate, neither the first Congress, composed of the statesmen of the era when the Constitution was adopted, nor any subsequent Congress, has afforded us the means of attaining greater precision of construction as to this part of the Constitution.

This reflection may serve to relieve from undeserved reproach an idea of one of the greatest men of the republic, President Jackson. He, seeking amid all the difficulties of the subject for some practical rule of action in regard to appropriations for the improvement of rivers and harbors, prescribed for his own official conduct the rule of confining such appropriations to "places below the ports of

entry or delivery established by law." He saw clearly, as the authors of the above-mentioned acts of 1789 and 1845 did, that there is no inflexible natural line of discrimination between what is national and what local, by means of which to determine absolutely and unerringly at what point on a river the jurisdiction of the United States shall end. He perceived, and of course admitted, that the Constitution, while conferring on the general government some power of action to render navigation safe and easy, had of necessity left to Congress much of discretion in this matter. He confided in the patriotism of Congress to exercise that discretion wisely, not permitting himself to suppose it possible that a port of entry or delivery would ever be established by law for the express and only purpose of evading the Constitution.

It remains, therefore, to consider the question of the measure of discretion in the exercise by Congress of the power to provide for the improvement of rivers and harbors, and also that of the legitimate responsibility of the executive in the same relation.

In matters of legislation of the most unquestionable constitutionality, it is always material to consider what amount of public money shall be appropriated for any particular object. The same consideration applies with augmented force to a class of appropriations which are in their nature peculiarly prone to run to excess, and which, being made in the exercise of incidental powers, have intrinsic tendency to overstep the bounds of constitutionality.

If an appropriation for improving the navigability of a river, or deepening or protecting a harbor, have reference to military or naval purposes, then its rightfulness, whether in amount or in the objects to which it is applied, depends, manifestly, on the military or naval exigency; and the subject-matter affords its own measure of legislative discretion. But if the appropriation for such an object have no distinct relation to the military or naval wants of the country, and is wholly, or even mainly, intended to promote the revenue from commerce, then the very vagueness of the proposed purpose of the expenditure constitutes a perpetual admonition of reserve and caution. Through disregard of this, it is undeniable that, in many cases, appropriations of this nature have been made unwisely, without accomplishing beneficial results commensurate with the cost, and sometimes for evil, rather than good, independently of their dubious relation to the Constitution.

Among the radical changes of the course of legislation in these matters, which, in my judgment, the public interest demands, one is a return to the primitive idea of Congress, which required in this class of public works, as in all others, a conveyance of the soil, and a cession of the jurisdiction to the United States. I think this condition ought never to have been waived in the case of any harbor improvement of a permanent nature, as where piers, jettees, sea-walls, and other like works are to be constructed and maintained. It would powerfully tend to counteract endeavors to obtain appropriations of a local character, and chiefly calculated to promote individual interests. The want of such a provision is the occasion of abuses in regard to existing works, exposing them to private encroachment without sufficient means of redress by law. Indeed the absence, in such cases, of a cession of jurisdiction, has constituted one of the constitutional objections to appropriations of this class. It is not easy to perceive any sufficient reason for requiring it in the case of arsenals or forts, which does not equally apply to all other public works; if to be constructed and maintained by Congress in the exercise of a constitutional power of appropriation, they should be brought within the jurisdiction of the United States.

There is another measure of precaution, in regard to such appropriations, which seems to me to be worthy of the consideration of Congress. It is, to make appropriation for every work in a separate bill, so that each one shall stand on its own independent merits; and if it pass, shall do so under circumstances of legislative scrutiny, entitling it to be regarded as of general interest, and a proper subject of charge on the treasury of the Union.

During that period of time in which the country had not come to look to Congress for appropriations of this nature, several of the states, whose productions or geographical position invited foreign commerce, had entered upon plans for the improvement of their harbors by themselves, and through means of support drawn directly from that commerce, in virtue of an express constitutional power, needing for its exercise only the permission of Congress. Harbor improvements thus constructed and maintained, the expenditures upon them being defrayed by the very facilities they afford, are a voluntary charge on those only who see fit to avail themselves of such facilities, and can be justly complained of by none. On the other hand, so long as these improvements are carried on by appropriations from the treasury, the benefits will continue to inure to those alone who enjoy the facilities afforded, while the expenditure will be a burden upon the whole country, and the discrimination a double injury to places equally requiring improvement, but not equally favored by appropriations.

These considerations, added to the embarrassments of the whole question, amply suffice to suggest the policy of confining appropriations by the general government to works necessary to the execution of its undoubted powers, and of leaving all others to individual enterprise, or to the separate states, to be provided for out of their own resources, or by recurrence to the provision of the Constitution, which authorizes the states to lay duties of tonnage with the consent of Congress.

FRANKLIN PIERCE.

Washington, Dec. 30, 1854.

Road Bill.

GENERAL JACKSON'S VETO OF THE MAYSVILLE ROAD BILL.

OBJECTIONS of the President of the United States on returning to the House of Representatives the enrolled bill entitled "An act authorizing a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company."

The act which I am called upon to consider, has been passed with a knowledge of my views on this question, and these are expressed in the message referred to. In that document the following suggestion will be found:—

"After the extinction of the public debt, it is not probable that any adjustment of the tariff, upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the government without a considerable surplus in the treasury, beyond what may be required for its current service. As then the period approaches when the application of the revenue to the payment of debt will cease, the disposition of the surplus will present a subject for the serious deliberation of Congress; and it may be fortunate for the country that it is yet to be decided. Considered in connexion with the difficulties which have heretofore attended appropriations for purposes of internal improvement, and with those which this experience tells us will certainly arise, whenever power over such subjects may be exercised by the general government; it is hoped that it may lead to the adoption of some plan which will reconcile the diversified interests of the states, and strengthen the bonds which unite them. Every member of the Union, in peace and in war, will be benefited by the improvement of inland navigation and the construction of highways in the several states. Let us then endeavor to attain this benefit in a mode which will be satisfactory to all. That hitherto "adopted has been deprecated as an infraction of the Constitution by many of our fellow citizens; while by others it has been viewed as inexpedient. All feel that it has been employed at the expense of harmony in the legislative councils;" and adverting to the constitutional power of Congress to make what I consider a proper disposition of the surplus revenue, I subjoin the following remarks: "To avoid these evils, it appears to me that the most safe, just, and federal disposition which could be made of the surplus revenue, would be its apportionment among the several states according to their ratio of representation; and should this measure not be found warranted by the Constitution, that it would be expedient to propose to the states an amendment authorizing it."

The constitutional power of the federal government to construct or promote works of internal improvement, presents itself in two points of view: the first, as bearing upon the sovereignty of the states within whose limits their execution is contemplated, if jurisdiction of the territory which they may occupy, be claimed as necessary to their preservation and use: the second, as asserting the simple right to appropriate money from the national treasury in aid of such works when undertaken by state authority, surrendering the claim of jurisdiction. In the first view, the question of power is an open one, and can be decided without the embarrassment attending the other, arising from the practice of the government.

Although frequently and strenuously attempted, the power, to this extent, has never been exercised by the government in a single instance. It does not, in my opinion, possess it, and no bill, therefore, which admits it, can receive my official sanction.

But, in the other view of the power, the question is differently situated. The ground taken at an early period of the government, was, "that whenever money has been raised by the general authority, and is to be applied to a particular measure, a question arises, whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it may be applied to it; if not, no such application can be made." The document in which this principle was first advanced is of deservedly high authority, and should be held in grateful remembrance for its immediate agency in rescuing the country from much existing abuse, and for its conservative effect upon some of the most valuable principles of the Constitution. The symmetry and purity of the government would, doubtless, have been better preserved, if this restriction of the power of appropriation could have been maintained without weakening its ability to fulfil the general objects of its institution: an effect so likely to attend its admission, notwithstanding its apparent fitness, that every subsequent administration of the government, embracing a period of thirty out of the forty-two years of its existence, has adopted a more enlarged construction of the power. * * *

In the administration of Mr. Jefferson we have two examples of the exercise of the right of appropriation, which, in the consideration that led to their adoption and in their effects upon the public mind, have had a greater agency in marking the character of the power, than any subsequent events. I allude to the payment of fifteen millions of dollars for the purchase of Louisiana, and to the original appriation for the construction of the Cumberland Road; the latter act deriving much weight from the acquiescence and approbation of three of the most powerful of the original members of the confederacy, expressed through their respective legislatures. Although the circumstances of the latter case may be such as to deprive so much of it as relates to the actual construction of the road, of the force of an obligatory exposition of the Constitution, it must, nevertheless, be admitted that, so far as the mere appropriation of

money is concerned, they present the principle in its most imposing aspect. No less than twenty-three different laws have been passed through all the forms of the Constitution, appropriating upwards of two millions of dollars out of the national treasury in support of that improvement, with the approbation of every President of the United States, including my predecessor, since its commencement. * * *

Independently of the sanction given to appropriations for the Cumberland and other roads and objects, under this power, the administration of Mr. Madison was characterized by an act which furnishes the strongest evidence of his opinion of its extent. A bill was passed through both houses of Congress, and presented for his approval, "setting apart and pledging certain funds for constructing roads and canals, and improving the navigation of watercourses, in order to facilitate, promote, and give security to internal commerce among the several states; and to render more easy, and less expensive, the means and provisions for the common defence." Regarding the bill as asserting a power in the federal government to construct roads and canals within the limits of the states in which they were made, he objected to its passage, on the ground of its unconstitutionality, declaring that the assent of the respective states, in the mode provided by the bill, could not confer the power in question; that the only cases in which the consent and cession of particular states can extend the power of Congress, are those specified and provided for in the Constitution; and superadding to these avowals, his opinion, that "a restriction of the power 'to provide for the common defence and general welfare,' to cases which are to be provided for by the expenditure of money, would still leave within the legislative power of Congress, all the great and most important measures of government, money being the ordinary and necessary means of carrying them into execution." I have not been able to consider these declarations in any other point of view, than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended.

The views of Mr. Monroe upon this subject, were not left to inference. During his administration a bill was passed through both Houses of Congress, conferring the jurisdiction and prescribing the mode by which the federal government should exercise it in the case of the Cumberland Road. He returned it with objections to its passage, and in assigning them, took occasion to say, that in the early stages of the government, he had inclined to the construction that it had no right to expend money, except in the performance of acts authorized by the other specific grants of power, according to a strict construction of them; but that, on further reflection and observation, his mind had undergone a change; that his opinion then was, "that Congress have unlimited power to raise money, and that, in its appropriation, they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defence, and of general, not local, national, nor state benefit;" and this was avowed to be the governing principle through the residue of his administration. The views of the last administration are of such recent date as to render a particular reference to them unnecessary. It is well known that the appropriating power, to the utmost extent which had been claimed for it, in relation to internal improvements, was fully recognised and exercised by it.

This brief reference to known facts, will be sufficient to show the difficulty, if not impracticability, of bringing back the operations of the government to the construction of the Constitution set up in 1798, assuming that to be its true reading, in relation to the power under consideration: thus giving an admonitory proof of the force of implication, and the necessity of guarding the Constitution with sleepless vigilance, against the authority of precedents which have not the sanction of its most plainly defined powers. For, although it is the duty of all to look to that sacred instrument, instead of the statute book, to repudiate at all times, encroachments upon its spirit, which are too apt to be effected by the conjecture of peculiar and facilitating circumstances; it is not less true, that the public good and the nature of our political institutions require, that individual differences should yield to a well settled acquiescence of the people and confederated authorities, in particular constructions of the Constitution on doubtful points. Not to concede this much to the spirit of our institutions, would impair their stability, and defeat the objects of the Constitution itself.

The bill before me does not call for a more definite opinion upon the particular circumstances which will warrant appropriations of money by Congress, to aid works of internal improvement, for although the extension of the power to apply money beyond that of carrying into effect the object for which it is appropriated, has, as we have seen, been long claimed and exercised by the federal government, yet such grants have always been professedly under the control of the general principle, that the works which might be thus aided, should be "of a general, not local—national, not state" character. A disregard of this distinction would of necessity lead to the subversion of the federal system. That even this is an unsafe one, arbitrary in its nature, and liable, consequently, to great abuses, is too obvious to require the confirmation of experience. It is, however, sufficiently definite and imperative to my mind, to forbid my approbation of any bill having the character of the one under consideration. I have given its provisions all the reflection demanded by a just regard for the interests of those of our fellow-citizens who have desired its passage, and by the respect which is due to a co-ordinate branch of the government, but I am not

able to view it in any other light than as a measure of purely local character; or if it can be considered national, that no further distinction between the appropriate duties of the general and state government, need be attempted; for there can be no local interest that may not with equal propriety be denominated national. It has no connexion with any established system of improvements; is exclusively within the limits of a state, starting at a point on the Ohio river, and running out sixty miles to an interior town; and even as far as the state is interested, conferring partial instead of general advantages. * * *

In the other view of the subject, and the only remaining one which it is my intention to present at this time, is involved the expediency of embarking in a system of internal improvement, without a previous amendment of the Constitution, explaining and defining the precise powers of the federal government over it: assuming the right to appropriate money, to aid in the construction of national works, to be warranted by the cotemporaneous and continued exposition of the Constitution, its insufficiency for the successful prosecution of them, must be admitted by all candid minds. If we look to usage to define the extent of the right, that will be found so variant, and embracing so much that has been overruled, as to involve the whole subject in great uncertainty, and to render the execution of our respective duties in relation to it, replete with difficulty and embarrassment. It is in regard to such works, and the acquisition of additional territory, that the practice obtained its first footing. In most, if not all other disputed questions of appropriation, the construction of the Constitution may be regarded as unsettled, if the right to apply money, in the enumerated cases, is placed on the ground of usage. * * *

If it be the desire of the people that the agency of the federal government should be confined to the appropriation of money, in aid of such undertakings, in virtue of the state authorities, then the occasion, the manner, and the extent of the appropriations, should be made the subject of constitutional regulation. This is the more necessary, in order that they may be equitable among the several states; promote harmony between different sections of the Union and their representatives; preserve other parts of the Constitution from being undermined by the exercise of doubtful powers, or the too great extension of those which are not so, and protect the whole subject against the deleterious influence of combinations to carry, by concert, measures which, considered by themselves, might meet but little countenance.

That a constitutional adjustment of this power, upon equitable principles, is, in the highest degree, desirable, can scarcely be doubted; nor can it fail to be promoted by every sincere friend to the success of our political institutions. In no government are appeals to the source of power, in cases of real doubt, more suitable than in ours. No good motive can be assigned for the exercise of power by the constituted authorities, while those, for whose benefit it is to be exercised, have not conferred it, and may not be willing to confer it. It would seem to me that an honest application of the conceded powers of the general government to the advancement of the common weal, present a sufficient scope to satisfy a reasonable ambition. The difficulty and supposed impracticability of obtaining an amendment of the Constitution in this respect, is, I firmly believe, in a great degree, unfounded. * * *

In presenting these opinions I have spoken with the freedom and candor which I thought the occasion for their expression called for, and now respectfully return the bill which has been under consideration for your further deliberation and judgment.

May 27, 1830. ANDREW JACKSON.

Scott, Winfield.

ON NATIVE AMERICANISM.

Washington, November 10, 1841.

Dear Sir: I have the honor to acknowledge your letter of the 8th inst., written, as you are pleased to add, in behalf of several hundred Native American Republicans of Philadelphia.

Not confidentially, but not for publication, I have already replied to a letter from David M. Stone, Esq., of your city, on the same subject. I will write to you in like manner, and in haste. This is the month when the pressure of official business is heaviest with me—leaving scarcely time for sleep or exercise. I must not, however, wholly neglect your communication.

Should any considerable number of my fellow-countrymen assign me, or desire to give me, a prominent position before the public, I shall take time to methodize my views on the great questions you have proposed. Those views have their origin in the stormy elections of the spring of 1835, and were confirmed in the week that the Harrison electors were chosen in New York. On both occasions I was in that city, and heard in the streets, "Down with the natives." It was heard in almost every group of foreigners, as the signal for rallying and outrage.

Fired with indignation, two friends sat down with me in my parlor at the Astor House (November, 1840), to draw up an address, designed to rally an American party.

The day after the election I set out for the South, and have never known precisely why our appeal was not published. Probably the election of General Harrison rendered the publication at that time unnecessary in the opinion of my two friends.

I now hesitate between extending the period of residence before naturalization, and a total repeal of all acts of Congress on the subject—my mind inclines to the latter.

Concurring fully in the principles of the Philadelphia movement, I should prefer assuming the name of American Republican, as

in New York, or Democratic Americans, as I should respectfully suggest. Brought up in the principles of the Revolution—of Jefferson, Madison, &c.—under whom in youth I commenced life, I have always been called, I have ever professed myself, a Republican, or Whig, which with me was the same thing. Democratic Americans would include all good native citizens devoted to our country and institutions; would not drive from us naturalized citizens who by long residence have become identified with us in feeling and interest.

I am happy to see by the Philadelphia National American, that religion is to be excluded as a party element. Staunch Protestant as I am, both by birth and conviction, I shall never consent to a party or state religion. Religion is too sacred to be mingled with either. It should always be kept between each individual and his God, except in the way of reason and gentle persuasion—as in family churches and other occasions of voluntary attendance (after years of discretion), or reciprocal consent.

Wishing success to the great work which you and other patriots have happily set on foot, I remain, with high respect, your fellow-citizen, WINFIELD SCOTT.

To George Washington Reed, Esq., and others, Philadelphia.

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Washington, May 29, 1848.

Dear Sir: In reply to your kind letter of the 8th instant, I take pleasure in saying that, grateful for the too partial estimate you place on my public services, you do me no more than justice in assuming that I entertain "kind and liberal views towards our naturalized citizens." Certainly, it would be impossible for me to recommend or support any measure intended to exclude them from a just and full participation in all civil and political rights now secured to them by our republican laws and institutions. It is true that in a season of unusual excitement, some years ago, when both parties complained of fraudulent practices in the naturalization of foreigners, and when there seemed to be danger that native and adopted citizens would be permanently arrayed against each other in hostile factions, I was inclined to concur in the opinion, then avowed by many leading statesmen, that some modification of the naturalization laws might be necessary in order to prevent abuses, allay strife, and restore harmony between the different classes of our people. But later experience and reflection have entirely removed this impression, and dissipated my apprehensions.

In my recent campaign in Mexico a very large proportion of the men under my command were your countrymen (Irish), Germans, &c., I witnessed with admiration their zeal, fidelity, and valor in maintaining our flag in the face of every danger. Vying with each other, and our native-born soldiers in the same ranks, in patriotism, constancy, and heroic daring, I was happy to call them brothers in the field, as I shall always be to salute them as countrymen at home.

I remain, dear sir, with great esteem, yours truly, WINFIELD SCOTT.

Wm. E. Robinson, Esq.

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LETTER OF ACCEPTANCE OF.

Washington, June 24, 1852.

Sir: I have had the honor to receive from your hands the official notice of my "unanimous nomination as the Whig candidate for the office of President of the United States," together with "a copy of the resolutions passed by the convention, expressing their opinions upon some of the most prominent questions of national policy."

This great distinction, conferred by a numerous, intelligent, and patriotic body, representing millions of my countrymen, sinks deep into my heart; and remembering that very eminent names which were before the convention in amicable competition with my own, I am made to feel oppressively the weight of responsibility belonging to my new position.

Not having written a word to procure this distinction, I lost not a moment, after it had been conferred, in addressing a letter to one of your members to signify what would be, at the proper time, the substance of my reply to the convention; and I now have the honor to repeat, in a more formal manner, as the occasion justly demands, that I accept the nomination, with the resolutions annexed.

The political principles and measures laid down in those resolutions are so broad that but little is left for me to add. I therefore barely suggest, in this place, that should I, by the partiality of my countrymen, be elevated to the chief magistracy of the Union, I shall be ready, in my connexion with Congress, to recommend or to approve of measures in regard to the management of the public domain so as to secure an early settlement of the same favorable to actual settlers, but consistent nevertheless with a due regard to the equal rights of the whole American people in that vast national inheritance; and also to recommend or approve of a single alteration in our naturalization laws, suggested by my military experience, viz.: giving to all foreigners the right of citizenship who shall faithfully serve in time of war one year on board of our public ships, or in our land forces, regular or volunteer, on their receiving an honorable discharge from the service.

In regard to the general policy of the administration, if elected, I should of course look among those who may approve that policy for the agents to carry it into execution; and I should seek to cultivate harmony and fraternal sentiments throughout the Whig party, without attempting to reduce its members by proscription to exact conformity to my own views. But I should, at the same time, be rigorous in regard to qualifications for office—retaining and appointing no one either deficient in capacity or integrity, or in devotion to liberty, to the Constitution and the Union.

Convinced that harmony and good-will be-

tween the different quarters of our broad country is essential to the present and future interests of the republic, and with a devotion to those interests that can know no South and no North, I should neither countenance nor tolerate any sedition, disorder, faction, or resistance to the law or the Union, on any pretext, in any part of the land; and I should carry into the civil administration this one principle of military conduct—obedience to the legislative and judicial departments of government, each in its constitutional sphere—saving only, in respect to the legislature, the possible resort to the veto power—always to be most cautiously exercised, and under the strictest restraints and necessities.

Finally, for my strict adherence to the principles of the Whig party as expressed in the resolutions of the convention, and herein suggested, with a sincere and earnest purpose to advance the greatness and happiness of the republic, and thus to cherish and encourage the cause of constitutional liberty throughout the world—avoiding every act and thought that might involve our country in an unjust or unnecessary war, or impair the faith of treaties, and discountenancing all political agitation injurious to the interests of society and dangerous to the Union—I can offer no other pledge or guarantee than the known incidents of a long public life, now undergoing the severest examination.

Feeling myself highly fortunate in my associate on the ticket, and with a lively sense of my obligations to the convention and to your personal courtesies, I have the honor to remain, sir, with great esteem, your most obedient servant, WINFIELD SCOTT.

To the Hon. J. G. Chapman, President of the Whig National Convention.

Secession, Right of.

THE convention of South Carolina, called by the legislature of that state, which convened at Columbia, the capital, on the 26th of April, 1852, adopted the following ordinance on the 30th of April:—

AN ORDINANCE TO DECLARE THE RIGHT OF THIS STATE TO SECEDE FROM THE FEDERAL UNION.

We the people of the state of South Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, That South Carolina, in the exercise of her sovereign will, as an independent state, acceded to the Federal Union, known as the United States of America; and that in the exercise of the same sovereign will, it is her right, without let, hindrance, or molestation from any power whatsoever, to secede from the said Federal Union; and that for the sufficiency of the causes which may impel her to such separation, she is responsible alone, under God, to the tribunal of public opinion among the nations of the earth.

Upon the motion to adopt the report, the yeas and nays were called for, ordered, and taken as follows:—

YEAS.—His Excellency John H. Means, President; Messrs. Aldrich, Allison, Alston, Appleby, Arthur, Atkinson, Barnwell, J. Bellinger, E. Bellinger, Jr., E. St. P. Bellinger, Bethea, Bobo, Bonham, Bookter, Bouknight, Bradwell, Brown, Buchanan, Burt, Butler, Cantey, Caughman, Cheves, Coit, Cook, Craig, Cuningham, Dantzler, Davant, David, DeSaussure, Doby, DuBose, B. F. Dunkin, DuPre, Elfe, Ellerbe, Elliott, English, J. J. Evans, W. Evans, Farrow, Finley, Frampton, Frost, Furman, Gadberry, Gladden, S. E. Graham, Gregg, Gramling, Grimball, Haigler, Hanna, Harllee, Harrison, Hayne, Haynsworth, Henderson, Higgins, Hope, Huger, Huguenin, I'On, Irby, Jamison, Johnson, A. C. Jones, James Jones, H. Jones, King, Kirk, Landrum, Lang, Law, Lehre, Livingston, Mackay, Magrath, E. Martin, J. Martin, J. C. Martin, Mason, R. A. Maxwell, J. Maxwell, Memminger, Mobley, Moon, McAliley, Macbeth, McBride, McIlwain, Nance, O'Bryan, Patterson, Peay, Perrin, Pickens, Poole, Porcher, Pressly, Read, Rhett, Rice, Richardson, Rivers, Rosborough, Russel, Ruth, Scaife, Schnierle, Scott, Seabrook, Sims, Spain, Sumter, Symmes, Trapier, Vaught, Wallace, Walker, D. L. Wardlaw, F. H. Wardlaw, Waring, Whaley, B. H. Wilson, Hugh Wilson, Jr., Whyte, Whitner, J. Williams, J. D. Williams, J. H. Williams, Winsmith, Wright, Young.—136.

NAYS.—Messrs. Adams, Brockman, Center, Charles, P. E. Duncan, Fripp, Gourdin, W. Graham, Hamilton, Latta, J. V. Martin, McBee, McCalla, McCrady, Owens, Palmer, Perry, Toomer, Trotti.—19.

MR. CALHOUN'S VIEWS RELATIVE TO SECESSION.

"That a state, as a party to the constitutional compact, has the right to secede—acting in the same capacity in which it ratified the Constitution—cannot, with any show of reason, be denied by any one who regards the Constitution as a compact—if a power should be inserted by the amending power, which would radically change the character of the Constitution, or the nature of the system; or if the former should fail to fulfil the ends for which it was established. This results, necessarily, from the nature of a compact—where the parties to it are sovereign; and, of course, have no higher authority to which to appeal. That the effect of secession would be to place her in the relation of a foreign state to the others, is equally clear. Nor is it less so, that it would make her (not her citizens individually) responsible to them in that character. All this results, necessarily, from the nature of a compact between sovereign parties."

The late Judge GASTON of N. C. thus treats of the subject:—

Threats of resistance, secession, separation, have become common as household words, in the wicked and silly violence of public declaimers. The public ear is familiarized and the public mind will soon be accustomed to the detestable suggestions of disunion. Calculations and conjectures—what may the East do without the South, and what may the South do without the East?—sneers, menaces, reproaches, and recriminations, all tend to the same fatal end. What can the East do without the South! What can the South do without the East! They may do much; they may exhibit to the curiosity of political antagonists, and the pity and wonder of the world, the "disjecta membra," the sundered bleeding limbs of a once gigantic body, instinct with life and strength, and vigor. They can furnish to the philosophic historian another melancholy and striking instance of political axiom, that all republican confederacies have an inherent and unavoidable tendency to dis-

solution. They will present fields and occasions for border wars, for leagues and counter leagues, for the intrigues of petty statesmen, the struggles of military chiefs, for confiscation, insurrections, and deeds of darkest hue. They will gladden the hearts of those who have proclaimed that men are not fit to govern themselves, and shed a disastrous eclipse on the hopes of rational freedom throughout the world. Solon in his code proposed no punishment for parricide, treating it as an impossible crime. Such, with us, ought to be the crime of political parricide—the dismemberment of our "fatherland."

Slade, William, of Vermont.

Resolution of.

In the House of Representatives, on the 3d day of January, 1843, Mr. Slade moved the following preamble and resolutions:—

"Whereas, by a law of the United States, framed on the 15th May, 1827, the foreign slave trade is declared to be piracy, and is made punishable by death; and whereas there is, and has long been, carried on in the District of Columbia, within sight of the halls of the two houses of Congress, and the residence of the Chief Executive Magistrate of the nation, a trade in men, involving all the principles of outrage on human rights which characterize the foreign slave trade, and which have drawn upon it the maledictions of the civilized world, and stigmatized those engaged in it as the enemies of the race; and whereas the trade thus existing in this District is aggravated in enormity by reason of its being carried on in the heart of a nation whose institutions are based upon the principle that all men are created equal, and whose laws have in effect proclaimed its great and superlative iniquity; aggravated, moreover, by its outrage on the sensibilities of a Christian community, by sundering the ties of christian brotherhood, and by the anguish of its remorseless violation of all the domestic relations, rendered the more deep and enduring by the hallowing influence of the Christian religion upon those relations and by the increase of strength which it gives to the domestic affections; and whereas this trade in human beings is carried on under the authority of laws enacted by the Congress of the United States, thereby involving the people of all the states in its guilt and disgrace—a guilt and disgrace enhanced by the consideration that those laws are a virtual usurpation of power, the Constitution of the United States having conferred upon Congress no right to establish the relation of slavery, or to sanction and protect the slave trade, in any portion of this Confederacy: therefore,

Resolved, That all laws in any way authorizing or sanctioning the slave trade in the District ought to be repealed and the trade prohibited, and that the Committee for the District of Columbia be instructed to report a bill accordingly.

Upon the motion to suspend the rule to receive the resolution the vote was as follows:—

Yeas.—Messrs. Adams of Mass., Sherlock, J. Andrews of O., Ayerigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Birdseye of N. Y., Blair of N. Y., Boardman of Conn., Borden of Mass., Briggs of Mass., Bronson of Me., Jeremiah Brown of Pa., Burnell of Mass., Calhoun of Mass., Childs of N. Y., Chittenden of N. Y., John C. Clark of N. Y., Stanley N. Clarke of N. Y., James Cooper of Pa., Cowen of O., Cranston of R. I., Cravens of Ind., Richard D. Davis of N. Y., Everett of Vt., Ferris of N. Y., Fessenden of Me., Fillmore of N. Y., John G. Floyd of N. Y., Gates of N. Y., Giddings of O., Patrick G. Goode of O., Granger of N. Y., Halsted of N. J., Henry of Pa., Hudson of Mass., Hunt of N. Y., Joseph R. Ingersoll of Pa., James of Pa., Linn of N. Y., McKennan of Pa., McKeon of N. Y., Mathiot of O., Mattocks of Vt., Maxwell of N. J., Maynard of N. Y., Morgan of N. Y., Morris of O., Morrow of O., Oliver of N. Y., Osborne of Conn., Parmenter of Mass., Patridge of N. Y., Pendleton of O., Ramsey of Pa., Benj. Randall of Me., Randolph of N. J., Ridgway of O., Roosevelt of N. Y., Wm. Russell of O., James M. Russell of Pa., Saltonstall of Mass., Sanford of N. Y., Slade of Vt., Truman Smith of Conn., Stokely of O., Stratton of N. J., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Trumbull of Conn., Joseph L. White of Ind., Winthrop of Mass.—73.

Nays.—Messrs. Landaff W. Andrews of Ky., Arnold of Tenn., Arrington of N. C., Beeson of Pa., Bidlack of Pa., Black of Geo., Bowne of N. Y., Boyd of Ky., Brewster of N. Y., Aaron V. Brown of Tenn., Milton Brown of Tenn., Chas. Brown of Pa., Burke of N. H., Green W. Caldwell of N. C., Patrick C. Caldwell of S. C., W. B. Campbell of Tenn., Thomas J. Campbell of Tenn., Caruthers of Tenn., Cary of Va., Casey of Ill., Chapman of Ala., Clifford of Me., Clinton of N. Y., Coles of Va., Mark A. Cooper of Geo., Cross of Ark., Daniel of N. C., Garrett Davis of Ky., Dawson of La., Dean of Ohio., Deberry of N. C., Eastman of N. H., John C. Edwards of Mo., Chas. A. Floyd of N. Y., Fornance of Pa., Gentry of Tenn., Gerry of Pa., Goggin of Va., Gordon of N. Y., Green of Ky., Gwin of Miss., Harris of Va., Hays of Va., Hopkins of Va., Houck of N. Y., Houston of Ala., Hubard of Va., Hunter of Va., Chas. J. Ingersoll of Pa., Irwin of Pa., Jack of Pa., Wm. Cost Johnson of Md., Cave Johnson of Tenn., Isaac D. Jones of Md., Keim of Pa., King of Geo., Lewis of Ala., Littlefield of Me., Lowell of Me., Abraham McClellan of Tenn., McKay of N. C., Marchand of Pa., Alfred Marshall of Me., Thos. F. Marshall of Ky., Mathews of O., Medill of O., Meriwether of Geo., Miller of Mo., Moore of La., Newhard of Pa., Owsley of Ky., Payne of Ala., Pickens of S. C., Plumer of Pa., Powell of Va., Rayner of N. C., Reding of N. H., Rencher of N. C., Reynolds of Ill., Rhett of S. C., Riggs of N. Y., Rodney of Del., Rogers of S. C., Saunders of N. C., Shaw of N. H., Shields of Ala., Sprigg of Ky., Stanly of N. C., Steenrod of Va., Alex. H. H. Stuart of Va., John T. Stuart of Ill., Summers of Va., Sweney of O., Taliaferro of Va., John B. Thompson of Ky., Richard W. Thompson of Ind., Jacob Thompson of Miss., Triplett of Ky., Turney of Tenn., Van Buren of N. Y., Ward of N. Y., Washington of N. C., Waterson of Tenn., Weller of O., Westbrooke of Pa., Ed. D. White of La., Christopher H. Williams of Tenn., Wise of Va., Wood of N. Y.—109.

So the rules were not suspended.

Slavery.

Votes during the first Session of the 31st Congress on sundry Propositions touching the question of.

In the Senate.

On the 5th of June, 1850, a vote was taken on an amendment of Mr. Chase of Ohio, to the Compromise Bill, "that nothing herein contained shall be construed as authorizing or permitting the introduction of slavery or the holding of persons as property within said territory."

The vote was as follows:—

Yeas.—Messrs. Baldwin of Conn., Bradbury of Me., Bright of Ind., Chase of O., Clarke of R. I., Cooper of Pa., Corwin of O., Davis of Mass., Dayton of N. J., Dodge of Wis., Douglas of Ill., Felch of Mich., Green of R. I., Hale of N. H., Hamlin of Me., Miller of N. J., Norris of N. H., Seward of N. Y., Shields of Ill., Smith of Conn., Spruance of Del., Upham of Vt., Walker of Wis., Webster of Mass., Whitcomb of Ind.—25.

Nays.—Messrs. Atchison of Mo., Badger of N. C., Bell of Tenn., Benton of Mo., Berrien of Ga., Butler of S. C., Cass

of Mich., Clay of Ky., Clemens of Ala., Davis of Miss., Dawson of Ga., Dickinson of N. Y., Dodge of Ia., Downs of La., Foote of Miss., Houston of Tex., Hunter of Va., Jones of Ia., King of Ala., Mangum of N. C., Mason of Va., Mortou of Fa., Pearce of Md., Pratt of Md., Rusk of Tex., Sebastian of Ark., Soule of La., Sturgeon of Pa., Turney of Tenn., Underwood of Ky.—30.

Mr. Seward moved the following amendment:

"Neither slavery nor involuntary servitude otherwise than upon conviction for crimes, shall ever be allowed in either of said territories of Utah and New Mexico."

The vote on this amendment was the same as on that of Mr. Chase, with the exception that Messrs. Spruance of Del., and Webster of Mass., who voted for the amendment of Mr. Chase, voted against that of Mr. Seward.

Mr. Yulee of Fla., who did not vote on the amendment of Mr. Chase, voted against that of Mr. Seward.

Otherwise the vote was identical.

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Mr. Walker moved that peon slavery be and is hereby for ever abolished in the said territories.

On this amendment the yeas and nays were as follows:—

YEAS.—Messrs. Atchison, Badger, Bell, Berrien, Borland, Butler, Clay, Clemens, Davis of Miss., Dawson, Dickinson, Downs, Foote, Houston, Hunter, Jones, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soule, Spruance, Sturgeon, Turney, Webster, Yulee.—30.

NAYS.—Messrs. Baldwin, Benton, Bradbury, Bright, Cass, Chase, Clarke, Cooper, Corwin, Davis of Mass., Dayton, Dodge of Wis., Dodge of Ia., Douglas, Felch, Greene, Hale, Hamlin, Miller, Norris, Seward, Shields, Smith, Underwood, Upham, Walker, Whitcomb.—27,

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On the 6th of June, 1850, Mr. Baldwin of Conn. moved the following amendment:—

"It being hereby intended and declared that the Mexican laws, prohibiting slavery, shall be and remain in force in said territory until they shall be altered or repealed by Congress."

The amendment was rejected by yeas and nays as follows:—

YEAS.—Messrs. Baldwin, Bradbury, Bright, Chase, Cooper, Corwin, Davis of Mass., Dayton, Dodge of Wis., Douglas, Felch, Greene, Hale, Hamlin, Miller, Norris, Seward, Shields, Smith, Spruance, Upham, Walker, Whitcomb.—23.

NAYS.—Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, Butler, Cass, Clay, Clemens, Davis of Miss., Dawson, Dickinson, Dodge of Ia., Downs, Foote, Houston, Hunter, Jones, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soule, Sturgeon, Turney, Underwood, Yulee.—32.

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June 10, 1850. Mr. Davis of Miss. moved to amend the bill by inserting at the end of the 21st section the words—

"And that all laws or parts of laws, usages or customs pre-existing in the territories acquired by the United States from Mexico, and which in said territories restrict, abridge, or obstruct the full enjoyment of any right of person or property of a citizen of the United States, as recognised or guarantied by the Constitution or laws of the United States, are hereby declared and shall be held as repealed."

The amendment was rejected by yeas and nays, as follows:—

YEAS.—Messrs. Atchison, Bell, Berrien, Butler, Clemens, Davis of Miss., Dawson, Foote, Houston, Hunter, King, Mason, Morton, Pearce, Rusk, Sebastian, Soule, Yulee.—18.

NAYS.—Messrs. Badger, Baldwin, Benton, Bright, Cass, Chase, Clarke, Clay, Cooper, Corwin, Davis of Mass., Dayton, Dodge of Wis., Dodge of Ia., Felch, Greene, Hamlin, Jones, Miller, Norris, Phelps, Pratt, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, Walker, Whitcomb.—30.

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June 17, 1850, Mr. Soule offered the following amendment:—

"And when the said territory or any portion of the same shall be admitted as a state, it shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

The amendment was adopted by yeas and nays as follows:—

YEAS.—Messrs. Atchison, Badger, Bell, Benton, Berrien, Bright, Butler, Cass, Clay, Clemens, Cooper, Davis of Miss., Dawson, Dodge of Ia., Douglas, Downs, Foote, Houston, Hunter, Jones, King, Mason, Morton, Norris, Pearce, Pratt, Rusk, Sebastian, Shields, Soule, Spruance, Sturgeon, Turney, Underwood, Wales, Webster, Whitcomb, Yulee.—38.

NAYS.—Messrs. Baldwin, Chase, Clark, Davis of Mass., Dayton, Dodge of Wis., Greene, Hale, Miller, Smith, Upham, Walker.—12.

Mr. Baldwin of Conn. endeavored to amend Mr. Soule's amendment by striking out all after the word "state," and inserting,—"At the proper time, to be judged of by Congress, the people of said territory shall be admitted to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution."

Mr. Baldwin's amendment to the amendment was rejected by a vote of yeas 12, nays 38.

The negative vote on Mr. Soule's amendment being identical with the affirmative vote on Mr. Baldwin's amendment, as was the affirmative vote on the former identical with the negative vote on the latter.

On the 31st of July, 1850, the question was taken on the amendment proposed by Mr. Norris of N. H., to strike out of the 10th section of the bill the words "nor establishing or prohibiting slavery," the effect of which would be to remove the restriction imposed upon the territorial legislature not to pass any law establishing or prohibiting African slavery.

The amendment was carried by yeas and nays as follows:—

YEAS.—Messrs. Badger, Baldwin, Bell, Bradbury, Bright, Cass, Chase, Clarke, Clay, Cooper, Dayton, Dickinson, Dodge of Iowa, Douglas, Felch, Greene, Hamlin, Jones, Mangum, Miller, Norris, Phelps, Pratt, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, Wales, Winthrop.—32.

NAYS.—Messrs. Atchison, Barnwell, Benton, Berrien, Butler, Clemens, Davis of Miss., Dawson, Downs, Ewing, Hunter, King, Mason, Morton, Pearce, Rusk, Soule, Turney, Whitcomb, Yulee.—19.

Mr. Douglas of Ill., at the suggestion of Mr. Davis of Miss., proposed the Missouri Compromise line as the southern boundary of Utah.

The proposition was rejected by yeas and nays as follows:—

YEAS.—Messrs. Atchison, Badger, Barnwell, Bell, Berrien, Butler, Clemens, Davis of Miss., Dawson, Dickinson, Douglas of Ill., Downs of La., Houston, Hunter, King, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soule, Turney, Underwood, Yulee.—26.

NAYS.—Messrs. Baldwin, Bradbury, Bright, Chase, Clark, Cooper, Davis of Mass., Dayton, Dodge of Wis., Dodge of Ia., Ewing, Felch, Greene, Hale, Hamlin, Jones, Miller, Norris, Seward, Shields, Smith, Spruance, Upham, Wales, Walker, Winthrop, Whitcomb.—27.

IN THE HOUSE OF REPRESENTATIVES.

On the 31st of December, 1849, Mr. Root of Ohio offered a resolution instructing the Committee on Territories to bring in territorial bills for that part of the Mexican territory ceded to the United States by the treaty of Guadalupe Hidalgo, lying eastward of the Sierra Nevada Mountains, and prohibiting slavery therein.

Mr. Stephens of Geo. moved to lay the resolution on the table, and it was decided in the negative by a vote of yeas 83, nays 101.

The affirmative vote was a Southern one with the addition of Messrs. Bissell of Ill., Brooks, Clark, and Duer of N. Y., Gilmore and Mann of Pa., McClernand of Ill., Miller of O., Richardson and Young of Ill.

The negative vote was purely a Northern vote.

On the 4th of February, 1850, the resolution came up again.

Mr. Haralson of Geo. moved to lay it on the table, and it was carried by a vote of yeas 105, nays 75.

The resolution was laid on the table by the Southern vote aided by that of

Messrs. Albertson of Ind., Bissell of Ill., Brown of Ind., Briggs and Brooks of N. Y., Butler of Pa., Clark of N. Y., Dimmick of Pa., Dixon of R. I., Dunham of Ind., Fuller of Me., Gilmore of Pa., Gorman of Ind., Harris of Ill., James G. King of N. J., John A. King of N. Y., Leffler of Ia., Mann of Pa., McClernand of Ill., McKissock of N. Y,, McLanahan of Pa., Miller of O., Nelson of N. Y., Pitman of Pa., Robbins of Pa., Ross of Pa., Taylor of Ohio, Underhill of N. Y., Young of Ill.

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On the 4th of February, 1850, Mr. Giddings offered the following resolution:—

Resolved, That we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with the inalienable rights of life and liberty, and that governments are instituted to maintain these rights.

Resolved, That in constituting government in any territory of the United States, it is the duty of Congress to secure to all the people thereof, of whatever complexion, the enjoyment of the rights aforesaid.

Mr. Inge of Ala. moved to lay the resolutions on the table, which was carried by a vote of yeas 104, nays 92.

The affirmative vote was a Southern vote, with the addition of—

Messrs. Albertson of Ind., Bissell of Ill., Briggs of N. Y., Brown of Ind., Buel of Mich., Butler of Pa., Dunham of Ind., Fitch of Ind., Fuller of Me., Gorman of Ind., Harris of Ill., Leffler of Ia., Mann of Pa., McClernand of Ill., McLanahan of Pa., Miller of O., Richardson of Ill., Robbins of Pa., Ross of Pa., Taylor of O., Young of Ill.

—

On the 18th of February, 1850, Mr. Doty of Wisconsin offered a resolution instructing the Committee on Territories to bring in a bill for the admission of California, with her boundaries and limits as set forth in her constitution.

Mr. Inge moved to lay the resolution on the table, which was decided in the negative—yeas 70, nays 121.

The vote was nearly a sectional one, Messrs. Miller of O., and Robbins of Pa., being the only Northern men who voted in the affirmative, and Messrs. Houston of Del., and Mason of Ky., the only Southern men who voted in the negative.

The South resorted to a parliamentary revolution to defeat a direct vote being reached thereon.

The yeas and nays were called twenty-eight times on various motions for that purpose, which consumed the time of the House until midnight, when Mr. McLane of Md. raised the point, that 12 o'clock having arrived, the civil calendar day, Monday, had expired, and that therefore Mr. Doty's resolution ceased to be the regular business before the House.

The Chair decided that "the Monday set apart by the rules for the reception of resolutions in the order of states and territories had expired at 12 o'clock, midnight, and that the resolution on that account passed from before the consideration of the House at 12 o'clock."

The House then, at 12 minutes past midnight, adjourned after the most arduous parliamentary struggle that marked the history of the 31st Congress.

On the 27th of May, 1850, Mr. Crowell moved to suspend the rules to enable him to introduce a bill to abolish the slave trade in the District of Columbia. On the motion to suspend, the yeas were 99, nays 64.

This was a sectional vote. But one Northern man—Mr. John K. Miller of Ohio, voted in the negative.

No Southern man voted in the affirmative. Two-thirds not voting in favor thereof, the rules were not suspended.

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On the 5th of September, 1850, the question was taken upon an amendment offered by Mr. Toombs to the New Mexico territorial bill, which was then pending in the shape of an amendment proposed to the Texan boundary bill.

Mr. Toombs's amendment was as follows:—

"And that the Constitution of the United States, and such statutes thereof as may not be locally inapplicable, and the common law, as it existed in the British colonies of America until the 4th day of July, 1776, shall be the exclusive laws of said territory upon the subject of African slavery until altered by the proper authority."

The vote was yeas 65, nays 132.

The whole North, with the addition of Messrs. Gentry of Tenn., Hall of Mo., Hammond of Md., Houston of Del., Johnson and Jones of Tenn., and McMullen of Va., voting no. The balance of the South voting aye.

On the 24th of September, 1850, Mr. Preston King of N. Y. asked leave to introduce an act abolishing slavery in the District of Columbia.

The House refused to suspend the rules by a vote of yeas 52, nays, 109.

The affirmative vote was as follows:—

YEAS.—Messrs. Alexander of N. Y., Andrews of N. Y., Bingham of Mich., Booth of Conn., Burrows of N. Y., Cable

of O., Calvin and Chandler of Pa., Clarke of N. Y., Cleveland of Conn., Cole of Wis., Corwin of O., Doty of Wis., Duncan of Mass., Durkee of Wis., Fitch of Ind., Fowler of Mass., Freedley, Goodenow of Me., Gott of N. Y., Gould, Grinnell of Mass., Halloway of N. Y., Harlan of Ind., Hebard of Vt., Henry of Vt., Howe of Pa., Hunter of O., King of N. J., J. A. King of N. Y., P. King of N. Y., Mann of Mass., Matterson of N. Y., Meacham of Vt., Moore and Ogle of Pa., Otis of Me., Peck of Vt., Reed, Reynolds of N. Y., Risley, Rockwell of Mass., Root of O., Rumsey, Sackett of N. Y., Schoolcraft of N. Y., Silvester and Spaulding of N. Y., Sprague of Mich., Stevens of Pa., Vandyke of N. J., Vinton of O., Waldo of Conn., White of N. Y.

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Opinions of public men upon Slavery.

"Sir: I believe that no cancer on the physical body was ever more certain, steady, and fatal in its progress than is this cancer on the political body of the state of Virginia. I admit that we are not to be blamed for the origin of this evil among us; we are not to be blamed for its existence now, but we shall deserve the severest censure if we do not take measures, as soon as possible, to remove it." —*Mr. Berry, in the Virginia Legislature, in* 1832.

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"It is now asserted that slavery is 'a moral evil,' in other words a sin, and consequently that those who hold slaves are guilty therefor. Sir, when I look to those enduring precepts of moral conduct which, mocking all change, and defying all flight of years, shall be made more and more illustrious as eternal ages shall crown them with the fruits of their happy influence, I see slavery there tolerated, I had almost said inculcated. I see such language as this: 'Both thy bondmen and thy bondmaids shall be of the heathen that are round about you; of them shall you buy bondmen and bondmaids; and ye shall take them as an inheritance for your children after you, to inherit them for a possession,' &c. And looking through the pages of that sacred book from Genesis to Apocalypse, I find an exhortation to every virtue and a rebuke for every sin; but I nowhere find a condemnation of the slaveholder. I see there the admonition, 'Servants, be obedient to your masters;' but I do not see the direction, 'Masters, manumit your slaves.' I see it said, 'Ye shall not bear false witness against your neighbor;' but I do not see anything like this: 'Form abolition societies, and abuse slaveholders.' I read, 'Blessed are the peacemakers;' but no blessing is promised for attempting to excite servile insurrection. * * * Satisfied ourselves that there is no immorality in it, we have a very slight opinion of those who are so egregiously wounded in conscience for us." —*Mr. Bocock of Va., H. of R., June* 30, 1848.

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"This is a grave and important subject—one that ought to be and will be considered. Its importance demands that it should be considered and debated here; and is not, as some gentlemen think, a reason that it should be passed in silence, and acted upon in secret. No, sir, our action should be calm and dispassionate, but open, bold, and manly. Sir, that it is an evil, a great and appalling evil, he dared believe no sane man would or could deny.

"Nor, sir, can it be denied that it deprives us of many of those advantages, facilities, and blessings which we should enjoy had we a more dense white population. That it is a blighting, withering curse upon this land, is clearly demonstrated by this very discussion itself.

"Notwithstanding Eastern gentlemen had waxed so warm, there are many, very many in Eastern Virginia who had rather resign their slaves gratuitously than submit to the ills of slavery; many who had rather turn them loose and leave them behind, while they should seek a happier clime—a land alike a stranger to slaves and slavery."—*Mr. Bolling of Va. in the Legislature in* 1832.

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"You think that slavery is a great evil. Very well, think so; but keep your thoughts to yourselves. For myself, I regard slavery as a great moral, social, and religious blessing—a blessing to the slave, a blessing to his master."—*Hon. Albert G. Brown of Miss.*

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"That what is called slavery is, in reality, a political institution, essential to the peace, safety, and prosperity of those states of the Union in which it exists."—*Mr. Calhoun.*

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"I took occasion to observe that I believed the people of Norfolk county would rejoice, could they, even in the vista of time, see some scheme for the gradual removal of this curse from our land. I was desirous to see a report from the committee declaring the slave population an evil, and recommending to the people of this commonwealth the adoption of some plan for its riddance."—*Mr. Chandler of Va., in the Legislature, in* 1832.

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"But if, unhappily, we should be involved in war—in a civil war between the two parts of this confederacy, in which the efforts upon the one side should be to restrain the introduction of slavery into new territories, and upon the other side to force its introduction there, what a spectacle should we present to the astonishment of mankind, in an effort, not to propagate rights, but—I must say, though I trust it will be understood to be said with no design to excite feeling—a war to propagate wrongs in the territories thus acquired from Mexico. It would be a war in which we should have no sympathies—no good wishes; in which all mankind would be against us; in which our own history itself would be against us; for from the commencement of the Revolution down to the present time, we have constantly reproached our British ancestors for the introduction of slavery into this country. And allow me to say that, in my opinion, it is one of the best defences which can be made to preserve the institution of slavery in this country, that it was forced upon us against the wishes of our ancestors, of our own American

colonial ancestors, and by the cupidity of our British commercial ancestors."—*Mr. Clay, in* 1850.

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Resolutions of the colony of Darien, in the state of Georgia:—

"We, the representatives of the extensive district of Darien, in the colony of Georgia, being now assembled in Congress, by the authority and free choice of the inhabitants of said district, now freed from their fetters, do resolve."

Then follow several resolutions, setting forth the grounds of complaint against the oppressions of Great Britain, closing with:—

"To show to the world that we are not influenced by any contracted or interested motives, but by a general philanthropy for all mankind, of whatever climate, language, or complexion, we hereby declare our disapprobation and abhorrence of the unnatural practice of slavery in America, (however the uncultivated state of our country or other specious arguments may plead for it)—a practice founded in injustice and cruelty, and highly dangerous to our liberties as well as lives, debasing part of our fellow-creatures below men, and corrupting the virtue and the morals of the rest, and laying the basis of that liberty we contend for, and which we pray the Almighty to continue to the latest posterity, upon a very wrong foundation. We, therefore, resolve at all times to use our utmost endeavors for the manumission of our slaves in this colony, upon the most safe and equitable footing for the masters and themselves."

—

"That slavery is the natural, the proper condition of the African—one that is advantageous to his master, and a great blessing to him."—*Mr. Featherston of Miss.*

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"To extend the institution indefinitely, it (the Constitution) prohibited the passage of any law to stop the importation of slaves from Africa and elsewhere, prior to the year 1808. Another clause, with a view to its perpetuation, for ever provides for the recapture of fugitives who escape to non-slaveholding states. Notwithstanding these plain stipulations between the slaveholding and non-slaveholding states, constituting the essential, vital provisions of the Constitution, without which all admit the confederation could not have been formed, we are cantingly told that 'slavery is a sin, and the North is opposed to its extension. We the philanthropists of this day, are better than the sages and heroes, purified by the trials of the Revolution and covered with its glories, who assembled in the old halls of the Confederation in 1787.' I have no reply to make to these pharisaical pretensions: they are beneath contempt. I am content with the religion of the Bible and the Constitution of our fathers, uncorrupted by the comments of the pseudo moralists and statesmen who now shed their coruscations upon us. I shall certainly not condescend to reply to the puling sophistry upon this subject, so often heard in this House. Were I disposed to argue the question of slavery, without reference to the Constitution, in all its relations, religious, moral, social, and political, no fear of its successful vindication would restrain me.

"It would seem to be profanation to call an institution of society irreligious, immoral, which is expressly and repeatedly sanctioned by the word of God—which existed in the tents of the patriarchs, and in the households of his own chosen people."—*Hon. S. W. Inge of Ala.*

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"When the entire abolition of slavery takes place, it will be an event which must be pleasing to every generous mind, and every friend of human nature."—*Mr. Iredell of N. C., in the convention of that state to ratify the Federal Constitution.*

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In a letter of Mr. Jefferson to Dr. Price, which bears date Paris, August 7th, 1785, is the following extract:—

"Southward of the Chesapeake, it will find but few readers concurring with it (Dr. P.'s book) in sentiment on the subject of slavery. From the mouth to the head of the Chesapeake, the bulk of the people will approve it in theory, and it will find a respectable minority ready to adopt it in practice; a minority which, for weight and worth of character, preponderates against the greater number who have not the courage to divest their families of a property which, however, keeps their conscience uneasy. Northward of the Chesapeake, you may find here and there an opponent to your doctrine, as you may find here and there a robber or a murderer; but in no greater number. In that part of America, there being but few slaves, they can easily disencumber themselves of them; and emancipation is put into such a train that in a few years there will be no slaves northward of Maryland. In Maryland, I do not find such a disposition to begin the redress of the enormity as in Virginia. This is the next state to which we may turn our eye for the interesting spectacle of justice in conflict with avarice and oppression; a conflict wherein the sacred side is gaining daily recruits from the influx into office of young men, grown and growing up."

The general state of opinion is also well expressed by Mr. Jefferson in his Notes on Virginia, where he says:—

"I think a change already perceptible since the origin of our present revolution. The spirit of the master is abating; that of the slave is rising from the dust, his condition mollifying, and the way I hope preparing, under the auspices of Heaven, for a total emancipation."

In another place, declaring his own sentiments, he said:—

"Nobody wishes more ardently than I to see an abolition not only of the trade, but of the condition of slavery; and certainly nobody

will be more willing to encounter any sacrifice for that object."

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"I attached myself in early life to that party which was always and ever opposed to the extension of slavery, and I say here to-night that the Whig party of the north has always had that creed, and these Republicans can't take out a patent for it, for many a long year. And I say that Millard Fillmore has been true to that party, and has never had any other principle but that which would prevent the further extension of slavery."—*Hon. Hiram Ketchum of N. Y.*

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"I thought, till very lately, that it was known to everybody that, during the Revolution, and for many years after, the abolition of slavery was a favorite topic with many of our ablest statesmen, who entertained with respect all the schemes which wisdom or ingenuity could suggest for its accomplishment."—*Mr. Leigh of Va. in Convention.*

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"Every addition the states receive to their number of slaves tends to weaken and render them less capable of self-defence. In case of hostilities with foreign nations, they will be the means of inviting attack, instead of repelling invasion. It is a necessary duty of the general government to protect every part of their confines against dangers, as well internal as external. Everything, therefore, which tends to increase danger, though it be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of this government."—*Mr. Madison.*

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"Slavery is ruinous to the whites—retards improvement—roots out industrious population—banishes the yeomanry of the country—deprives the spinner, the weaver, the smith, the shoemaker, the carpenter, of employment and support. This evil admits of no remedy—it is increasing, and will continue to increase, until the whole country will be inundated with one black wave covering its whole extent, with a few white faces here and there floating on the surface. The master has no capital but what is vested in human flesh; the father, instead of being richer for his sons, is at a loss how to provide for them; there is no diversity of occupations, no incentives to enterprise. Labor of every species is disreputable, because performed mostly by slaves. Our towns are stationary, our villages almost everywhere declining, and the general aspect of the country marks the curse of a wasteful, idle, reckless population, who have no interest in the soil, and care not how much it is impoverished.

"Public improvements are neglected and the entire continent does not present a region for which nature has done so much and art so little. If cultivated by free labor, the soil of Virginia is capable of sustaining a vast population, among whom labor would be honorable, and where "the busy hum of men" would tell that all were happy and all were free."—*Mr. Marshall of Va. in House of Delegates in* 1832.

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"But from the earliest times war had existed, and war conferred rights in which all had acquiesced. Among the most enlightened nations of antiquity one of these rights was that the victor might enslave the vanquished. That which was the usage of all nations could not be pronounced repugnant to the law of nations, which was certainly to be tried by the test of general usage. That which had received the assent of all must be the law of all.

"Slavery, then, had its origin in force; but as the world had agreed that it was the legitimate result of force, the state of things which was thus produced by general consent could not be pronounced unlawful.

"Throughout Christendom this harsh rule had been exploded, and war was no longer considered as giving a right to enslave captives. But this triumph had not been universal. The parties to the modern law of nations do not propagate their principles by force; and Africa had not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. The question, then, was, could those who had renounced this law be permitted to participate in its effects by purchasing the human beings who are its victims?

"Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself a part, and to whose law the appeal is made. If we resort to this standard as the test of international law, the question must be considered as decided in favor of the legality of the trade. Both Europe and America embarked in it, and for nearly two centuries it was carried on without opposition and without censure. A jurist could not say that a practice thus supported was illegal, and that those engaged in it might be punished either personally or by deprivation of property."—*Chief Justice Marshall.*

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"Slavery discourages arts and manufactures. The slaves produce the most pernicious effects on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven upon a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities."—*Geo. Mason of Va.*

"We know that the picture is the 'counterfeit presentment' of the true one. We know that inefficiency and languor characterize our movements; that enterprise is scarcely known to us, but from observation of its influence on other communities. We know that the blessings of our position, and soil, and climate, are countervailed by the apathy of our public counsels, and by our exclusive reliance upon involuntary labor. Our interests and senses proclaim the progress of general decline; conscience and experience attest that slavery is its principal cause. Is it not so? When we look at Virginia, as a whole, without pausing upon the bright and the beautiful that still show forth as intrinsic qualities of her character, but look at her in reference to her every day practical habit and appearance, is she not anything but prosperous? Do we not in this respect contemplate her justly, when we regard her as meager, haggard, and enfeebled; with decrepitude stealing upon her limbs; as given over to leanness and impotency; and as wasting away under the improvidence and the inactivity which eternally accompany the fatal institution that she cherishes; and cherishes, too, as a mother, who will hazard her own life rather than part even with a monstrous offspring that afflicts her? Sir, it is true of Virginia, not merely that she has not advanced, but that in many respects she has greatly declined; and what have we got as a compensation for this decline—as a compensation for this disparity between what Virginia is and what she might have been? Nothing but the right of property in the very beings who have brought this disparity upon us. This is our pay; this is what we have gotten to remunerate us for our delinquent prosperity; to repay us for our desolated fields, our torpid enterprise; and in this dark day of our humbled importance, to sustain our hopes, and to soothe our pride as a people."—*Gov. McDowell.*

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Opinions of the Rev. Dr. McKnight.

Because the law of Moses (Exod. xxi. 22) allowed no Israelite to be made a slave for life without his own consent, the Judaizing teachers, to allure slaves to their party, taught that under the Gospel, likewise, involuntary slavery is unlawful. This doctrine the apostle condemned here, as in his other epistles (1 Cor. vii. 20, 21, 23; Col. iii. 22), enjoining Christian slaves to obey and honor their masters, whether they were believers or unbelievers (verses 1–12), and by assuring Timothy that if any person taught otherwise he opposed the wholesome precepts of Jesus Christ, and the doctrine of the Gospel which is in all points conformable to godliness or sound morality (verse 3), and was puffed up with pride, without possessing any true knowledge either of the Jewish or Christian revelation (verse 1).

The passage in the epistle referred to by Dr. McKnight, is in these words:—

Sundry Instructions.

1. Let as many servants as are under the yoke count their own masters worthy of all honor, that the name of God and *his* doctrine be not blasphemed.

2. And they that have believing masters, let them not despise *them*, because they are brethren; but rather do *them* service, because they are faithful and beloved, partakers of the benefit. These things teach and exhort.

3. If any man teach otherwise, and consent not to wholesome words, *even* the words of our Lord Jesus Christ, and to the doctrine which is according to godliness;

4. He is proud, knowing nothing, but doting about questions and strifes of words, whereof cometh envy, strife, railings, evil surmisings,

5. Perverse disputings of men of corrupt minds, and destitute of the truth, supposing that gain is godliness: from such withdraw thyself.

By ordering Timothy to teach slaves to continue with and obey their masters, the apostle hath showed that the Christian religion neither alters men's rank in life nor abolishes any right to which they are entitled by the law of nature, or by the law of the country where they live. Instead of encouraging slaves to disobedience, the Gospel makes them more faithful and conscientious. And by sweetening the temper of masters, and inspiring them with benevolence, it renders the condition of the slave more tolerable than formerly; for in proportion as masters imbibe the true spirit of the Gospel, they will treat their slaves with humanity, and even give them their freedom, when their services merit such a favor.

5. Servants, be obedient to them that are *your* masters according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ;

6. Not with eyeservice, as menpleasers; but as the servants of Christ, doing the will of God from the heart;

7. With good will doing service, as to the Lord, and not to men:

8. Knowing that whatsoever good thing any man doeth, the same shall he receive of the Lord, whether *he be* bond or free.

As the Gospel does not cancel the civil rights of mankind, I say to bond servants, obey your masters, who have the property of your body, with fear and trembling, as liable to be punished by them for disobedience: obey also from the integrity of your own disposition as obeying Christ. Do this not merely when their eyes are on you, or they are to examine your work, as those do whose sole care is to please men, but as bondmen of Christ, doing the will of God in this matter from the soul—that is diligently.

With cheerfulness do your duty to your earthly master, as servants to the Lord Christ; for in serving them faithfully ye serve him, and therefore do not consider yourselves as servants to men only. And that ye may be supported under the hardship of your lot, recollect what your religion teaches you, that whatever good action any man does, for that, though he should receive any reward from men, he shall receive at the judgment a reward from Christ, whether he be a slave or a freeman.

22. Servants, obey in all things *your* masters according to the flesh; not with eyeservice, as menpleasers; but in singleness of heart, fearing God:

23. And whatever ye do, do *it* heartily, as to the Lord, and not unto men;

24. Knowing that of the Lord ye shall receive the reward of the inheritance: for ye serve the Lord Christ.

25. But he that doeth wrong shall receive for the wrong which he hath done: and there is no respect of persons.

Dr. McKnight explains this passage in the following note:—

Though the word *doulos* properly signifies slave, our English translators, in all the places where the duties of slaves are inculcated, have justly translated it servant; because anciently the Greeks and Romans had scarce any servants but slaves, and because the duties of a hired servant, during the time of his service, are the same as those of the slave, so that what the apostle said to the slave, was, in effect, said to the hired servant. Upon those principles the translations of the Scriptures designed for countries where slavery is abolished, and servants are freemen, the word deilos may, with truth, be translated a servant. In this and the parallel passage (Ephesians, vi. 5), the apostle is very particular in his precepts to slaves and lords; because in all the countries where slavery was established, many of the slaves were exceedingly addicted to fraud, lying, and stealing, and many of the masters were tyrannical and cruel to their slaves. Perhaps also he was thus particular in his precepts to slaves, because the Jews held perpetual slavery to be unlawful, and because the Judaizing teachers propagated that doctrine in the church. But, from the apostle's precepts, it may be inferred that if slaves are justly acquired, they may be lawfully retained, as the Gospel does not make forbid any of the political rights of mankind.

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"There is not a slaveholder, in this House or out of it, but who knows perfectly well that, whenever slavery is confined within certain special limits, its future existence is doomed; it is only a question of time as to its final destruction. You may take any single slaveholding county in the Southern states, in which the great staples of cotton and sugar are cultivated to any extent, and confine the present slave population within the limits of that county. Such is the rapid natural increase of the slaves, and the rapid exhaustion of the soil in the cultivation of those crops, (which add so much to the commercial wealth of the county,) that in a few years it would be impossible to support them within the limits of each county. Both master and slave would be starved out; and what would be the practical effect in any one county, the same result would happen to all the slaveholding states. Slavery cannot be confined within certain specified limits without producing the destruction of both master and slave. It requires fresh lands, plenty of wood and water, not only for the comfort and happiness of the slave, but for the benefit of the owner. We understand perfectly well the practical effect of the proposed restriction upon our rights, and to what extent it interferes with slavery in the states; and we also understand the object and purpose of that interference. If the slaveholding states should ever be so regardless of their rights, and their honor, as co-equal states, to be willing to submit to this proposed restriction, for the sake of harmony and peace, they could not do it. There is a great, overruling, practical necessity, which would prevent it. They ought not to submit to it upon principle if they could, and could not if they would."—*Mr. Warner of Ga.*

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"Never will your country be productive, never will its agriculture, its commerce, or its manufactures flourish, so long as they depend upon reluctant bondmen for their progress."—*Wm. Pinckney of Md. in a letter to the Legislature, in* 1789.

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"Slavery has the effect of lessening the free population of a country. The wealthy are not dependent upon the poor for those aids and those services, compensation for which enables the poor man to give bread to his family. The ordinary mechanic arts are all practised by slaves.

"In the servitude of Europe in the middle ages, in years of famine, the poor had to barter their liberty for bread; they had to surrender their liberty to some wealthy man to save their families from the horrors of famine. The slaves were sustained in sickness and in famine upon the wealth of their master, who preserved them as he would any other species of property. All the sources of the poor man's support were absorbed by him. In this country he cannot become a slave, but he flies to some other country more congenial to his condition, and where he who supports himself by honest labor is not degraded in his caste. Those who remain, relying upon the support of casual employment, often become more degraded in their condition than the slaves themselves."—*Mr. T. J. Randolph of Va., in the Legislature, in* 1832.

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"It has been said that slavery is a 'doomed institution; and so I believe'—doomed to exist for ever. It is one of the oldest institutions among men. In every age, in every clime it has been practised and sanctioned by mankind, whether acting upon the light of nature or of revelation. Indeed, among men, Christianity itself has not so many evidences in its favor. A small part of mankind have been Christians, while the practice of slavery has been universal. Solon and Lycurgus are known to us by the fame of their legislation; they made no laws against slavery. Greece and Rome, the most distinguished and civilized of ancient nations, were slaveholders. Our Constitution, the work of our fathers, recognised it. Our Saviour stood upon the world amid slaves, where the master had power over the life of the servant; He did not rebuke it, or denounce it as a crime. And I trust I will be pardoned for resting my conscience upon these high authorities, and for declining to commit it to the keeping of these modern Free Soil saints, who have so much trouble in keeping their own."—*J. H. Savage of Tenn., in H. of R., May* 13, 1850.

"I believe that the institution of slavery is a noble one; that it is necessary for the good, the well-being of the negro race. Looking to history, I go further, and I say, in the presence of this assembly, and under all the imposing circumstances surrounding me, that I believe it is God's institution. Yes, sir, if there is anything in the action of the great Author of us all; if there is anything in the conduct of His chosen people; if there is anything in the conduct of Christ himself, who came upon this earth, and yielded up his life as a sacrifice, that all through his death might live; if there is anything in the conduct of his apostles, who inculcated obedience upon the part of slaves towards their masters as a Christian duty, then we must believe that the institution is from God."—*Hon. William Smith of Va., in a speech in the H. of Reps.*

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The following lecture on "Slavery—its constitutional status—its influence on the African race and Society," was delivered in the Tremont Temple, Boston, Mass., on the 24th of January, 1856, by Hon. R. Toombs of Ga.:—

I propose to submit to you this evening some considerations and reflections upon two points.

1st. The constitutional powers and duties of the federal government, in relation to domestic slavery.

2d. The influence of slavery, as it exists in the United States, upon the slave and society.

Under the first head, I shall endeavor to show that Congress has no power to limit, restrain, or in any manner to impair slavery; but, on the contrary, it is bound to protect and maintain it in the states where it exists, and wherever its flag floats, and its jurisdiction is paramount.

On the second point, I maintain that so long as the African and Caucasian races co-exist in the same society, that the subordination of the African is its normal, necessary, and proper condition, and that such subordination is the condition best calculated to promote the highest interest and the greatest happiness of both races, and consequently of the whole society; and that the abolition of slavery, under these conditions, is not a remedy for any of the evils of the system. I admit that the truth of these propositions, stated under the second point, is essentially necessary to the existence and permanence of the system. They rest on the truth that the white is the superior race, and the black the inferior; and that subordination, with or without law, will be the status of the African in this mixed society; and, therefore, it is the interest of both, and especially of the black race, and of the whole society, that this status should be fixed, controlled, and protected by law. The perfect equality of the superior race, and the legal subordination of the inferior, are the foundations on which we have erected our republican systems. Their soundness must be tested by their conformity to the sovereignty of right, the universal law which ought to govern all people in all countries. This sovereignty of right is *justice*, commonly called natural justice, not the vague, uncertain imaginings of men, but natural justice as interpreted by the written oracles, and read by the light of the revelations of nature's God. In this sense I recognise a "higher law," and the duty of all men, by legal and proper means, to bring every society in conformity with it.

I proceed to the consideration of the first point.

The old thirteen states, before the Revolution, were dependent colonies of Great Britain; each was a separate and distinct political community, with different laws, and each became an independent and sovereign state by the Declaration of Independence. At the time of this declaration, slavery was a *fact*, and a fact recognised by law in each of them, and the slave trade was lawful commerce by the laws of nations and the practice of mankind. This declaration was drafted by a slaveholder, adopted by the representatives of slaveholders, and did not emancipate a single African slave; but, on the contrary, one of the charges which it submitted to the civilized world against King George, was, that he had attempted to excite "domestic insurrection among us." At the time of this declaration, we had no common government; the Articles of Confederation were submitted to the representatives of the states eight days afterwards, and were not adopted by all of the states until 1781. These loose and imperfect articles of union sufficed to bring us successfully through the Revolution. Common danger was a stronger bond of union than these articles of confederation; after that ceased, they were inadequate to the purposes of peace. They did not emancipate a single slave.

The Constitution was framed by delegates elected by the state legislatures. It was an emanation from the sovereign states as independent, separate communities. It was ratified by conventions of these separate states, each acting for itself. The members of these conventions represented the sovereignty of each state, but they were not elected by the whole people of either of the states. Minors, women, slaves, Indians, Africans, bond and free, were excluded from participating in this act of sovereignty. Neither were all the white male inhabitants over twenty-one years old, allowed to participate in it. Some were excluded because they had no land; others for the want of good characters; others again because they were non-freemen; and a large number were excluded for a great variety of still more unimportant reasons. None exercised this high privilege except those upon whom each state, for itself, had adjudged it wise, safe, and prudent to confer it.

By this Constitution, these states granted to the federal government certain well-defined and clearly-specified powers, in order "to make a more perfect union, establish justice, insure domestic tranquillity, provide for the

common defence and general welfare, and to secure the blessings of liberty to (themselves and their) posterity." And, with great wisdom and forecast, this Constitution lays down a plain, certain, and sufficient rule for its own interpretation, by declaring that "the powers not herein delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." The federal government is, therefore, a limited government. It is limited expressly to the exercise of the enumerated powers, and of such others only "which shall be necessary and proper to carry into execution" these enumerated powers. The declaration of the purposes for which these powers were granted, can neither increase nor diminish them. If any one or all of them were to fail by reason of the insufficiency of the granted powers to secure them, that would be a good reason for a new grant, but could never enlarge the granted powers. That declaration was itself a limitation instead of an enlargement of the granted powers. If a power expressly granted be used for any other purpose than those declared, such use would be a violation of the grant and a fraud on the Constitution; and, therefore, it follows that if anti-slavery action by Congress is not warranted by any express power, nor within any of the declared purposes for which any such power was granted, the exercise of even a granted power to effect that action, under any pretence whatever, would fall under the just condemnation of the Constitution.

The history of the times, and the debates in the convention which framed the Constitution, show that this whole subject was much considered by them, and "perplexed them in the extreme;" and those provisions of the Constitution which related to it, were earnestly considered by the state conventions which adopted it. Incipient legislation, providing for emancipation, had already been adopted by some of the states. Massachusetts had declared that slavery was extinguished in her limits by her bill of rights; the African slave trade had been legislated against in many of the states, including Virginia, and Maryland, and North Carolina. The public mind was unquestionably tending towards emancipation. This feeling displayed itself in the South as well as in the North. Some of the delegates from the present slaveholding states thought that the power to abolish, not only the African slave trade, but slavery in the states, ought to be given to the federal government; and that the Constitution did not take this shape, was made one of the most prominent objections to it by Luther Martin, a distinguished member of the convention from Maryland; and Mr. Mason, of Virginia, was not far behind him in his emancipation principles. Mr. Madison sympathized to a great extent, to a much greater extent than some of the representatives from Massachusetts, in this anti-slavery feeling; hence we find that anti-slavery feelings were extensively indulged in by many members of the convention, both from slaveholding and non-slaveholding states. This fact has led to many and grave errors; artful and unscrupulous men have used it much to deceive the northern public. Mere opinions of individual men have been relied upon as authoritative expositions of the Constitution. Our reply to them is simple, direct: they were not the opinions of the collective body of the people, who made, and who had the right to make, this government; and, therefore, they found no place in the organic law, and by that alone are we bound; and, therefore, it concerns us rather to know what was the collective will of the whole, as affirmed by the sovereign states, than what were the opinions of individual men in the convention. We wish to know what was done by the whole, not what some of the members thought was best to be done. The result of the struggle was, that not a single clause was inserted in the Constitution giving power to the federal government anywhere, either to abolish, limit, restrain, or in any other manner to impair the system of slavery in the United States; but, on the contrary, every clause which was inserted in the Constitution on this subject, does in fact, and was intended either to increase it, to strengthen it, or to protect it. To support these positions, I appeal to the Constitution itself, to the contemporaneous and all subsequent authoritative interpretations of it. The Constitution provides for the increase of slavery by prohibiting the suppression of the slave trade for twenty years after its adoption. It declares in the 1st clause of the 9th section of the first article, that "the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." After that time it was left to the discretion of Congress to prohibit, or not to prohibit, the African slave trade. The extension of this traffic in Africans from 1800 to 1808, was voted for by the whole of the New England states, including Massachusetts, and opposed by Virginia and Delaware; and the clause was inserted in the Constitution by votes of the New England states. It fostered an active and profitable trade for New England capital and enterprise for twenty years, by which a large addition was made to the original stock of Africans in the United States, and thereby it increased slavery. This clause of the Constitution was specially favored; it was one of those clauses which was protected against amendment by article fifth.

Slavery is strengthened by the 3d clause, 2d section of first article, which fixes the basis of representation according to numbers, by providing that the "numbers shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." This

provision strengthens slavery, by giving the existing slaveholding states many more representatives in Congress than they would have, if slaves were considered only as property; it was much debated, but finally adopted, with the full understanding of its import, by a great majority.

The Constitution protects it impliedly, by withholding all power to injure it, or limit its duration, but it protects it expressly by the 3d clause of 2d section of the 4th article, by the 4th section of the 4th article, and by the 15th clause of the 1st article. The 3d clause of the 2d section, 4th article, provides, that "no persons held to service or labor in one state by the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." The 4th section of the 4th article provides, that Congress shall protect each state "on application of the legislature (or of the executive when the legislature cannot be convened) against domestic violence." The 15th clause of the 8th section of the 1st article, makes it the duty of Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." The first of these three clauses last referred to, protects slavery by following the escaping slaves into non-slaveholding states and returning him to bondage; the other clauses place the whole military power of the republic in the hands of the federal government to repress "domestic violence" and "insurrections." Under this Constitution, if he flies to other lands, the supreme law follows, captures, and returns him; if he resists the law by which he is held in bondage, the same Constitution brings its military power to his subjugation. There is no limit to this protection; it must exist as long as any of the states tolerate domestic slavery, and the Constitution, unaltered, endures. None of these clauses admit of misconception or doubtful construction. They were not incorporated into the charter of our liberties by surprise or inattention; they were each and all of them introduced into that body, debated, referred to committees, reported upon, and adopted. Our construction of them is supported by one unbroken and harmonious current of decisions and adjudications by the executive, legislative, and judicial departments of the government, state and federal, from President Washington to President Pierce. Twenty representatives in the Congress of the United States hold their seats to-day, by the virtue of one of these clauses. The African slave trade was carried on its whole appointed period under another of them. Thousands of slaves have been delivered up under another; and it is a just cause of congratulation to the whole country that no occasion has occurred to call into action the remaining clauses which have been quoted.

These constitutional provisions were generally acquiesced in even by those who did not approve them, until a new and less obvious question sprung out of the acquisition of territory. When the Constitution was adopted, the question of slavery had been settled in the Northwest Territory by the articles of cession of that territory by the state of Virginia; and at that time the United States had not an acre of land over which it claimed unfettered jurisdiction, except a disputed claim on our southwestern boundary, which will hereafter be considered in its appropriate connexion. The acquisition of Louisiana imposed upon Congress the necessity of its government. This duty was assumed and performed for the general benefit of the whole country, without challenge or question, for nearly seventeen years. Equity and good faith shielded it from criticism. But in 1819, thirty years after the Constitution was adopted, upon application of Missouri for admission into the Union, the extraordinary pretension was for the first time asserted by a majority of the non-slaveholding states, that Congress not only had the power to prohibit the extension of slavery into new territories of the republic, but that it had power to compel new states, seeking admission into the Union, to prohibit it in their own constitutions, and mould their domestic policy in all respects to suit the opinions, whims, or caprices of the federal government.

This novel and extraordinary pretension subjected the whole power of Congress over the territories to the severest criticism. Abundant authority was found in the Constitution to manage this common domain merely as property; the 2d clause, 3d section of the 4th article declares, "that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state." But this clause was rightfully adjudicated by the supreme judicial authority not to confer on Congress general jurisdiction over territories, but by its terms to restrain that jurisdiction to their management as property, and even without that adjudication, it would not be difficult to prove the utter disregard of all sound principles of construction of this attempt to expand this simple duty "to dispose of and make all needful rules and regulations concerning the territory and other property of the United States" into this gigantic assumption of unlimited power in all cases whatsoever over the territories. When the Constitution seeks to confer this power, it uses appropriate language; when it wished to confer this power over the District of Columbia, and the places to be acquired for forts, magazines, and arsenals, it gives Congress power "to exercise exclusive legislation in all cases whatsoever over them." This is explicit, it is apt language to express a particular purpose, and no ingenuity can construe the clause concerning the territories into the same meaning.

This construction was so clear that Congress was then driven to look for power to govern its acquisitions in the necessity and propriety of it as a means of executing the express power to make treaties. The right to acquire territory, under the treaty-making power, was itself an implication—and an implication whose rightfulness was denied by Mr. Jefferson, who exercised it; the right to govern being claimed as an incident of the right to acquire, was then but an implication of an implication, and the power to exclude slavery therefrom was still another remove from the fountain of all power—express grant. But whether this power to prohibit slavery in the common territories claimed from the one source or the other, it cannot be sustained upon any sound rule of constitutional construction. The power is not expressly granted. Then, unless it can be shown to be both "necessary and proper" in order to the just execution of a granted power, the constitutional argument against it is complete. This remains to be shown by the advocates of this power. Admit the power in Congress to govern the territories until they shall be admitted as states into the Union—derive it either from the clause of the Constitution last referred to, or from the treaty-making power, this power to prohibit slavery is not an incident to it in either case, because it is neither "necessary nor proper" to its execution—that it is not necessary to execute the treaty-making power, is shown from the fact that the treaty power not only was never used for this purpose, but can be wisely and well executed without it, and has been repeatedly used to increase and protect slavery. The acquisitions of Louisiana and Florida are examples of its use, without the exercise of this pretended "necessary and proper" incident. Numerous treaties and conventions, with both savage and civilized nations, from the foundation of the government, demanding and receiving indemnities for injuries to this species of property, are conclusive against this novel pretension. That it is not necessary to the execution of the power "to make needful rules and regulations respecting the territory and other property of the United States," is proven from the fact that seven territories have been governed by Congress, and trained into sovereign states, without its exercise. It is not proper, because it seeks to use an implied power for other and different purposes from any specified, expressed, or intended by the grantors. The purpose is avowed to be, to limit, restrain, weaken, and finally crush out slavery; whereas the grant expressly provides for strengthening and protecting it. It is not proper, because it violates the fundamental condition of the Union—the equality of the states. The states of the Union are all political equals. Each state has the same rights as every other state—no more, no less. The exercise of this prohibition violates this equality and violates justice. By the laws of nations, acquisitions, either by purchase or conquest, even in despotic governments, enure to the benefit of all of the subjects of the state. The reason given for this principle, by the most approved publicists, is, that they are the fruits of the common blood and treasure. This prohibition destroys this equality, excludes a part of the joint owners from an equal participation and enjoyment of the common domain, and, against justice and right, appropriates it to the greater number. Therefore, so far from being a necessary and proper means of executing granted powers, it is an arbitrary and despotic usurpation, against the letter, the spirit, and declared purpose of the Constitution; for its exercise neither "promotes a more perfect union, nor establishes justice, nor insures domestic tranquillity, nor provides for the common defence, nor promotes the general welfare, nor secures the blessings of liberty to ourselves or our posterity;" but on the contrary, puts in jeopardy all these inestimable blessings. It loosens the bonds of union, seeks to establish injustice, disturbs domestic tranquillity, weakens the common defence, and endangers the general welfare, by sowing hatreds and discords among our people, and puts in eminent peril the liberties of the white race, by whom and for whom the Constitution was made, in a vain effort to bring them down to an equality with the African, or to raise the African to an equality with them. Providence has ordered it otherwise, and vain will be the efforts of man to resist this decree. This effort is as wicked as it is foolish and unauthorized. It does not benefit, but injures the black race. Penning them up in the old states will necessarily make them more wretched and miserable, but will not strike a fetter from their limbs. It is a simple wrong to the white race, but it is the refinement of cruelty to the blacks. Expansion is as necessary to the increased comforts of the slave as to the prosperity of the master.

The constitutional construction of this point by the South works no wrong to any portion of the republic, to no sound rules of construction, and promotes the declared purposes of the Constitution. We simply propose that the common territories be left open to the common enjoyment of all the people of the United States, that they shall be protected in their persons and property by the federal government until its authority is superseded by a state constitution, and then we propose that the character of the domestic institutions of the new state be determined by the freemen thereof. This is justice—this is constitutional equality.

But those who claim the power, in behalf of Congress, to exclude slavery from the common territories, rely rather on precedent and authority, than upon principle, to support the pretension. In utter disregard of the facts, they boldly proclaim that Congress has, from the beginning of the government, uniformly asserted, and repeatedly exercised, this power. This assertion, I will proceed to show, is

not supported by a single precedent up to 1820. Before that time the general duty to protect this great interest equally with every other, both in the territories and elsewhere, was universally admitted and fairly performed by every department of the government. The act of 1793 was passed to secure the delivery up of fugitives from labor escaping to the non-slaveholding states. Our navigation laws authorized their transportation on the high seas; the government demanded, and frequently received, compensation for owners of slaves, for injuries sustained, in these lawful voyages, by the interference of foreign governments. It not only protected this property on the high seas, but followed it to foreign lands, where it had been driven by the dangers of the sea, and protected it when cast even within the jurisdiction of hostile laws. It was protected against the invasion of Indians by your military power and public treaties. In your statute book are to be found numerous treaties, from the beginning of the government to this time, compelling the Indian tribes to pay for slave property captured or destroyed by them in peace or war; and your laws, regulating intercourse with the Indian tribes on our borders, made permanent provision for its protection. The treaty of Ghent provides for compensation, by the British government, for the loss of slaves, precisely upon the same footing as for all other property; and a New England man (Mr. John Q. Adams) ably, faithfully, and successfully maintained the slaveholders' rights under it at the court of St. James. Until the year 1820, our territorial legislation was marked by the same general spirit of fairness and equity. Up to that period, no act was passed by Congress asserting the primary constitutional power to prevent any citizen of the United States, owning slaves, from removing with them into our territories, and there receiving legal protection for his property; and until that time such persons did so remove into all the territories owned or acquired by the United States (except the Northwest Territory), and were there adequately protected. This fact alone is a complete refutation of the claim of early precedents. The action of Congress, in reference to the ordinance of 1787, does not contravene my position. That ordinance was adopted on the 13th day of July, 1787, before the adoption of the Constitution. It purported on its face to be a perpetual compact between the state of Virginia, the people of that territory, and the then government of the United States. It was unalterable, except by the consent of all the parties. When Congress met, for the first time under the new government, on the 4th day of March, 1789, it found the government established by virtue of this ordinance in actual operation; and on the 7th of August, 1789, it passed an act making the offices of governor and secretary of the territory conform to the Federal Constitution. It did nothing more. It made no reference to, it took no action upon, the 6th and last section of the ordinance, which prohibited slavery. The division of that territory was provided for in the ordinance; at each division, the whole of the ordinance was assigned to each of its parts. This is the whole sum and substance of the Free Soil claim to legislative precedents. Congress did not assert or exercise the right to alter a compact entered into with the former government, (the old Confederation), but gave its assent to the government already established and provided for in the compact. If the original compact was void for want of power in the old government to make it, as Mr. Madison supposed Congress may not have been bound to accept it, it certainly had no power to alter it. From these facts, it is clear that this legislation for the Northwest Territory does not conflict with the principle I assert, and does not furnish a precedent for hostile legislation by Congress against slavery in the territories. That such was neither the principle nor the policy upon which this act of Congress in 1789 was based, is further shown by the subsequent action of the same Congress upon the same subject. On the 2d of April, 1790, Congress by a formal act accepted the cession by North Carolina of her western lands (now the state of Tennessee), with this clause in the deed of cession: "that no regulations made, or to be made by Congress, shall tend to emancipate slaves" in the ceded territory; and on the 26th May, 1790, passed a territorial bill for the government of all the territory claimed by the United States south of the Ohio river. The description of this territory included all the lands ceded by North Carolina, and it included a great deal more. Its boundaries were left indefinite, because there were conflicting claims to all the rest of the territory. But this act put the whole country south of the Ohio, claimed by the federal government, under the pro-slavery clause of the North Carolina deed.

The whole action of the first Congress, in relation to slavery in the territories, was simply this: it acquiesced in a government for the Northwest Territory, based upon a pre-existing anti-slavery ordinance, established a government for the country ceded by North Carolina in conformity with the pro-slavery clause in her deed of cession, and extended this pro-slavery clause to all the rest of the territory claimed by the United States. This legislation vindicates the first Congress from all imputation of having established the precedent claimed by the advocates of legislative exclusion. On the 7th of April, 1798 (during the administration of President John Adams), the next territorial act was passed; it was the first act of territorial legislation resting solely upon primary, original, unfettered constitutional power over the subject. It established a government over the territory included within the boundaries of a line drawn due east from the mouth of the Yazoo river to the Chatahoochee river, thence down that river to the thirty-first degree of north latitude, thence west on that line to the Mississippi, then up

that river to the beginning. This territory was within the boundary of the United States, as defined by the treaty of Paris, and was held not to be within the boundary of any of the states. The controversy arose out of this state of facts. The charter of Georgia limited her boundary in the south by the Altamaha river. In 1763 (after the surrender of her charter), her limits were extended on the south by the crown of Great Britain to the St. Mary's river, and thence on the thirty-first parallel of latitude to the Mississippi river. In 1764, it was claimed that, on the recommendation of the Board of Trade, the boundary was again altered, and that portion of territory lying within the boundaries I have described, was annexed to West Florida, and that thus it stood at the Revolution and the treaty of peace. Therefore the United States claimed it as common property, and in 1798, passed the act now under review for its government. In that act, Congress neither claimed nor exercised any power to prohibit slavery. The question came directly before it. The ordinance of 1787, in terms, excluding the anti-slavery clause, was applied to this territory: this is a precedent directly in point, and is directly against the exercise of the power now claimed. In 1802, Georgia ceded her western lands, protecting slavery in her grant, and the federal government observed the stipulation. In 1803 we acquired Louisiana from France by purchase. There is no special reference to slavery in the treaty; it was protected only under general name of property. This acquisition was, soon after the treaty, divided into two territories, the Orleans and Louisiana territories, over both of which governments were established. Slavery was protected by law in the whole territory when we acquired it. Congress prohibited the foreign and domestic slave trade in these territories, but gave the express protection of its laws to slave owners emigrating thither with their slaves. Upon the admission of Louisiana into the Union, a new government was established over the rest of the country under the name of the Missouri territory. This act attempted no exclusion; slaveholders emigrated to the country with their slaves, and were protected by their government. In 1819, Florida was acquired by purchase; its laws recognised and protected slavery at the time of the acquisition. The United States extended the same recognition and protection to it. In all this legislation, embracing every act upon the subject up to 1820, we find no warrant, authority, or precedent, for the prohibition of slavery by Congress in the territories.

When Missouri applied for admission into the Union, an attempt was then made, for the first time, to impose restrictions upon a sovereign state, and admit her into the Union upon an unequal footing with her sister states, and to compel her to mould her constitution, not according to the will of her own people, but according to the fancy of a majority in Congress. The attempt was sternly resisted, and resulted in an act providing for her admission, but containing a clause prohibiting slavery for ever in all the territory acquired from France, outside of Missouri, and north of 36° 30′ north latitude. The principle of this law was a division of the common territory. The authority to prohibit, even to this extent, was denied by Mr. Madison, Mr. Jefferson, and other leading men of that day. It was carried by most of the Southern representatives combined, with a small number of Northern votes. It was a departure from principle, but it savored of justice. Subsequently, upon the settlement of our claim to Oregon, it lying north of that line, the prohibition was applied. Upon the acquisition of Texas, the same line of division was adopted. But when we acquired California and New Mexico, the South, still willing to abide by the principle of division, again attempted to divide by the same line. It was almost unanimously resisted by the Northern states; their representatives, by a great majority, insisted upon absolute prohibition, and the total exclusion of the people of the Southern states, from the whole of the common territories, unless they divested themselves of their slave property. The result of a long and unhappy conflict was the legislation of 1850. By it a large body of the representatives of the non-slaveholding states, sustained by the approbation of their constituents, acting upon sound principles of constitutional construction, duty, and patriotism, aided in voting down this new and dangerous usurpation, declared for the equality of the states, and protected the people of the territories from this unwarrantable interference with their rights. Here we wisely abandoned "the shifting grounds of compromise," and put the rights of the people again "upon the rock of the Constitution." The law of 1854 (commonly known as the Kansas-Nebraska act,) was made to conform to this policy, and but carried out the principles established in 1850. It righted an ancient wrong, and will restore harmony, because it restores justice to the country. This legislation I have endeavored to show is just, fair, and equal; that it is sustained by principle, by authority, and by the practice of our fathers. I trust, I believe, that when the transient passions of the day shall have subsided, and reason shall have resumed her dominion, it will be approved, even applauded, by the collective body of the people, in every portion of our widely extended republic.

In inviting your calm consideration of the second point of my lecture, I am fully persuaded that even if I should succeed in convincing your reason and judgment of its truth, I shall have no aid from your sympathies in this work; yet, if the principles upon which our social system is founded are sound, the system itself is humane and just, as well as necessary. Its permanence is based upon the idea of the superiority by nature of the white race over the African; that this superiority is not transient and artificial, but permanent

and natural; that the same power which made his skin unchangeably black, made him inferior, intellectually, to the white race, and incapable of an equal struggle with him in the career of progress and civilization; that it is necessary for his preservation in this struggle, and for his own interest, as well as that of the society of which he is a member, that he should be a servant and not a freeman in the commonwealth.

I have already stated that African slavery existed in all of the colonies at the commencement of the American Revolution. The paramount authority of the crown, with or without the consent of the colonies, had introduced it; and it was inextricably interwoven with the frame-work of society, especially in the southern states. The question was not presented for our decision whether it was just or beneficial to the African to tear him away, by force or fraud, from bondage in his own country, and place him in a like condition in ours. England and the Christian world had long before settled that question for us. At the final overthrow of British authority in these states, our ancestors found seven hundred thousand Africans among them, already in bondage, and concentrated, from our climate and productions, chiefly in the present slaveholding states. It became their duty to establish governments for themselves and these people, and they brought wisdom, experience, learning, and patriotism to the great work. They sought that system of government which would secure the greatest and most enduring happiness to the whole soicety. They incorporated no utopian theories into their system. They did not so much concern themselves about what rights man might possibly have in a state of nature, as what rights he ought to have in a state of society: they dealt with political rights as things of compact, not of birthright; in the concrete, and not in the abstract. They held and maintained, and incorporated into their system, as fundamental truths, that it was the right and duty of the state to define and fix, as well as to protect and defend, the individual rights of each member of the social compact, and to treat all individual rights as subordinate to the great interests of the whole society. Therefore they denied "natural equality," repudiated mere governments of men necessarily resulting therefrom, and established governments of laws—thirteen free, sovereign, and independent republics. A very slight examination of our state constitutions will show how little they regarded vague notions of abstract liberty, or natural equality in fixing the rights of the white race as well as the black. The elective franchise, the cardinal feature of our system, I have already shown, was granted, withheld, or limited, according to their ideas of public policy and the interest of the state. Numerous restraints upon the supposed abstract right of a mere numerical majority to govern society in all cases, are to be found planted in all of our constitutions, state and federal, thus affirming this subordination of individual rights to the interest and safety of the state.

The slaveholding states, acting upon these principles, finding the African race among them in slavery, unfit to be trusted with political power, incapable as freemen of securing their own happiness, or promoting the public prosperity, recognised their condition as slaves, and subjected it to legal control. There are abundant means of obtaining evidence of the effects of this policy on the slave and society, accessible to all who seek the truth. We say its wisdom is vindicated by its results, and that under it the African in the slaveholding states is found in a better position than he has ever attained in any other age or country, whether in bondage or freedom. In support of this point, I propose to trace him rapidly from his earliest history to the present time. The monuments of the ancient Egyptians carry him back to the morning of time—older than the pyramids; they furnish the evidence both of his national identity and his social degradation before history began. We first behold him a slave in foreign lands; we then find the great body of his race slaves in their native land; and after thirty centuries, illuminated by both ancient and modern civilization, have passed over him, we still find him a slave of savage masters, as incapable as himself of even attempting a single step in civilization; we find him there still, without government, or laws, or protection; without letters, or arts, or industry; without religion, or even the aspirations which would raise him to the rank of an idolater, and in his lowest type, his almost only mark of humanity is, that he walks erect in the image of the Creator. Annihilate his race to-day, and you will find no trace of his existence within half a score of years, and he would not leave behind him a single discovery, invention, or thought worthy of remembrance by the human family.

In the eastern hemisphere he has been found in all ages scattered among the nations of every degree of civilization, yet inferior to them all, always in a servile condition. Very soon after the discovery and settlement of America, the policy of the Christian world bought large numbers of these people of their savage masters and countrymen, and imported them into the Western world. Here we are enabled to view them under different and far more favorable conditions. In Hayti, by the encouragement of the French government, after a long probation of slavery, they became free, and, led on by the conduct and valor of the mixed races, and by the aid of overwhelming numbers, they massacred the small number of whites who inhabited the island, and succeeded to the undisputed sway of the fairest and best of all the West India islands, under the highest state of cultivation. Their condition in Hayti left nothing to be desired for the most favorable experiment of the race in self-government and civilization. This experiment has now been tested for sixty years, and its results are

before the world. Fanaticism may palliate but cannot conceal the utter prostration of the race. A war of races began the very moment the fear of foreign subjugation ceased, and resulted in the extermination of the greater number of the mulattoes, who had rescued the African from the dominion of the white race. Revolutions, tumults, and disorders, have been the ordinary pastime of the emancipated blacks; industry has almost ceased, and their stock of civilization acquired in slavery has been already nearly exhausted, and they are now scarcely distinguished from the tribes from which they were torn in their native land.

More recently the same experiment has been tried in Jamaica, under the auspices of England. This was one of the most beautiful, productive, and prosperous of the British colonial possessions. In 1838, England, following the false theories of her own abolitionists, proclaimed total emancipation of the black race in Jamaica. Her arms and her power have watched over and protected them; not only the interest, but the absolute necessities of the white proprietors of the land compelled them to offer every inducement and stimulant to industry; yet the experiment stands before the world a confessed failure. Ruin has overwhelmed the proprietors; and the negro, true to the instincts of his nature, buries himself in filth, and sloth, and crime. Here we can compare the African with himself in both conditions, in freedom and in bondage; and we can compare him with his race in the same climate, and following the same pursuits. Compare him with himself under the two different conditions in Hayti and Jamaica, or with his race in bondage in Cuba, and every comparison demonstrates the folly of his emancipation. In the United States, too, we have peculiar opportunities of studying the African race under different conditions. Here we find him in slavery; here we find him also a free man in both the slaveholding and non-slaveholding states. The best specimen of the free black is to be found in the southern states, in the closest contact with slavery, and subject to many of its restraints. Upon the theory of the anti-slavery men, the most favorable condition in which you can view the African ought to be in the non-slaveholding states of this Union. There we ought to expect to find him displaying all the capabilities of his race for improvement and progress—in a temperate climate, with the road of progress open before him, among an active, industrious, ingenious, and educated people, surrounded by sympathizing friends, and mild, just, and equal institutions; if he fails here, surely it can be chargeable to nothing but himself. He has had seventy years in which to cleanse himself and his race from the leprosy of slavery; yet what is his condition here to-day? He is free: he is lord of himself; but he finds it is truly a "heritage of woe." After this seventy years of education and probation among themselves, his inferiority stands as fully a confessed fact in the non-slaveholding as in the slaveholding states. By them he is adjudged unfit to enjoy the rights and perform the duties of citizenship—denied social equality by an irreversible law of nature, and political rights by municipal law, incapable of maintaining the unequal struggle with the superior race; the melancholy history of his career of freedom is here most usually found in the records of criminal courts, jails, poor-houses, and penitentiaries. These facts have had themselves recognised in the most decisive manner throughout the northern states. No town, or city, or state encourages their immigration; many of them discourages it by legislation; some of the non-slaveholding states have prohibited their entry into their borders under any circumstances whatever. Thus, it seems, this great fact of "inferiority" of the race is equally admitted everywhere in our country. The northern states admit it, and to rid themselves of the burden, inflict the most cruel injuries upon an unhappy race; they expel them from their borders, and drive them out of their boundaries, as wanderers and outcasts. The result of this policy is everywhere apparent; the statistics of population supply the evidence of their condition. In the non-slaveholding states their annual increase, during the ten years preceding the last census, was but a little over one per cent. per annum, even with the additions of the emancipated slaves and fugitives from labor from the South, clearly proving that in this, their most favored condition, when left to themselves, they are scarcely capable of maintaining their existence, and with the prospect of a denser population and a greater competition for employment consequent thereon, they are in danger of extinction.

The southern states, acting upon the same admitted facts, treat them differently. They keep them in the subordinate condition in which they found them; protect them against themselves, and compel them to contribute to their own and the public interests and welfare; and under this system, we appeal to facts, open to all men, to prove that the African race has attained a higher degree of comfort and happiness than his race has ever before attained in any other age or country. Our political system gives the slave great and valuable rights. His life is equally protected with that of his master: his person is secure from assaults against all others except his master; and his master's power, in this respect, is placed under salutary legal restraints. He is entitled, by law, to a home, to ample food and clothing, and exempted from "excessive" labor; and when no longer capable of labor, in old age and disease, he is a legal charge upon his master. His family, old and young, whether capable of labor or not, from the cradle to the grave, have the same legal rights; and in these legal provisions, they enjoy as large a proportion of the products of their labor as any class of unskilled hired laborers in the world. We know that these rights are, in the main, faithfully secured to them; but I rely not on our knowledge, but submit our in-

stitutions to the same tests by which we try those of other countries. These are supplied by our public statistics. They show that our slaves are larger consumers of animal food than any population in Europe, and larger than any other laboring population in the United States; and that their natural increase is equal to that of any other people. These are true and undisputable tests that their physical comforts are amply secured.

In 1790 there were less than seven hundred thousand slaves in the United States; in 1850 the number exceeded three and one quarter millions. The same authority shows their increase, for the ten years preceding the last census, to have been above twenty-eight per cent., or nearly three per cent. per annum, an increase equal, allowing for the element of foreign immigration, to the white race, and nearly three times that of the free blacks of the North. But these legal rights of the slave embrace but a small portion of the privileges actually enjoyed by him. He has, by universal custom, the control of much of his own time, which is applied, at his own choice and convenience, to the mechanic arts, to agriculture, or to some other profitable pursuit, which not only gives him the power of purchase over many additional necessaries of life, but over many of its luxuries, and in numerous cases, enables him to purchase his freedom when he desires it. Besides, the nature of the relation of master and slave begets kindnesses, imposes duties (and secures their performance), which exist in no other relation of capital and labor. Interest and humanity cooperate in harmony for the well-being of slave labor. Thus the monster objection to our institution of slavery, that it deprives labor of its wages, cannot stand the test of a truthful investigation. A slight examination of the true theory of wages, will further expose its fallacy. Under a system of free labor, wages are usually paid in money, the representative of products—under ours, in products themselves. One of your most distinguished statesmen and patriots, President John Adams, said that the difference to the state was "imaginary." "What matters it (said he) whether a landlord, employing ten laborers on his farm, gives them annually as much money as will buy them the necessaries of life, or gives them those necessaries at short hand?" All experience has shown that if that be the measure of the wages of labor, it is safer for the laborer to take his wages in products than in their fluctuating pecuniary value. Therefore, if we pay in the necessaries and comforts of life more than any given amount of pecuniary wages will buy, then our laborer is paid higher than the laborer who receives that amount of wages. The most authentic agricultural statistics of England show that the wages of agricultural and unskilled labor in that kingdom, not only fails to furnish the laborer with the comforts of our slave, but even with the necessaries of life; and no slaveholder could escape a conviction for cruelty to his slaves who gave his slave no more of the necessaries of life for his labor than the wages paid to their agricultural laborers by the noblemen and gentlemen of England would buy. Under their system man has become less valuable and less cared for than domestic animals; and noble dukes will depopulate whole districts of men to supply their places with sheep, and then with intrepid audacity lecture and denounce American slaveholders.

The great conflict between labor and capital, under free competition, has ever been how the earnings of labor shall be divided between them. In new and sparsely settled countries, where land is cheap, and food is easily produced, and education and intelligence approximate equality, labor can successfully struggle in this warfare with capital. But this is an exceptional and temporary condition of society. In the Old World this state of things has long since passed away, and the conflict with the lower grades of labor has long since ceased. There the compensation of unskilled labor, which first succumbs to capital, is reduced to a point scarcely adequate to the continuance of the race. The rate of increase is scarcely one per cent. per annum, and even at that rate, population, until recently, was considered a curse; in short, capital has become the master of labor, with all the benefits, without the natural burdens of the relation.

In this division of the earnings of labor between it and capital, the southern slave has a marked advantage over the English laborer, and is often equal to the free laborer of the North. Here again we are furnished with authentic data from which to reason. The census of 1850 shows that, on the cotton estates of the South, which is the chief branch of our agricultural industry, one-half of the arable lands are annually put under food crops. This half is usually wholly consumed on the farm by the laborers and necessary animals; out of the other half must be paid all the necessary expenses of production, often including additional supplies of food beyond the produce of the land, which usually equals one-third of the residue, leaving but one-third for net rent. The average rent of land in the older non-slaveholding states is equal to one-third of the gross product, and it not unfrequently amounts to one-half of it (in England it is sometimes even greater), the tenant, from his portion, paying all expenses of production and the expenses of himself and family. From this statement it is apparent that the farm laborers of the South receive always as much, and frequently a greater portion of the produce of the land, than the laborer in the New or Old England. Besides, here the portion due the slave is a charge upon the whole product of capital and the capital itself; it is neither dependent upon seasons nor subject to accidents, and survives his own capacity for labor, and even the ruin of his master.

But it is objected that religious instruction is denied the slave—while it is true that religious instruction and privileges are not en-

joined by law in all of the states, the number of slaves who are in connexion with the different churches abundantly proves the universality of their enjoyment of those privileges. And a much larger number of the race in slavery enjoy the consolations of religion than the efforts of the combined Christian world have been able to convert to Christianity out of all the millions of their countrymen who remained in their native land.

The immoralities of the slaves, and of those connected with slavery, are constant themes of abolition denunciation. They are lamentably great; but it remains to be shown that they are greater than with the laboring poor of England, or any other country. And it is shown that our slaves are without the additional stimulant of want to drive them to crime—we have at least removed from them the temptation and excuse of hunger. Poor human nature is here at least spared the wretched fate of the utter prostration of its moral nature at the feet of its physical wants. Lord Ashley's report to the British Parliament shows that in the capital of that empire, perhaps within the hearing of Stafford House and Exeter Hall, hunger alone daily drives its thousands of men and women into the abyss of crime.

It is also objected that our slaves are debarred the benefits of education. This objection is also well taken, and is not without force. And for this evil the slaves are greatly indebted to the abolitionists. Formerly in none of the slaveholding states was it forbidden to teach slaves to read and write; but the character of the literature sought to be furnished them by the abolitionists caused these states to take counsel rather of their passions than their reason, and to lay the axe at the root of the evil; better counsels will in time prevail, and this will be remedied. It is true that the slave, from his protected position, has less need of education than the free laborer, who has to struggle for himself in the warfare of society; yet it is both useful to him, his master, and society.

The want of legal protection to the marriage relation is also a fruitful source of agitation among the opponents of slavery. The complaint is not without foundation. This is an evil not yet removed by law; but marriage is not inconsistent with the institution of slavery as it exists among us, and the objection, therefore, lies rather to an incident than to the essence of the system. But in the truth and fact marriage does exist to a very great extent among slaves, and is encouraged and protected by their owners; and it will be found, upon careful investigation, that fewer children are born out of wedlock among slaves than in the capitals of two of the most civilized countries of Europe—Austria and France: in the former, one-half of the children are thus born; in the latter, more than one-fourth. But even in this we have deprived the slave of no pre-existing right. We found the race without any knowledge of or regard for the institution of marriage, and we are reproached with not having as yet secured to it that, with all other blessings of civilization. To protect that and other domestic ties by laws forbidding, under proper regulations, the separation of families, would be wise, proper, and humane; and some of the slaveholding states have already adopted partial legislation for the removal of these evils. But the objection is far more formidable in theory than in practice. The accidents and necessities of life, the desire to better one's condition, produce infinitely a greater amount of separation in families of the white than ever happens to the colored race. This is true even in the United States, where the general condition of the people is prosperous. But it is still more marked in Europe. The injustice and despotism of England towards Ireland has produced more separation of Irish families, and sundered more domestic ties within the last ten years, than African slavery has effected since its introduction into the United States. The twenty millions of freemen in the United States are witnesses of the dispersive injustice of the Old World. The general happiness, cheerfulness, and contentment of slaves attest both the mildness and humanity of the system and their natural adaptation to their condition. They require no standing armies to enforce their obedience; while the evidence of discontent, and the appliances of force to repress it, are everywhere visible among the toiling millions of the earth; even in the northern states of this Union, strikes and mobs, unions and combinations against employers, attest at once the misery and discontent of labor among them. England keeps one hundred thousand soldiers in time of peace, a large navy, and an innumerable police, to secure obedience to her social institutions; and physical force is the sole guarantee of her social order, the only cement of her gigantic empire.

I have briefly traced the condition of the African race through all ages and all countries, and described it fairly and truly under American slavery, and I submit that the proposition is fully proven, that his position in slavery among us is superior to any which he has ever attained in any age or country. The picture is not without shade as well as light: evils and imperfections cling to man and all of his works, and this is not exempt from them. The condition of the slave offers great opportunities for abuse, and these opportunities are frequently used to violate humanity and justice. But the laws restrain these abuses and punish these crimes in this as well as other relations of life, and they who assume it as a fundamental principle in the constitution of man, that abuse is the unvarying concomitant of power and crime of opportunity, subvert the foundations of all private morals and of every social system. Nowhere do these assumptions find a nobler refutation than in the general treatment of the African race by Southern slaveholders; and we may, with hope and confidence, safely leave to them the

removal of existing abuses, and the adoption of such further ameliorations as may be demanded by justice and humanity. The condition of the African (whatever may be his interests) may not be permanent among us; he may find his exodus in the unvarying laws of population. Under the conditions of labor in England and the continent of Europe, domestic slavery is impossible there, and could not exist here, or anywhere else. The moment wages descend to a point barely sufficient to support the laborer and his family, capital cannot afford to own labor, and it must cease. Slavery ceased in England in obedience to this law, and not from any regard to liberty or humanity. The increase of population in this country may produce the same results, and American slavery, like that of England, may find its euthanasia in the general prostration of all labor.

The next aspect in which I propose to examine this question is, its effects upon the material interests of the slaveholding states. Thirty years ago slavery was assailed, mainly on the ground that it was a dear, wasteful, unprofitable labor, and we were urged to emancipate the blacks, in order to make them more useful and productive members of society. The result of the experiment in the West India islands, to which I have before referred, not only disproved, but utterly annihilated this theory. The theory was true as to the white race, and was not true as to the black; and this single fact made thoughtful men pause and ponder, before advancing further with this folly of abolition. An inquiry into the wealth and productions of the slaveholding states of this Union demonstrates that slave labor can be economically and profitably employed, at least in agriculture, and leaves the question in great doubt, whether it cannot be thus employed in the South more advantageously than any other description of labor. The same truth will be made manifest by a comparison of the production of Cuba and Brazil, not only with Hayti and Jamaica, but with the free races, in similar latitudes, engaged in the same or similar productions in any part of the world. The slaveholding states, with one-half of the white population and between three and four millions of slaves, furnish above three-fifths of the annual exports of the republic, containing twenty-three millions of people; and their entire products, including every branch of industry, greatly exceed *per capita* those of the more populous northern states. The difference in realized wealth in proportion to population is not less remarkable and equally favorable to the slaveholding state. But this is not a fair comparison; on the contrary, it is exceedingly unfair to the slaveholding states. The question of material advantage would be settled on the side of slavery, whenever it was shown that our mixed society was more productive and prosperous than any other mixed society with the inferior race free instead of slave. The question is not whether we could not be more prosperous and happy with these three and a half millions of slaves in Africa, and their places filled with an equal number of hardy intelligent enterprising citizens of the superior race, but it is simply whether, while we have them among us, we would be most prosperous with them in freedom or bondage; with this bare statement of the true issue, I can safely leave the question to the facts already heretofore referred to, and to those disclosed in the late census. But the truth itself needs some explanation, as it seems to be a great mystery to the opponents of slavery, how the system is capable at the same time of increasing the comforts and happiness of the slave, the profits of the master, and do no violence to humanity. Its solution rests upon very obvious principles. In this relation the labor of the country is united with and protected by its capital, directed by the educated and the intelligent, secured against its own weakness, waste, and folly, associated in such form as to give the greatest efficiency in production, and the least cost of maintenance. Each individual free black laborer is the victim, not only of his own folly and extravagance, but of his ignorance, misfortunes, and necessities. His isolation enlarges his expenses, without increasing his comforts; his want of capital increases the price of everything he buys, disables him from supplying his wants at favorable times, or on advantageous terms, and throws him into the hands of retailers and extortioners. But labor united with capital, directed by skill, forecast, and intelligence, while it is capable of its highest production, is freed from all these evils, leaves a margin both for increased comforts to the laborer and additional profits to capital. This is the explanation of the seeming paradox.

The opponents of slavery, passing by the question of material interests, insist that its effects on the society where it exists is to demoralize and enervate it, and render it incapable of advancement and a high civilization; and upon the citizen to debase him morally and intellectually. Such is not the lesson taught by history, either sacred or profane, nor the experience of the past or present.

To the Hebrew race were committed the oracles of the Most High; slaveholding priests administered at his altar, and slaveholding prophets and patriarchs received his revelations and taught them to their own and transmitted them to all future generations of men. The highest forms of ancient civilization, and the noblest development of the individual man, are to be found in the ancient slaveholding commonwealths of Greece and Rome. In eloquence, in rhetoric, in poetry and painting, in architecture and sculpture, you must still go and search amid the wreck and ruins of their genius for the "pride of every model and the perfection of every master," and the language and literature of both, stamped with immortality, passes on to mingle itself with the thought and the speech of all lands and all centuries. Time will not allow me to

multiply illustrations. That domestic slavery neither enfeebles nor deteriorates our race, that it is not inconsistent with the highest advancement of man and society, is the lesson taught by all ancient and confirmed by all modern history. Its effects in strengthening the attachment of the dominant race to liberty, was eloquently expressed by Mr. Burke, the most accomplished and philosophical statesman England ever produced. In his speech on conciliation with America, he uses the following strong language: "Where this is the case, those who are free are by far the most proud and jealous of their freedom. I cannot alter the nature of man. The fact is so, and these people of the southern colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty than those to the northward. Such were all the ancient commonwealths, such were our Gothic ancestors, and such in our day were the Poles, such will be all masters of slaves who are not slaves themselves. In such a people the haughtiness of domination combines itself with the spirit of freedom, fortifies it, and renders it invincible."

No stronger evidence of what progress society may make with domestic slavery can be desired, than that which the present condition of the slaveholding states present. For near twenty years, foreign and domestic enemies of their institutions have labored by pen and speech to excite discontent among the white race, and insurrections among the black. These efforts have shaken the national government to its foundations, and bursted the bonds of Christian unity among the churches of the land; yet the objects of their attacks—these states—have scarcely felt the shock. In surveying the whole civilized world, the eye rests not on a single spot where all classes of society are so well content with their social system, or have greater reason to be so, than in the slaveholding states of this Union. Stability, progress, order, peace, content, prosperity, reign throughout our borders. Not a single soldier is to be found in our widely-extended domain to overawe or protect society. The desire for organic change nowhere manifests itself. Within less than seventy years, out of five feeble colonies, with less than one and a half millions of inhabitants, have emerged fourteen republican states, containing nearly ten millions of inhabitants, rich, powerful, educated, moral, refined, prosperous, and happy; each with republican governments adequate to the protection of public liberty and private rights, which are cheerfully obeyed, supported, and upheld by all classes of society. With a noble system of internal improvements penetrating almost every neighborhood, stimulating and rewarding the industry of our people; with moral and intellectual surpassing physical improvements; with churches, schoolhouses, and colleges daily multiplying throughout the land, bringing education and religious instruction to the homes of all the people, they may safely challenge the admiration of the civilized world. None of this great improvement and progress have been even aided by the federal government; we have neither sought from it protection for our private pursuits, nor appropriations for our public improvements. They have been effected by the unaided individual efforts of an enlightened, moral, energetic, and religious people. Such is our social system, and such our condition under it. Its political wisdom is vindicated in its effects on society; its morality by the practices of the patriarchs and the teachings of the apostles; we submit it to the judgment of mankind, with the firm conviction that the adoption of no other system under our circumstances would have exhibited the individual man, bond or free, in a higher development, or society in a happier civilization.

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"A movement of this sort cannot be contemplated by us in silence. Such an attempt upon any neighboring country would necessarily be viewed by this government with very deep concern, but where it is made upon a nation whose territories form the slaveholding states of our Union, it awakens a still more solemn interest. It cannot be permitted to succeed without the most strenuous efforts on our part to arrest a calamity so serious to every part of the country.

* * * * * *

"But there is another view of this subject still more important to us, and scarcely less important to Texas herself. The establishment, in the very midst of our slaveholding states, of an independent government, forbidding the existence of slavery, and by a people born for the most part among us, reared up in our habits, and speaking our language, could not fail to produce the most unhappy effects upon both parties. If Texas were in that condition, her territory would afford a ready refuge for the fugitive slaves of Louisiana and Arkansas, and would hold out to them an encouragement to run away, which no municipal regulations of those states could possibly counteract."—*Mr. Upshur of Va., in regard to the movement in Texas.*

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"'Is slavery never to disappear from the Union?' This is a startling and momentous question; but the answer is easy, and the proof is clear. It will certainly disappear if Texas is reannexed to the Union—not by abolition, but slowly and gradually, by 'diffusion,' as it has already nearly receeded from several of the more northern of the slaveholding states; and as it will continue thus more rapidly to recede by the annexation of Texas, and finally, in the distant future, without a shock, without abolition, without a convulsion, disappear into and through Texas into Mexico and Central and Southern America."—*R. J. Walker, Governor of Kansas.*

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"I can only say, there is not a man living who wishes more sincerely than I do to see a plan adopted for the abolition of it, (slavery;)

but there is only one proper and effectual mode in which it can be accomplished, and that is by legislative authority; and this, so far as my suffrage will go, shall never be wanting."—*General Washington.*

Slave Trade, African.

Revival of.

In the annual message of Governor Adams, of South Carolina, for the year 1856, he proceeded to argue in favor of the reopening of the slave trade as follows:—

"It is apprehended that the opening of this trade will lessen the value of slaves, and ultimately destroy the institution. It is a sufficient answer to point to the fact that unrestricted immigration has not diminished the value of labor in the northwestern confederacy. The cry there is the want of labor, notwithstanding capital has the pauperism of the old world to press into the grinding service. If we cannot supply the demand for slave labor, then we must expect to be supplied with a species of labor we do not want, and which is, from the very nature of things, antagonistic to our institutions. It is much better that our drays should be driven by slaves, that our factories should be worked by slaves, that our hotels should be served by slaves, that our locomotives should be manned by slaves, than that we should be exposed to the introduction from any quarter of a population alien to us by birth, training, and education, and which in the process of time must lead to that conflict between capital and labor 'which makes it so difficult to maintain free institutions in all wealthy and highly civilized nations where such institutions as ours do not exist.' In all slaveholding states true policy dictates that the superior race should direct, and the inferior perform all menial service. Competition between the white and black man for this service may not disturb northern sensibility, but it does not exactly suit our latitude.

"Irrespective, however, of interest, the act of Congress declaring the slave trade piracy is a brand upon us which I think it important to remove. If the trade be piracy, the slave must be plunder, and no ingenuity can avoid the logical necessity of such a conclusion. My hopes and fortunes are indissolubly associated with this form of society. I feel that I would be wanting in duty if I did not urge you to withdraw your assent to an act which is itself a direct condemnation of your institutions. But we have interests to enforce a course of self-respect. I believe, as I have already stated, that more slaves are necessary to a continuance of our monopoly in plantation products. I believe that they are necessary to the full development of our whole round of agricultural and mechanical resources; that they are necessary to the restoration of the South to an equality of power in the general government, perhaps to the very integrity of the slave society, disturbed as it has been by causes which have induced an undue proportion of the ruling race. To us have been committed the fortunes of this peculiar form of society resulting from the union of unequal races. It has vindicated its claim to the approbation of an enlightened humanity; it has civilized and christianized the African; it has exalted the white race itself to higher hopes and purposes, and it is perhaps of the most sacred obligation that we should give it the means of expansion, and that we should press it forward to a perpetuity of progress."

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In the House of Representatives of the United States, Monday, Dec. 15, 1856, Mr. Etheridge (Fillmore American), of Tenn., asked leave to introduce the following resolution:—

"Resolved, That this House of Representatives regard all suggestions and propositions of every kind, by whomsoever made, for a revival of the African slave trade, as shocking to the moral sentiment of the enlightened portion of mankind; and that any action on the part of Congress conniving at or legalizing that horrid and inhuman traffic, would justly subject the Government and citizens of the United States to the reproach and execration of all civilized and Christian people throughout the world."

Mr. Smith (Democrat), of Va., objected. Mr. Etheridge moved a suspension of the rules, which was carried—yeas 140, nays 53.

During the pendency of these proceedings, the following remarks were made by members:—

Mr. Walker. I do not design to enter into debate, but only to ask the gentleman from Tennessee whether, if there is a suspension of the rules, and this resolution is received, it is his purpose to call the previous question with a view of cutting off debate upon the adoption of the resolution?

Mr. Etheridge. I will answer the gentleman. The resolution, to my mind, contains a self-evident proposition. I presume there is no gentleman here who has not an opinion upon the question, and I do not wish to discuss it. I shall move the previous question if I shall succeed in getting the floor.

Mr. Jones of Tenn. I would ask my colleague if he cannot modify his resolution so as to leave out all his reasons, his argument, and his speech? I say to my colleague that I am [loud cries of "Order!" "Order!"] as much opposed to opening the African slave trade as he is or any other man. [Cries of "Order!" "Order!"]

The Speaker. Debate is not in order.

Mr. Jones of Tenn. I do not intend to debate the matter, but I am not to be put down by my colleague.

The yeas and nays were ordered.

Mr. Orr. I give notice that, if the rules are suspended, I will offer the following resolution as a substitute for that proposed by the gentleman from Tennessee:—

"Resolved, That it is inexpedient to repeal the laws prohibiting the African slave trade."

Mr. Puryear. Before I vote upon this question, I desire to ask the indulgence of the House to state that I am as much opposed to the revival of the slave trade as any gentleman upon this floor; but I believe that this resolu-

tion is introduced out of place, and that this is not the time for it. I shall therefore vote against it. If the time shall ever arrive when my vote can affect the question, I shall vote against the revival of the slave trade.

Mr. SMITH of Va. In explanation of the vote which I shall give, I will say that I deem the revival of the slave trade as inexpedient; but I think I understand the object in introducing this resolution, and not concurring in that object, I shall vote "no."

Mr. ZOLLICOFFER. I desire to say that I am decidedly opposed to the reopening of the slave trade; but as I do not perceive that any good can grow out of introducing that question here, I shall vote "no."

Mr. PHELPS. I am opposed to re-establishing the slave trade, and should vote against a bill which proposes to repeal the laws now prohibiting it. But I am against abstractions; and as the message of Governor Adams of South Carolina is not before us, I record my vote in the negative.

Mr. BURNETT. I am as much opposed to reopening the slave trade as any man upon this floor; but believing I fully understand the object of the gentleman who introduced the resolution, and that I can understand the inducements which have led him to present it at this time, I shall vote "no."

Mr. WASHBURNE of Me. I shall object to any explanations hereafter.

Mr. JEWETT. I would inquire of the Chair whether, if the rules are suspended, the first question will be upon the amendment of the gentleman from South Carolina [Mr. Orr], and then upon the resolution offered by the gentleman from Tennessee?

The SPEAKER. The amendment of the gentleman from South Carolina has not been received. If the rules are suspended, the question will be first upon the resolution offered by the gentleman from Tennessee.

Mr. JEWETT. I vote "no."

Mr. BARKSDALE. I am not in favor of reopening the African slave trade.

Mr. WASHBURNE of Me. I object to debate.

Mr. BARKSDALE. I do not believe that any gentleman upon this side of the House is. ["Order!" "Order!"] But I regard the resolution of the gentleman from Tennessee as illtimed [renewed cries of "Order!"], out of place, thrown into the House as a firebrand [loud cries of "Order!" "Order!" and great confusion], and for the accomplishment of a party purpose. I therefore vote "no."

Mr. KEITT. I wish to say that if I had been in the House—[cries of "Order!" "Order!"]

The SPEAKER. The gentleman from South Carolina desires to state the manner in which he should have voted, had he been within the Hall when his name was called. That courtesy has never been refused to any member, and if the gentleman confines himself to that point, the Chair thinks he is in order.

Mr. KEITT. I wish to say that had I been here when my name was called, I should have voted "no;" among other reasons—[loud cries of "Order!"]—because I consider the resolution as improper and irrelevant. What my views are upon the whole subject, I will express, when I can do so fully.

Mr. GARNETT stated that had he been within the Hall, when his name was called, he should have voted "no."

Mr. KELLY stated that he should have voted "no," had he been in the House when his name was called.

Mr. GREENWOOD (Dem.) of Ark. So far as I am advised, there is no gentleman on this side of the House who is in favor of reopening the African slave trade; but I shall vote against the suspension of the rules.

Mr. ORR. I ask the gentleman from Tennessee to let my resolution be introduced as an amendment to the one he has offered, so that the House may have the choice between them.

Now, Mr. Speaker, I think with the gentleman himself, that it is inexpedient to open the slave trade; and, if he will consent to let my amendment be offered, I am confident there will be an almost unanimous vote of the House against the re-opening of that trade.

Mr. ETHERIDGE. If it were impossible for the gentleman to get in his resolution as I got mine, I would withdraw the call for the previous question, and let his resolution come in; but it is just as easy for him as it was for me to present his resolution, and, if objected to, to move a suspension of the rules for its introduction. [Cries of "Order!"]

Mr. JONES of Tenn. I wish to ask my colleague a question. Will he answer me?

Mr. ETHERIDGE. I will.

Mr. JONES. Does my colleague desire to have a fair expression of this House against the reopening of the slave trade; or does he wish such an expression as will be offensive to his own friends and his own section of the country?

Mr. BARCLAY (Rep.) of Pa. I object to debate.

Mr. McMULLEN (Democrat) of Va. stated that he was opposed to reopening the slave trade; but could not vote for the resolution because of the terms in which it was couched.

Mr. MILLSON. I ask to be excused from voting on the adoption of the resolution. If this were a measure of legislation, I would vote on the one side or the other. I am ready to vote for a resolution condemnatory of the slave trade on grounds of expediency, humanity, and morality. [Cries of "Order!"] I will not be half a minute. I wish to state the reasons for my request. The rule says:—

"Every member who shall be in the House when the question is put shall give his vote, unless the House, for special reason, shall excuse him."

The SPEAKER. The previous question is ordered, and the gentleman cannot debate the question.

Mr. MILLSON. I do not ask to debate it; I merely wish to give "the special reason" for

my request to be excused from voting on the adoption of the resolution. A vote for or against the resolution will place me in a false position. There are parts and bearings of the resolution to which I have objection, and I cannot consistently vote for it; while I am in favor of the general objects of the resolution, and am therefore unwilling to vote against it. For these reasons, like some of my colleagues, I desire to be excused from voting at all, as neither an affirmative nor a negative vote will represent me correctly.

Mr. EUSTIS. Inasmuch as my friend from Tennessee [Mr. Etheridge] has seen fit to impose the gag-rule upon us, and as I desire to vote understandingly, I want to know from the chair whether I can have my reasons for giving the vote which I intend to give spread upon the record? I vote against the resolution, not that I am in favor of the revival of the slave trade, for I believe there is but one opinion upon this subject. I vote against it, because I look upon the resolution as uncalled for, as unwarranted, and "full of sound and fury, signifying nothing." [Cries of "Order!" "Order!"]

Mr. GROW. I object.

The SPEAKER. Debate is out of order.

Mr. FLORENCE. Mr. Speaker, there is not quite enough cheese on this "figure 4" to catch me. The attractive trap is not quite well enough baited, as beautifully gilded as it is, to be deceived by it. The real purpose to my mind is too apparent. I am quite as decidedly and as strongly opposed to reopening the African slave trade as any one in this broad land, believing it to be contrary to the spirit of the age, and repulsive to the most acute and sensitive feelings of philanthropy and enlarged humanity; but as I cannot see that any practical good is to result from an introduction of the subject here, or why the valuable time of this short session of Congress should be taken up either with the discussion or agitation of it, in the form and manner in which the resolution offered by the gentleman from Tennessee presents it, I vote in the negative.

Mr. HARRIS of Ill. Is it in order to explain the vote I give?

The SPEAKER. It is not.

Mr. HARRIS of Ill. I will vote, then, and I vote for all that part of the resolution which denounces the slave trade. [Cries of "Order!" "Order!"]

Mr. MCMULLEN. I ask to be excused from voting upon this unnecessary and nonsensical resolution.

Mr. SAGE. I move the gentleman be excused.

The motion was agreed to.

Mr. OLIVER of Mo. I am decidedly opposed to the revival of the African slave trade——

The SPEAKER. Debate is not in order.

Mr. OLIVER of Mo. But upon this resolution I vote "no."

Mr. ORR. If I can get the floor, I shall give my opinions hereafter in the shape of a resolution. I vote "no."

Mr. SAVAGE. Mr. Speaker, I am very much opposed to voting on such a resolution as this, and before doing so address an inquiry to the Chair. I inquire of the Chair whether all declarations, resolutions, innuendoes, suggestions, and propositions, by whomsoever made, suggesting or intending that the present Congress will connive at or legalize the slave trade, are not dishonest, fraudulent, and false, and made for political effect?

The SPEAKER. The gentleman is not in order.

Mr. SAVAGE. I vote "no."

Mr. SMITH of Tenn. I am opposed to the renewal of the slave trade, but upon this resolution I vote "no," because I believe the purpose of it is wrong.

Mr. SMITH of Va. stated that he was against the revival of the slave trade, and against the resolution, and therefore voted "no."

Mr. SNEED. On this stump speech I vote "no." [Laughter.]

Mr. WRIGHT of Tenn. I am opposed to the policy of reopening the slave trade. The people whom I represent, and I believe I can say that nearly the whole of the people of Tennessee, are opposed to that policy. But whilst I am utterly opposed to that policy, I am also opposed to the resolution offered by my colleague, because, sir, I believe it has effected precisely the object which he intended it to have; that was, sir, to open afresh and again a question which I hope will soon be banished from this hall; and to divide and distract a party to which he is bitterly opposed was another object of the resolution. This latter object he cannot effect, however much he may have desired it. Sir, I vote "no." [Cries of "Order!" frequently interrupted the remarks.]

Mr. ZOLLICOFFER. I would have preferred to have an opportunity to change the phraseology of the resolution; but as no alternative is given to me but to vote for it or against it, to avoid misconstruction of my sentiments I will vote "ay."

Mr. CADWALADER. I ask the unanimous consent of the House to enter my protest against that part of the resolution which might, if unexplained, imply an assumption on the part of this House of a right to censure a recent public act of the chief magistrate of one of the states of the Union. I vote for the resolution.

Mr. C. took his seat amid loud calls to order by the Speaker and by the House.

Mr. MCMULLEN. Some of my friends thought I desired to dodge this question by asking to be excused from voting.

The SPEAKER. For what purpose does the gentleman rise?

Mr. MCMULLEN. I rise for the purpose of voting, and I vote "no," against this demagogical resolution.

The resolution was then adopted, yeas 152, nays 57. The ayes and noes on this resolution will be found in a tabular statement with that on Mr. Orr's resolution.

Mr. Orr. I ask the unanimous consent of the House to offer the following resolution:—

"Resolved, That it is inexpedient, unwise, and contrary to the settled policy of the United States, to repeal the laws prohibiting the African slave trade.

Mr. Barclay (Republican) of Penn. objected.

The rules were suspended, yeas 181, nays 10.

The negative vote was as follows:—

Nays.—Messrs. Barclay, Barksdale, Hendley S. Bennett, Brooks, Crawford, Day, Garnett, Quitman, Shorter, Walker. —10.

Mr. Quitman. There are two words I should like to see stricken out of that resolution.

The Speaker. That can be done only by unanimous consent.

Mr. Orr. It is due to the gentleman from Mississippi to state, that if the rules be suspended I shall call for the previous question on the passage of the resolution.

Mr. Quitman. I vote no, then, as the gentleman from South Carolina is determined to call for the previous question.

Mr. Keitt. I vote ay, on the suspension of the rules, out of compliment to my colleague: but on the passage of the resolution I shall vote no.

Mr. Florence. Inasmuch as this matter has been lugged in, not by this but by the other side of the House, I vote to suspend the rules, with a view to the introduction of the resolution of the gentleman from South Carolina.

Mr. Caruthers said that if he had been within the bar when his name was called, he would have voted in the affirmative.

Mr. Brooks. It is not in order to give the reasons for my vote?

The Speaker. It is not.

Mr. Brooks. I vote in the negative.

The question now being on the adoption of the resolution,

Mr. Orr called for the previous question.

Mr. Boyce. I have a substitute for my colleague's resolution, which I ask may be read for the information of the House. The resolution was read, as follows:—

"Resolved, That the House of Representatives, expressing, as they believe, public opinion both North and South, are utterly opposed to the reopening of the slave trade."

Mr. Quitman. I ask my friend from South Carolina to withdraw his call for the previous question, to enable me to offer an amendment to his resolution. I agree to the resolution, if the words, "contrary to the settled policy of the United States," be stricken out. I deem it improper to pronounce judgment on that point in advance of discussion.

Mr. Orr. I think the resolution is in the best shape as it is. If it does not meet with gentlemen's approbation, they can frame other resolutions which will suit them, and present them to the House. I decline to withdraw the call for the previous question.

Mr. Washburne of Me. I ask the gentleman from South Carolina to withdraw the call for the previous question long enough for me to offer an amendment to his resolution.

Mr. Orr. I ask the House to vote on the resolution as it is. I therefore respectfully decline to withdraw the call for the previous question.

The resolution was then adopted, yeas 183, nays 8. The yeas and nays will be found in the tabular statement on the following page, as also those on Mr. Etheridge's resolution.

Mr. Barksdale stated that he could not vote for the resolution, regarding it too broad in its terms. He would have voted for that proposed by the gentleman's colleague [Mr. Boyce].

Mr. Shorter. Mr. Speaker, the South has not applied to Congress to repeal the law prohibiting the foreign slave trade, and until she does so, I am opposed to any agitation of the question here. It may be unwise and inexpedient to repeal existing laws on this subject, but I am not prepared to say what will, or will not, be the "settled policy" of the South in time to come. Without intending to say that I am in favor of reopening the slave trade, I vote against the resolution.

Mr. Watkins. I have declined voting on the several resolutions relative to reopening the slave trade, because I have paired off with Mr. Watson. If I had been at liberty to vote, I should have voted in accordance with my views of the nationality of the subject. [Laughter.]

Mr. Puryear stated that if he had been present when his name was called, he would have voted in the affirmative.

Mr. Paine stated that if he had been within the bar when his name was called, he would have voted in the affirmative.

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Recapitulation of the votes. 109 Republicans, 24 Fillmore Americans, and 18 Democrats, voted for Mr. Etheridge's resolution, and 50 Democrats and 7 Fillmore Americans against it.

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102 Republicans, 23 Fillmore Americans, and 58 Democrats, voted for Mr. Orr's resolution, and 8 Democrats against it.

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Republicans in Roman, Fillmore Americans in SMALL CAPS, Democrats in *italics*.

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The following Table presents at a glance the vote of the members of the House on the propositions respectively of Messrs. Etheridge and Orr. The members to whose names no vote is appended, did not vote on either resolution.

MEMBERS' NAMES.	Vote on Etheridge's Resolution.	Vote on Orr's Resolution.
Aiken of S. C.	nay	yea
Akers of Mo.	yea	
Albright of Ind.	yea	yea
Allen of Ill.	yea	yea
Allison of Pa.	yea	yea
Ball of Ohio	yea	yea
Barbour of Ia.	yea	yea
Barclay of Pa.	yea	yea
Barksdale of Miss.	nay	nay
Bell of Texas		
Bennett of Miss.	nay	nay
Bennett of N. Y.	yea	
Benson of Me.	yea	yea
Billinghurst of Wis.	yea	yea
Bingham of Ohio	yea	yea
Bishop of N. J.	yea	
Bliss of Ohio	yea	
Bocock of Va.	nay	yea
Bowie of Md.		
Boyce of S. C.	nay	yea
Bradshaw of Pa.	yea	yea
Branch of N. C.		yea
Brenton of Ia.	yea	yea
Brooks of S. C.	nay	nay
Broom of Pa.	yea	
Buffinton of Mass.	yea	yea
Burlingame of Mass.	yea	yea
Burnett of Ky.	nay	yea
Cadwalader of Pa.	yea	yea
Campbell of Pa.	yea	yea
Campbell of Ky.	nay	
Campbell of Ohio	yea	yea
Carlisle of Va.		
Caruthers of Mo.	nay	yea
Caskie of Va.	nay	
Chaffee of Mass.	yea	yea
Childs of N. Y.		
Clark of N. Y.	yea	yea
Clark of Conn.	yea	yea
Clawson of N. J.	yea	yea
Clingman of N. C.	nay	yea
Cobb of Ga.		
Cobb of Ala.	nay	yea
Colfax of Ind.	yea	yea
Comins of Mass.	yea	yea
Covode of Pa.		
Cox of Ky.	yea	
Cragin of N. H.	yea	
Craige of N. C.		
Crawford of Ga.	nay	nay
Cullen of Del.	yea	
Cumback of Ia.	yea	yea
Damrell of Mass.	yea	yea
Davidson of La.	nay	yea
Davis of Md.		
Davis of Ill.	yea	yea
Davis of Mass.	yea	yea
Day of Ohio	yea	yea
Dean of Conn.	yea	yea
Denver of Cal.	nay	yea
De Witt of Mass.	yea	yea
Dick of Pa.	yea	yea
Dickson of N. Y.	yea	yea
Dodd of N. Y.	yea	yea
Dowdell of Ala.	nay	yea
Dunn of Ind.		
Durfee of R. I.	yea	yea
Edie of Pa.	yea	yea
Edmundson of Va.	nay	yea
Edwards of N. Y.	yea	yea
Elliott of Ky.	nay	
Emrie of Ohio	yea	yea
English of Ind.	yea	yea
Etheridge of Tenn.	yea	yea
Eustis of La.	nay	yea
Evans of Texas	nay	
Faulkner of Va.		yea
Flagler of N. Y.	yea	yea
Florence of Pa.	nay	yea
Foster of Ga.	nay	yea
Fuller of Pa.		
Fuller of Me.	yea	yea
Garnett of Va.	nay	nay
Galloway of Ohio	yea	yea
Giddings of Ohio	yea	
Gilbert of N. Y.	yea	yea
Goode of Va.	nay	
Granger of N. Y.	yea	yea
Greenwood of Ark.	nay	yea
Grow of Pa.	yea	yea
Hall of Iowa	yea	yea
Hall of Mass	yea	yea
Harlan of Ohio	yea	yea
Harris of Md.		
Harris of Ill.	yea	yea
Harris of Ala.	nay	yea
Harrison of Ohio	yea	yea
Haven of N. Y.	yea	yea
Herbert of Cal.	nay	yea
Hickman of Pa.	yea	yea
Hodges of Vt.	yea	yea
Hoffman of Md.	yea	yea
Holloway of Ind.	yea	yea
Horton of N. Y.	yea	yea
Horton of Ohio	yea	yea
Houston of Ala.	nay	yea
Howard of Mich.	yea	yea
Hughston of N. Y.	yea	yea
Jewett of Ky.	nay	yea
Jones of Tenn.	nay	yea
Jones of Pa.	yea	yea
Keitt of S. C.	nay	nay
Kelly of N. Y.	yea	yea
Kennett of Me.	yea	yea
Kelsey of N. Y.	yea	yea
Kidwell of Va.		yea
King of N. Y.	yea	yea
Knapp of Mass.	yea	yea
Knight of Pa.	yea	yea
Knowlton of Me.	yea	
Knox of Ill.	yea	yea
Kunkel of Pa.	yea	yea
Lake of Miss.	nay	yea
Letcher of Va.	nay	yea
Leiter of Ohio	yea	yea
Lindley of Mo.		yea
Lumpkin of Ga.	nay	yea
Mace of Ind.	yea	yea
A. K. Marshall of Ky.	yea	yea
H. Marshall of Ky.	yea	yea
S. S. Marshall of Ill.	yea	yea
Matteson of N. Y.	yea	yea
Maxwell of Fla.	nay	yea
McCarty of N. Y.	yea	yea
McMullen of Va. *	nay	yea
McQueen of S. C.	nay	
Miller of N. Y.	yea	yea
Miller of Ind.	yea	yea
Millson of Va.		yea
Millward of Pa.	yea	yea
Moore of Ohio	yea	yea
Morgan of N. Y.	yea	yea
Morrill of Vt.	yea	yea
Morrison of Ill.	yea	yea
Mott of Ohio	yea	yea
Murray of N. Y.	yea	yea
Nichols of Ohio	yea	yea
Norton of Ill.	yea	yea
Oliver of N. Y.	yea	yea
Oliver of Mo.	nay	yea
Orr of S. C.	nay	yea
Packer of Pa.	yea	yea
Paine of N. C.	yea	
Parker of N. Y.	yea	yea
Pearce of Pa.	yea	yea
Peck of Mich.	yea	yea
Pelton of N. Y.	yea	
Pennington of N. J.	yea	yea
Perry of Me.	yea	yea
Pettit of Ia.	yea	yea
Phelps of Mo.	nay	yea
Pike of N. H.	yea	yea
Porter of Mo.	yea	yea
Powell of Va.	nay	yea
Pringle of N. Y.	yea	yea
Purviance of Pa.	yea	yea
Puryear of N. C.	yea	
Quitman of Miss.	nay	nay
Reade of N. C.		
Ready of Tenn.	yea	yea
Ricaud of Md.	yea	yea
Ritchie of Pa.	yea	yea
Rivers of Tenn.	yea	yea
Robbins of N. J.	yea	yea
Roberts of Pa.	yea	yea
Robioson of Pa.	yea	yea
Ruffin of N. C.	nay	yea
Rust of Ark.		
Sabin of Vt.	yea	yea
Sage of N. Y.	yea	yea
Sandidge of La.		
Sapp of Ohio	yea	yea
Savage of Tenn.	nay	yea
Scott of Ind.	yea	yea
Seward of Ga.		
Sherman of Ohio	yea	yea
Shorter of Ala.	nay	nay
Simmons of N. Y.	yea	yea
Smith of Tenn.	nay	yea
Smith of Ala.	yea	yea
Smith of Va.	nay	
Sneed of Tenn.	nay	yea
Spinner of N. Y.	yea	yea
Stanton of Ohio	yea	yea
Stephens of Ga.	nay	yea
Stewart of Md.		
Stranahan of N. Y.	yea	yea
Swope of Ky.	yea	
Talbott of Ky.	nay	yea
Tappan of N. H.	yea	yea
Taylor of La.	nay	yea
Thorington of Iowa	yea	yea
Thurston of R. I.	yea	yea
Todd of Pa.	yea	yea
Trafton of Mass.		
Trippe of Ga.	nay	yea
Tyson of Pa.*	yea	
Underwood of Ky.	yea	yea
Vail of N. J.	yea	yea
Valk of N. Y.	yea	yea
Wade of Ohio	yea	yea
Wakeman of N. Y.	yea	yea
Walbridge of Mich.	yea	yea
Walker of Ala.	nay	nay
Waldron of Mich.	yea	yea
Warner of Ga.	nay	yea
Washburne of Wis.	yea	yea
Washburne of Ill.	yea	yea
Washburne of Me.	yea	yea
Watkins of Tenn.		
Watson of Ohio		
Welch of Conn.	yea	yea
Wells of Wis.	yea	yea
Wheeler of N. Y.	yea	yea
Whitney of N. Y.	yea	yea
Williams of N. Y.	yea	yea
Winslow of N. C.	nay	yea
Wood of Maine	yea	yea
Woodruff of Conn.	yea	yea
Woodworth of Ill.	yea	yea
Wright of Miss.	nay	nay
Wright of Tenn.	nay	yea
Zollicoffer of Tenn.	yea	yea
Yeas	152	183
Nays	57	8

* Mr. Tyson since supported Mr. Buchanan.

The Hon. John A. Quitman, of Mississippi, in alluding to the reasons which induced his vote against the resolutions of Messrs. Orr and Etheridge, thus spoke on the 15th of Dec., 1856, in the House:—

I voted against both resolutions; and now take this first opportunity of stating the reasons of those votes. Both resolutions were, in my opinion, as objectionable in substance, as the mode of forcing a vote on them, under the pressure of the previous question, was improper. The prominent features in the proposition of the member from Tennessee are its sinister expressions, and the intensely virtuous indignation manifested, not against the revival of the African slave trade, but against the wickedness of those who would have the hardihood to make suggestions or propositions in relation thereto; and, as if to deter all good patriots from even harboring such suggestions, it invokes the reproach and execration of "the civilized and Christian people throughout the world" upon the government and people of the United States should Congress, by any action, connive at or listen to such suggestions. It denounces thoughts, propositions, and opinions, on the assumption that they are shocking to the moral sentiment of mankind. Now, sir, I find in the written chart of the duties and powers of this House no authority to take charge of the public or private morals of the good people of the country. It is a vain and pharisaical arrogance of superior virtue in us to assume such censorship. I intend no personal disrespect when I say that this House, constituted as it is, is one of the last tribunals to which questions of public morals or of private honor should be referred; and yet, sir, the resolution of the gentleman from Tennessee, if it sprang from any higher motive than that of entrapping political opponents, was a mere attempt to denounce as immoral and unchristian certain opinions known to be entertained by some of our fellow-citizens, and to invoke, in advance of any proposed action, horrid imprecations on the country should Congress in any way connive at such sentiments, by any political action. I surely do the gentleman no injustice when I say, that his object was not merely to obtain an expression of the opinion of this House against the African slave trade. He will hardly venture to say that that alone was his object. It went obviously further. The studied phraseology in which the resolution is clothed, going to the very verge of parliamentary license, indicates the purpose of obtaining the influence of this House to put down and stifle opinions and propositions on subjects of legitimate inquiry, on the grounds that they are infamous and detestable. It is a precedent full of mischief and danger, which I regret especially to see introduced by a Southern man. Under it, what is to prevent the introduction of a resolution declaring the holding of slaves to be immoral, inhuman, and contrary to the spirit of Christianity? There are probably some on this floor ready to present such a proposition, and, from the complexion of this House, I am not certain it would not pass, if propelled by the brute force of the previous question. I repeat, the precedent is dangerous, and, in my opinion, more pregnant of evil, than the "suggestions" so much condemned by the mover. I regret that it should have received the sanction of a single Democrat on this floor. Were we sitting as a board of censors upon the morality of practices affecting human happiness in general, I would desire to include in our censures the cooley trade, now practised by our refined and virtuous ally, England; for, by that trade, white men, if I may so designate the Chinese, are carried into the worst kind of slavery. I would wish also to embrace in our deprecations, the "shocking and unchristian" practice of immuring in the unhealthy and fetid prison rooms of a factory for eleven hours of the day, white children of both sexes, and of tender age, thereby destroying the health and elasticity of their bodies, and blunting and stupefying their intellects, by the constant employment of watching the interminable whirling of the spinning-jenny. I protest, Mr. Speaker, against this House establishing any code of morals for the country; but if we are to have one, let it be general.

I was not at all surprised to see the gentleman from Tennessee [Mr. Etheridge] refusing to suspend the previous question, at the request of my friend from South Carolina [Mr. Orr], to enable the latter gentleman to offer an amendment, which would have brought the House to a direct vote, on the expediency of reviving the African slave trade; but I *was* surprised, in the sequel, to find the gentleman from South Carolina refusing a similar privilege to me. After the passage of the obnoxious resolution of the gentleman from Tennessee, my friend from South Carolina, with a view, no doubt, to put himself and friends right upon the journals, introduced a resolution differing from that he had originally proposed as a substitute. The first proposition would have been acceptable to all of us; the difference consisted in the addition of the words "and contrary to the settled policy of the United States." The previous question having been called on this resolution, I appealed to the mover to permit an amendment, striking out the words "contrary to the settled policy of the United States," in order that I, and those acting with me, might unite upon his resolution; but the gentleman refused to do for a political friend, that which he complained had not been accorded to him by a political opponent. This want of courtesy compels me to make some explanation.

Mr. Orr. I did not complain of the refusal of the gentleman from Tennessee to let me offer an amendment to his resolution; I merely requested that he would afford me an opportunity so to do.

Mr. Quitman [addressing Mr. Orr]. Well,

I recall the word "complain;" but, in making a request of a political opponent, you implied that it should have been granted. Now, Mr. Speaker, my position on this subject is simply this: I am not in favor of the revival of the African slave trade. Not because I look upon it as "shocking, horrid, or deserving the execration of the civilized world;" for I believe it has resulted in practical benefit to the negro; not that I believe the transfer of a slave from benighted Africa to America—from the dominion of a cruel and despotic negro master, to a kind and humane white master, does any harm to him, or to the world; but I am opposed to the revival of the African slave trade because, in my judgment, it is inexpedient, impolitic, and adverse to the interests of the section of country which I represent. Such, too, I believe to be the prevailing sentiment at the South. I should have voted, and am ready to vote, for any proposition which shall confine itself to a declaration against the policy or expediency of the African slave-trade; but I will not, by any fear of consequences or misconstruction, be driven to adopt the affectedly denunciatory language of the gentleman from Tennessee. It is the language either of cowardice or of hypocrisy; not that of plain dealing. I speak of the resolution, not of the gentleman. I should not be much surprised to find it followed by a resolution condemning the internal slave trade. I say again, distinctly, that, had these resolutions simply declared that the revival of the African slave trade was inexpedient, and even against public policy, my voice would have been heard strongly in the affirmative; but I am opposed to lectures upon the morality of that trade. There I stand; and I cannot be coaxed or dragooned into the support of resolutions, which I do not believe to be true.

The resolution of the gentleman from South Carolina [Mr. Orr] was also objectionable, though not in the same degree. It proclaimed "the settled policy of the country" to be against a repeal of the present laws. Now, in the first place, in a progressive country like ours, where public sentiment sways the public policy, there is an impropriety in any Congress resolving what shall be the future or settled policy of the country. Every Congress will have enough to do to adapt its action and legislation to its own proper term of authority and power. I regard such language, to say the least of it, as empty declamation.

In the next place, it being admitted that treaties are laws, this language of the resolution goes to the extent of approving and perpetuating all our treaty stipulations in relation to the African slave trade; and of some of these I do not approve, but, on the contrary, believe them to be unwise and impolitic. Such, for instance, is the stipulation to aid Great Britain in watching, with a naval force, the coast of Africa. Neither am I prepared to say, though opposed to the slave trade, that it ought to be treated as piracy. I doubt much whether the horrors of the middle passage do not arise, mainly, from the false philanthropy of exaggerated punishments. Resting in this uncertainty, I could not, by my vote, declare the laws and treaties on this subject to be our "settled policy." For these reasons, now given, because explanation was refused when the resolutions were offered, and because I regarded both resolutions as useless and unnecessary, I opposed them.

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The Hon. John V. Wright of Tenn., in alluding to the reasons which induced his vote against Mr. Etheridge's resolution, thus spoke in the House, on the 4th of Feb. 1857:—

"Mr. Chairman, one word more, and I will close. When my colleague from the Trenton district [Mr. Etheridge], a few days ago, offered a resolution with regard to the reopening the African slave trade, I voted against it, because, sir, as I then stated, I thought it was offered for the purpose of dividing and distracting, if possible, the Democratic party. Knowing my colleague's deep-rooted hatred to that party to which I am attached, and believing that it is the only party to which the destinies of the country can safely be intrusted, I was unwilling to give my countenance to a scheme which I then thought was set on foot to embarrass its action. I also think, with the distinguished gentleman from Mississippi [Mr. Quitman], whom I am proud to call my friend, that Congress is a very unsafe tribunal to decide for the people of the United States what shall or shall not be their standard of morality. But, sir, while I voted against that resolution, as I then stated, I am opposed to the policy of reopening the African slave trade. I voted very cheerfully for the resolution of the gentleman from South Carolina [Mr. Orr,] which declared it to be 'unwise, inexpedient, and against the settled policy of the government' to reopen that trade. I regretted exceedingly that my colleague [Mr. Etheridge] should have raised that question at a time when he well knew that the whole of the people of Tennessee, with scarcely an exception, are opposed to the policy alluded to. I do not believe there is a single member here from the South (with perhaps one exception) who does favor that policy; and yet a settled attempt is being made to impress upon the public mind of the North that the South desires the reopening of that trade. But, whatever the motive of my colleague may have been, it is passed; and if he intended what I have said, I am very happy that he was disappointed in his hopes."

—

Hon. Emerson Etheridge of Tenn., on the 21st of Feb., 1857, thus gave his reasons for opposing the resolution:—

"In the Democratic party were to be found those who openly advocated a revival of the African slave trade, or denounced the laws and treaties by which it is prohibited. Every day they were growing bolder, and increasing

their numbers. They could have been found here—here, we are told, on this floor. The late Presidential election, which so many fondly hoped would break up the government, was over. Kansas, which, under Mr. Buchanan's administration, we are assured by his political friends will soon be a free state, could not much longer furnish northern or southern disunionists with political capital. A proposition to reopen the African slave trade would be the best thing—the very best, because it is impossible—to stir up anew the excited millions of the North. It would furnish them a pretext to stigmatize their southern brethren as a race of cannibals. Worcester would again be filled with an assemblage of disunionists seeking the overthrow of the Union, to destroy slavery in the states, while Nashville might be the rendezvous of a counter convocation, urging the same means to preserve and perpetuate it.

Sir, I have said that this proposition to reopen the slave trade had its supporters and apologists in the South. Not only so, they are in many instances men of great abilities and of high position. I admit the whole scheme to be impossible without a previous separation of the states, and that it is impossible in the Union gives significance to the fact that the scheme has its friends, advocates, and apologists. Sir, I have before me now a copy of the New Orleans Delta, published late in December last. It is a paper conducted with great power and ability. It is radically Democratic, supported Buchanan and Breckenridge, and is the organ of a powerful division of the Democratic party South. It says:—

"The Crescent thinks the coup de grace was administered to the slave trade question by the late vote in the House. It is a mistake; the question will grow in importance from this time forth. Quitman, Percy, Walker, Bennett, Wright, Shorter, Brooks, Keitt, and Barksdale, are men whose names will be honored hereafter for the unflinching manner in which they stood up for principle, for truth, and consistency, as well as the vital interests of the South, in the late vote in the House by which politicians sought to strangle an infant Hercules whose manhood they dreaded."

Yes, sir, such was my purpose. If this thing is to be continuously urged, if it is to be regarded as an open question, it may assume gigantic proportions. I would strangle it in its infancy. I hope never to behold such a monstrosity as its full development would present. The same paper, in an article upon "the slave trade," says:—

"Let it no longer be stigmatized as piracy to maintain slavery by the same means which originated it. Let that opprobrious brand be taken from the brow of the South. Let the sentimental humbuggery of Albert Pike and such like be scouted into ridicule, and let rationalism and true philanthropy be respected."

A correspondent of that paper, writing from this city, the 18th of December last, says:—

"The question of reopening the trade will be postponed until the next Congress, when a formal proposition will be introduced concerning it, and the question fully rifled."

The proceedings of the late Southern Convention, which assembled at Savannah, were full of meaning in this respect. For years it had been roving about the country to find some plan for building ships without money, and to monopolize the carrying trade without ships. Aspiring young men found within it opportunities for display, and broken-down politicians a chance for resurrection. A seven years' effort to instruct us in the means of growing rich without labor, and building up cities behind mud-banks and sand-bars, had proved unavailing. Something else must be done. The suffering South, with all its means invested in agriculture, must do something to set off its commercial inequality. The "nigger pill," which is prescribed for almost every conceivable complaint, must be administered in larger doses. Hence the proposition to reopen the African slave trade—a measure which was favored by about one-third of the convention. Why, sir, this project had so grown in favor, and was exciting so much sympathy in high quarters, that we find the present Democratic governor of Georgia made it the subject of remark in his late message to the legislature of that state. He declared the proposition as "adverse to the sentiments of the civilized world, to our treaty stipulations for its suppression, and the conventional laws of nations, by which it is declared to be piracy." Yet, while I, for what I have done, have been held up as untrue to the South, good, Democratic Governor Johnson is merely chided as an "erring brother," and pressed by his political friends for a cabinet appointment. I think, however, he will have to stand aside to make room for another gentleman from that state, who thinks that to revive that traffic would not be "shocking to the moral sentiments of the enlightened portion of mankind." So plain and obvious has this movement been, that Mr. Nicholson, the editor of the Union, published in this city, has had to lend his columns to its denunciation. But recently he stigmatized it as an "odious traffic," and was permitted to go without a public reprimand for his temerity. It is true, he is soon to withdraw from the editorial chair of the court journal, and one Mr. Appleton is to be the organ-grinder of the party. The cause of this change I leave others to determine.

I have now before me a pamphlet, recently published in Georgia, styled "A new Southern Policy, or the Slave Trade as meaning Union and Conservatism." I can commend it to young Democratic politicians as a very able and condensed view of the subject, which they will find of some value, should the stern demands of party require them to subscribe to this "new Southern policy." In speaking of the Savannah Convention, he says:—

"There were introduced into the convention two leading measures, viz., the laying of a state tariff on northern goods, and the reopening of the slave-trade; the one to advance our commercial interest, the other our agricultural interest, and which, when taken together, as they were doubtless intended to be, and although they have each been attacked by presses of doubtful service to the South, are characterized in the private judgment of politicians as one of the completest southern remedies ever submitted to popular action."

Now, sir, between this author and myself there is, in the language of a good Baptist brother on a memorable occasion, "a slight variation." [Great laughter.] In my judgment, the two propositions, when taken together, constitute a plan the enforcement of which would involve at once the commercial and agricultural ruin of the South. The writer then addresses himself to those who are a little squeamish upon the subject, who, like some of our newspaper correspondents, have troublesome "moral convictions." He says:—

"The proposition to revive, or more properly to reopen, the slave trade, is as yet but imperfectly understood, in its intentions and probable results, by the people of the South, and but little appreciated by them. It has been received in all parts of the country with an undefined sort of repugnance, a sort of squeamishness, which is incident to all such violations of moral prejudices, and invariably wears off on familiarity with the subject. The South will commence by enduring, and end by embracing the project."

This forcibly reminds me of some lines we all have read:—

"Vice is a monster of so frightful mien,
As to be hated, needs but to be seen;
Yet seen too oft, familiar with her face,
We first endure, then pity, then embrace."

But as the author applied them to individuals, I shall demur to a prosaic application to whole communities: "The South will commence by enduring, and end by embracing the project!" I hope not. It is true I have witnessed some striking evidences of Democratic party endurance, but I trust when public attention is called to this project, the people will forbid the banns—repudiate an embrace which must end in dishonor and death.

Sir, I cannot take time to refer to the many proofs I might offer to sustain what I have asserted. The evidence exists, and may be read of all men. Not the least significant thing is the fact that, where one Democratic editor or politician at the South has denounced those who have advocated reopening the African slave trade, scores may be found who were horrified at a proposition designed to brand the scheme as it deserved. I shall ever regret that the torrent of pious indignation I have encountered was not hurled at those who, in my judgment, produced a necessity for the rebuke which the resolution was intended to convey. As to the language of the resolution, I can only say that I have no apologies to make. Could I, without violence to parliamentary courtesy, have found more severe language, I should have used it. Our laws and treaties now denounce it as piracy. As I shall ever sustain those laws and treaties, I shall affect no mock sympathy for those persons who would transform existing piracy into laudable commerce. If the trade were legalized to-morrow, I would first have to consider myself an outlaw from the society of good men everywhere, before I would, for any reason, engage in it, and I think it would be no cause for national sorrow if every ship thus manned and thus destined were to go down to the bottom of the sea.

Southern Conventions in 1850.

Resolves of.

The Nashville Convention, which met June 10, 1850, adopted the following resolutions:—

1. Resolved, That the territories of the United States belong to the people of the several states of this Union as their common property; that the citizens of the several states have equal rights to migrate with their property to these territories, and are equally entitled to the protection of the federal government in the enjoyment of that property so long as the territories remain under the charge of that government.

2. Resolved, That Congress has no power to exclude from the territory of the United States any property lawfully held in the states of the Union, and any acts which may be passed by Congress to effect this result is a plain violation of the Constitution of the United States.

3. Resolved, That it is the duty of Congress to provide governments for the territories, since the spirit of American institutions forbids the maintenance of military governments in time of peace; and as all laws heretofore existing in territories once belonging to foreign powers which interfere with the full enjoyment of religion, the freedom of the press, the trial by jury, and all other rights of persons and property as secured or recognised in the Constitution of the United States, are necessarily void so soon as such territories become American territories, it is the duty of the federal government to make early provision for the enactment of those laws which may be expedient and necessary to secure to the inhabitants of and emigrants to such territories the full benefit of the constitutional rights we assert.

4. Resolved, That to protect property existing in the several states of the Union, the people of these states invested the federal government with the powers of war and negotiation, and of sustaining armies and navies, and prohibited to state authorities the exercise of the same powers. They made no discrimination in the protection to be afforded or the description of the property to be defended, nor was it allowed to the federal government to determine what should be held as property. Whatever the states deal with as property the federal government is bound to recognise and defend as such. Therefore it is the sense of this convention that all acts of the federal government which tend to denationalize property of any description recognised in the Constitution and laws of the states, or that discriminate in the degree and efficiency of the protection to be afforded to it, or which weaken or destroy the title of any citizen upon American territories, are plain and palpable violations of the fundamental law under which it exists.

5. Resolved, That the slaveholding states cannot and will not submit to the enactment by Congress of any law imposing onerous conditions or restraints upon the rights of masters

to remove with their property into the territories of the United States, or to any law making discriminations in favor of the proprietors of other property against them.

6. Resolved, That it is the duty of the federal government plainly to recognise and firmly to maintain the equal rights of the citizens of the several states in the territories of the United States, and to repudiate the power to make a discrimination between the proprietors of different species of property in the federal legislation. The fulfilment of this duty by the federal government would greatly tend to restore the peace of the country, and to allay the exasperation and excitement which now exists between the different sections of the Union. For it is the deliberate opinion of this Convention that the tolerance Congress has given to the notion that federal authority might be employed incidentally and indirectly to subvert or weaken the institution existing in the states confessedly beyond federal jurisdiction and control, is a main cause of the discord which menaces the existence of the Union, and which has well nigh destroyed the efficient action of the federal government itself.

7. Resolved, That the performance of this duty is required by the fundamental law of the Union. The equality of the people of the several states composing the Union cannot be disturbed without disturbing the frame of the American institutions. This principle is violated in the denial to the citizens of the slaveholding states of power to enter into the territories with the property lawfully acquired in the states. The warfare against this right is a war upon the Constitution. The defenders of this right are defenders of the Constitution. Those who deny or impair its exercise, are unfaithful to the Constitution, and if disunion follows the destruction of the right, they are the disunionists.

8. Resolved, That the performance of its duties, upon the principle we declare, would enable Congress to remove the embarrassments in which the country is now involved. The vacant territories of the United States, no longer regarded as prizes for sectional rapacity and ambition, would be gradually occupied by inhabitants drawn to them by their interests and feelings. The institutions fitted to them would be naturally applied by governments formed on American ideas, and approved by the deliberate choice of their constituents. The community would be educated and disciplined under a republican administration in habits of self-government, and fitted for an association as a state, and to the enjoyment of a place in the confederacy. A community so formed and organized might well claim admission to the Union, and none would dispute the validity of the claim.

9. Resolved, That a recognition of this principle would deprive the questions between Texas and the United States of their sectional character, and would leave them for adjustment without disturbance from sectional prejudices and passions, upon considerations of magnanimity and justice.

10. Resolved, That a recognition of this principle would infuse a spirit of conciliation in the discussion and adjustment of all the subjects of sectional dispute, which would afford a guarantee of an early and satisfactory determination.

11. Resolved, That in the event a dominant majority shall refuse to recognise the great constitutional rights we assert, and shall continue to deny the obligations of the federal government to maintain them, it is the sense of this convention that the territories should be treated as property, and divided between the sections of the Union, so that the rights of both sections be adequately secured in their respective shares. That we are aware this course is open to grave objections, but we are ready to acquiesce in the adoption of the line of 36° 30′ north latitude, extending to the Pacific ocean, as an extreme concession, upon considerations of what is due to the stability of our institutions.

12. Resolved, That it is the opinion of this Convention that this controversy should be ended, either by a recognition of the constitutional rights of the Southern people, or by an equitable partition of the territories. That the spectacle of a confederacy of states, involved in quarrels over the fruits of a war in which the American arms were crowned with glory, is humiliating. That the incorporation of the Wilmot proviso, in the offer of settlement—a proposition which fourteen states regard as disparaging and dishonorable—is degrading to the country. A termination to this controversy by the disruption of the confederacy or by the abandonment of the territories to prevent such a result, would be a climax to the shame which attaches to the controversy which it is the paramount duty of Congress to avoid.

13. Resolved, That this Convention will not conclude that Congress will adjourn without making an adjustment of this controversy; and in the condition in which the Convention finds the questions before Congress, it does not feel at liberty to discuss the methods suitable for a resistance to measures not yet adopted, which might involve a dishonor to the Southern states.

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The Nashville Convention reassembled in November, 1850, and adopted the following preamble and resolutions:—

We, the delegates assembled from a portion of the states of this confederacy, make this exposition of the causes which have brought us together, and of the rights which the states we represent are entitled to under the compact of Union.

We have amongst us two races, marked by such distinctions of color and physical and moral qualities as for ever forbid their living together on terms of social and political equality.

The black race have been slaves from the

earliest settlement of our country, and our relations of master and slave have grown up from that time. A change in those relations must end in convulsion, and the entire ruin of one or of both races.

When the Constitution was adopted this relation of master and slave, as it exists, was expressly recognised and guarded in that instrument. It was a great and vital interest, involving our very existence as a separate people then as well as now.

The states of this confederacy acceded to that compact, each one for itself, and ratified it as states.

If the non-slaveholding states, who are parties to that compact, disregard its provisions and endanger our peace and existence by united and deliberate action, we have a right, as states, there being no common arbiter, to secede.

The object of those who are urging on the federal government in its aggressive policy upon our domestic institutions is, beyond all doubt, finally to overthrow them, and abolish the existing relation between the master and slave. We feel authorized to assert this from their own declarations, and from the history of events in this country for the last few years.

To abolish slavery or the slave trade in the District of Columbia—to regulate the sale and transfer of slaves between the states—to exclude slaveholders with their property from the territories—to admit California under the circumstances of the case, we hold to be all parts of the same system of measures, and subordinate the end they have in view, which is openly avowed to be, the total overthrow of the institution.

We make no aggressive move. We stand upon the defensive. We invoke the spirit of the Constitution, and claim its guarantees. Our rights—our independence—the peace and existence of our families, depend upon the issue.

The federal government has within a few years acquired, by treaty and by triumphant war, vast territories. This has been done by the counsels and the arms of all, and the benefits and rights belong alike and equally to all the states. The federal government is but the common agent of the states united, and represents their conjoined sovereignty over subject-matter granted and defined in the compact.

The authority it exercises over all acquired territory must in good faith be exercised for the equal benefit of all the parties. To prohibit our citizens from settling there with the most valuable part of our property is not only degrading to us as equals, but violates our highest constitutional rights.

Restrictions and prohibitions against the slaveholding states, it would appear, are to be the fixed and settled policy of the government; and those states that are hereafter to be admitted into the Federal Union from their extensive territories will but confirm and increase the power of the majority; and he knows little of history who cannot read our destiny in the future if we fail to do our duty now as free people.

We have been harassed and insulted by those who ought to have been our brethren, in their constant agitation of a subject vital to us and the peace of our families. We have been outraged by their gross misrepresentations of our moral and social habits, and by the manner in which they have denounced us before the world. We have had our property enticed off, and the means of recovery denied us by our co-states in the territories of the Union, which we were entitled to as political equals under the Constitution. Our peace has been endangered by incendiary appeals. The Union, instead of being considered a fraternal bond, has been used as the means of striking at our vital interests.

The admission of California, under the circumstances of the case, confirms an unauthorized and revolutionary seizure of public domain, and the exclusion of near half the states of the confederacy from equal rights therein—destroys the line of thirty-six degrees thirty minutes, which was originally acquiesced in as a matter of compromise and peace, and appropriates to the northern states one hundred and twenty thousand square miles below that line, and is so gross and palpable a violation of the principles of justice and equality as to shake our confidence in any security to be given by that majority who are now clothed with power to govern the future destiny of the confederacy.

The recent purchase of territory by Congress from Texas, as low down as thirty-two degrees on the Rio Grande, also indicates that the boundaries of the slaveholding states are fixed and our doom prescribed so far as it depends upon the will of a dominant majority, and nothing now can save us from a degraded destiny but the spirit of freemen who know their rights and are resolved to maintain them, be the consequences what they may.

We have no powers that are binding upon the states we represent. But, in order to produce system and concerted action, we recommend the following resolutions, viz.:—

Resolved, That we have ever cherished, and do now cherish, a cordial attachment to the constitutional union of the states, and that to preserve and perpetuate that Union unimpaired, this Convention originated and has now reassembled.

Resolved, That the union of the states is a union of equal and independent sovereignties, and that the powers delegated to the federal government can be resumed by the several states, whenever it may seem to them proper and necessary.

Resolved, That all the evils anticipated by the South, and which occasioned this Convention to assemble, have been realized by the failure to extend the Missouri line of compromise to the Pacific Ocean; by the admission of California as a state; by the organization of territorial governments for Utah and New

Mexico, without giving adequate protection to the property of the South; by the dismemberment of Texas; by the abolition of the slave trade and the emancipation of slaves carried into the District of Columbia for sale.

Resolved, That we earnestly recommend to all parties in the slaveholding states to refuse to go into or countenance any national convention, whose object may be to nominate candidates for the Presidency and Vice-Presidency of the United States, under any party denomination whatever, until our constitutional rights are secured.

Resolved, That in view of these aggressions, and of those threatened and impending, we earnestly recommend to the slaveholding states to meet in a congress or convention, to be held at such time and place as the states desiring to be represented may designate, to be composed of double the number of their senators and representatives in the Congress of the United States, intrusted with full power and authority to deliberate and act with the view and intention of arresting further aggression, and, if possible, of restoring the constitutional rights of the South, and, if not, to provide for their future safety and independence.

Resolved, That the president of this Convention be requested to forward copies of the foregoing preamble and resolutions to the governors of each of the slaveholding states of the Union, to be laid before their respective legislatures at their earliest assembling.*

—

The following are the Tennessee Resolutions, prepared by Ex-Gov. A. V. Brown of Tenn., and submitted by Gen. Pillow as a substitute for those adopted by the Nashville Convention, at the November session, and reported by it:—

Whereas, Since the adjournment of this convention, in June last, bills have been passed into laws by the Congress of the United States for the admission of California into the Union as a state, for the settlement and adjustment of the boundaries of Texas, and for organizing territorial governments for Utah and New Mexico; also bills abolishing the slave trade in the District of Columbia, and for the recovery of fugitives from labor; with the view of making known our opinions on these bills, and the steps to be taken by the South upon them; therefore—

1. Resolved, That although said bills fall short of that measure of justice to which the South, in our opinion, is fairly entitled, yet as the same have become the laws of the land, and for the purpose of giving the highest proof of our attachment and devotion to the Union, this convention hereby declares its willingness to abide by them with that fidelity which has distinguished the South on all former occasions.

2. Resolved, That this determination to abide by the late legislation of Congress aforesaid, is predicated on the express condition that the North shall faithfully carry it out on her part, according to the spirit and true meaning of the same.

3. Resolved, That this convention does distinctly understand that according to the spirit and true meaning of said legislation, it embraces all the action which the North proposes to take in relation to slavery, and that in addition to the subjects expressly provided for in said bills, no attempt will hereafter be made by the northern people to deprive the South of the representation secured to her in the Constitution, or to abolish, directly or indirectly, slavery in the District of Columbia or in the states, nor to prevent the transportation of slaves from one slaveholding state to another by their lawful owners, nor to prevent the admission of any new state on account of the toleration of slavery in its constitution.

4. Resolved, That in view of the sacrifices to which the southern states have heretofore submitted, and to which they are further subjected by agreeing to abide by the bills lately passed by Congress, they have a right to demand, and do demand, that all agitations and aggressions on the part of the North, upon the subject of slavery, shall instantly cease; and that the repeal of the fugitive slave bill, or any alteration of it which may render it less effectual in its objects, must of necessity render all further association as friends and brethren utterly impossible.

5. Resolved, That if the people of the northern states, by voluntary associations or otherwise, shall continue to obstruct and prevent the execution of the fugitive slave law, thereby depriving southern citizens of their property, and giving encouragement to other slaves to escape from service; or if they shall commence a system of agitation, with the view and obvious purpose of abolishing slavery in the District of Columbia, or in the states; or of depriving the South of the representation of three-fifths of her slaves, to which she is now entitled under the Constitution; or of prohibiting the transportation of slaves from one slave state to another; or of excluding from the Union any new state on account of the toleration of slavery in its constitution; then this convention earnestly recommends to the people of the South to resort to the most rigid system of commercial non-intercourse with all such states, communities, and cities, as shall be found so offending against their constitutional rights. For this purpose, we earnestly invite the legislature of every southern state to unite with us in this recommendation; and that in every state, and county, and town, and neighborhood, resolutions may be adopted not to purchase or use, as far as practicable, any article whatever known to have been produced or manufactured in any such state, commu-

* The delegates from six states, viz., Alabama, Florida, Georgia, Mississippi, South Carolina, and Virginia, voted in the affirmative, and those from Tennessee in the negative. The number of delegates were from Virginia 1; Georgia 11; Alabama; Florida 4; Mississippi 8; South Carolina 16; Tennessee 14.

nity, or city, or to have been imported into the same for sale. In further aid of this object, we earnestly recommend to the southern states, and their people, to encourage, by all the means in their power, their own mechanics and manufacturers of every description; to push forward all their railroads and other internal improvements connecting them with their best exporting and importing cities on the Gulf and on the Atlantic. We make these recommendations in no spirit of revenge, but as a just and necessary means of self-defence, to be persisted in only until the rights secured to us by the Constitution shall be respected.

6. Resolved, That if, contrary to our understanding of the several bills aforesaid, the Congress of the United States shall at any time repeal or so alter or amend the fugitive slave law as to render it less efficacious than it now is, or if it shall pass any bill abolishing slavery in the District of Columbia, or abolish it directly or indirectly in the states, or if the present basis of slave representation, as secured in the Constitution, be obliterated, or if the transportation of slaves from one slave-holding state to another be prohibited, or if slavery in our present territories shall be prohibited—in either of these events, this convention earnestly recommends that the legislature of each southern state be forthwith convened, for the purpose of calling a convention in each state, and that delegates, to be appointed in such manner as shall be determined on by said conventions, may meet at such time and place as may be agreed on, with full power and authority to do anything and everything which the peace, safety, and honor of the South may demand.

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The Georgia State Convention.

This body met in pursuance of a call from the governor. We insert extracts from the report of the committee, with the resolutions that were adopted by a vote of 237 to 19.

REPORT.

* * * * * *

The practical questions presented for consideration are these: May Georgia, consistently with her honor, abide by the general scheme of pacification? If she may, then does her interest lie in adherence to it, or in resistance? A brief reference to a few facts of recent occurrence will furnish an affirmative answer to the first and most interesting inquiry. The people of Georgia were fully apprised that these great issues were pending before the national legislature. Their General Assembly being in session, and assuming to represent their opinions, took them into consideration, and gave a distinct expression of their own views, and virtually required of the Congress of the United States conformity to those views. Numerous primary assemblies of the people passed upon the same questions, still in advance of the action of Congress, and whilst in many of these the requisitions of the General Assembly were qualified, in none, it is believed, were they enlarged. These movements belong to the history of the controversy, and were intended to exert an influence at the capitol. Whether attributable in any degree to that influence or not, the result has been strict conformity to the line of policy thus indicated, save in one instance. That one is the admission of California into the Union. Upon the expediency of this measure, separately considered, the people of Georgia are in some measure divided in opinion; upon the graver question of its constitutionality, still more so. Surely, then, respect for the opinions of the other party to the controversy, who have so largely conformed to our views, and a proper allowance for disagreement among ourselves on the latter branch of this question, will enable even those who hold the act inexpedient and unconstitutional to abide by it honorably and gracefully.

The proposition that, weighed in the scale of interest, the preponderance is vastly on the side of non-resistance, is too plain for argument. This act being in its nature unsusceptible of repeal, the only competent measure of resistance is secession. This would not repair the loss sustained, viz., deprivation of the right to introduce slavery into California. But it would subject Georgia, first, to the additional loss of all she has gained by the scheme of adjustment, e. g. the provision made for the reclamation of fugitive slaves; and secondly, it would annihilate for ever all the advantages, foreign and domestic, derivable from her adherence to the confederacy. It may not be overlooked that, aside from the new issues presented by the late territorial acquisitions, the position of the South upon the Congressional record is better this day than ever before.

Georgia, then, will abide by the recent action of Congress, hereinbefore referred to, in hopeful reliance that the people of the non-slaveholding states will yield acquiescence in and faithful adherence to that entire action. To this course she is impelled by an earnest desire to perpetuate the American Union, and to restore that peace and harmony upon which its value to herself, to her confederates, and to mankind essentially depends.

* * * *

One other subject challenges our special notice. It is the threatened repeal of the recent act for the reclamation of fugitive slaves. That statute was demanded as an unquestionable constitutional right, and as a remedy for a grievous and growing evil, and therefore cannot be surrendered. History bears testimony to the importance of this subject. It mingled in the earliest discussions upon the formation of the American Union. It commanded the profound deliberation of the framers of the Constitution, who assigned it a prominent place in that instrument. They ordained that "no person held to service or labor in one state, under the laws thereof, escaping into another, shall, in con-

sequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due." It is universally conceded that this provision was inserted to meet the case of fugitive slaves, and that without it the slaveholding states would not have entered into the Union. No candid reasoner will controvert the proposition that it is binding alike upon the states as sovereigns; upon their officers, executive, judicial, and ministerial; upon voluntary associations of persons, and upon each individual citizen of the United States. Hence, any obstruction to the recovery of fugitive slaves, emanating from any one of those sources, involves its infraction.

* * * * *

The act of 1793, passed in good faith, has long ceased to be effectual. The South, patient under this grievous wrong, and still with deferred hope clinging to the Union, was content to demand such additional legislation as would devolve upon federal officers and agents, responsible to federal authorities, the enforcement of her right. The present Congress has responded to this demand in a tardy but full measure of justice. At length, all of practical detail and of penal sanction necessary to the execution of constitutional law, is to be found in the statute-book. Now is the grand test to be applied, whether or not, in this age of advanced civilization, and in this boasted model republic, law is potent for the protection of right, clearly defined, and solemnly guarantied by a written constitution. If not, the experiment has failed.

* * * * *

RESOLUTIONS.

To the end that the position of this state may be clearly apprehended by her confederates of the South and of the North, and that she may be blameless of all future consequences—

Be it resolved by the people of Georgia in connexion assembled, First. That we hold the American Union secondary in importance only to the rights and principles it was designed to perpetuate. That past associations, present fruition, and future prospects, will bind us to it so long as it continues to be the safeguard of those rights and principles.

Secondly. That if the thirteen original parties to the contract, bordering the Atlantic in a narrow belt, while their separate interests were in embryo, their peculiar tendencies scarcely developed, their revolutionary trials and triumphs still green in memory, found Union impossible without compromise, the thirty-one of this day may well yield somewhat, in the conflict of opinion and policy, to preserve that Union which has extended the sway of republican government over a vast wilderness to another ocean, and proportionally advanced their civilization and national greatness.

Thirdly. That in this spirit the state of Georgia has maturely considered the action of Congress, embracing a series of measures for the admission of California into the Union, the organization of territorial governments for Utah and New Mexico, the establishment of a boundary between the latter and the state of Texas, the suppression of the slave trade in the District of Columbia, and the extradition of fugitive slaves, and (connected with them) the rejection of propositions to exclude slavery from the Mexican territories, and to abolish it in the District of Columbia; and, whilst she does not wholly approve, will abide by it as a permanent adjustment of this sectional controversy.

Fourthly. That the state of Georgia, in the judgment of this convention, will and ought to resist, even (as a last resort) to a disruption of every tie which binds her to the Union, any future act of Congress abolishing slavery in the District of Columbia, without the consent and petition of the slaveholders thereof, or any act abolishing slavery in places within the slaveholding states, purchased by the United States for the erection of forts, magazines, arsenals, dock-yards, navy-yards, and other like purposes; or in any act suppressing the slave trade between slaveholding states; or in any refusal to admit as a state any territory hereafter applying, because of the existence of slavery therein; or in any act prohibiting the introduction of slaves into the territories of Utah and New Mexico; or in any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves.

Fifthly. That it is the deliberate opinion of this Convention that upon the faithful execution of the fugitive slave bill by the proper authorities depends the preservation of our much loved Union.

South.

POSITION OF, AS SHOWN BY EXTRACTS FROM SPEECHES OF SOUTHERN MEMBERS OF CONGRESS.

IN the House, Dec. 13, [App. to Congress. Globe, page 47], Mr. WALKER of Alabama, said:—

"After all, it is not the Union—the Union alone, upon which the reflecting man of this country bases his hopes and rests his affections. With him the Union is secondary in importance to the principles it was designed to perpetuate and establish."

In the House, Dec. 22, [App. to Congress. Globe, page 48], Mr. BENNETT of Mississippi, said:—

"Sir, it was in 1851 that this aggressive spirit on the part of the North caused the people of my state to meet in convention; and in that convention the Union party of the state declared that there were aggressions by the North that would amount to intolerable oppression, and would eventually sever the ties that bind us together, and dissolve the Union; and that, contemplating the possible repeal of

the fugitive bill, a modification of the same, or refusal to execute its provisions, the abolition of slavery in the District of Columbia, or the refusal to admit a new state into the Union because of its having a pro-slavery constitution—in the efforts to meet these evils the Union of the states must be considered the secondary political good. Upon this platform, which I thought, in 1851, yielded up everything that could be fairly demanded, I hope now to be permitted to stand; and I warn the Republican party in this House, that they come here elected to do now the very things which the Union party, in 1851, said could not be done except at the price of the severance of the Union. * * I am prepared to say, the South will never submit to the consummation of those acts which in your election you are bound to carry out. * * * If that conflict must come, I for one say, let it commence in this hall; and I hope, sir, that if it be necessary to maintain our constitutional rights, it may commence on this floor, and the first drop of human gore shed in defence of the violated rights and insulted honor, may crimson the walls of this capitol."

In the House, December 20 [App. to Cong. Globe, page 30], Mr. Cox of Ky. said:—

"I make bold to say that the position assumed by them (the Democrats) and that occupied by us (the Southern Americans) upon this great question, is the only position that we as national men, can occupy consistently with the peace, the safety, the harmony, the welfare and prosperity of the whole Union. * * If they don't like to be called Abolitionists, I will call them Black Republicans, Republicans, whichever they prefer. I will call them the Anti-Nebraska party—the party which intends to agitate the question of slavery in Congress and out of it, at the hazard of everything that is held sacred in this Union * * * A gentleman near me says, that they have not said a word yet about the restoration of the Missouri compromise. Well, they have given one hundred and six votes in this House, and the restoration of the Missouri compromise is the basis of the union of those one hundred and six members. * * When you tell me that you intend to put a restriction on the territories, I say to you that upon that subject the South is a unit, and will not submit to any such thing. You do not understand that, or you would not press it so pertinaciously."

On the 19th of December, in the House [Cong. Globe, page 56], Mr. Campbell of Ky., said:—

"We are led to believe that they (the Republican party) are ready to push matters to a length which must ultimately lead to a dissolution of this Union."

Mr Campbell read the following, which he stated to be a resolution adopted by a Convention at Cincinnati:—

"That the repeal of the Missouri compromise was an infraction of the plighted faith of the nation, and that it should be restored; and if efforts to that end should fail, Congress should refuse to admit into the Union any state tolerating slavery, which shall be formed out of any portion of the territory from which that institution was excluded by that compromise."

Having read this resolution, Mr. Cambpell proceeded to speak as follows:—

"My remarks were based on that resolution. It is an interference with our institutions when our citizens are denied the same rights in the new territories with the citizens from the North; for that territory belongs to us as much as it does to you. * * * * We regard this confederacy as secondary in importance, and when a government falters in carrying out its guarantees for the protection of life, liberty, and property, it is no longer entitled to the fealty of its citizens. And in addition to that, I will avow this sentiment, believing that it will be endorsed by my constituency, that whenever this government makes a distinction between a Southern and a Northern constituency or citizenship, then we shall no longer consider ourselves bound to support the confederacy, but will resort to the right of revolution, which is recognised by all."

On the 20th of December, in the House [Cong. Globe, page 61], Mr. McMullin of Va., said:—

"Let me tell that member [Mr. Giddings] and this House and the country, that should this country ever arrive at that unfortunate state of affairs that the government should pass into the hands of the North—of such a Northern fanatical character over the way, and that that government should restore the Missouri compromise, or repeal the fugitive slave law, then in such a case I would have to endorse the declaration of the honorable gentleman from Kentucky [Mr. Campbell], that is to say, that this Union must and will be dissolved. * * * * One of the greatest misfortunes of the country, Mr. Clerk, is the fact that our Northern brethren mistake the character of the South. They suppose that the Southern disunionists are confined to the Calhoun wing of the Democratic party. This, sir, is the greatest error that the people of the North have ever fallen into. And I tell you, sir, and I want the country to know it—I want the gentlemen from the free states, our Republicans, our Seward Republicans, our Abolitionists, or whatever else they may be called, to know it—that if you restore the Missouri Compromise, or repeal the fugitive slave law, this Union will be dissolved."

Mr. Brooks of S. C., on the 24th of December, 1855, said:—

"The gentleman from Massachusetts has announced to the world, that in certain contingencies, he is willing to 'let the Union slide.' Now, sir, let his contingencies be reversed, and I am also willing to 'let the Union slide'—ay, sir, to aid in making it slide. * * * I hesitate not to say, that if his construction of the constitutional power of Congress over the territories shall prevail in

this country, I for one heartily endorse the sentiment."

In the House, on the 23d of December, Mr. SEWARD of Ga., said:—

"If the question is to be settled by Congress, and decided against the South by a majority from the North, the government will be endangered and the Union cannot be perpetuated."

In the House, on the 4th of January, Mr. BOYCE of S. C., [Cong. Globe, page 143], said:—

"I have thought, and I still think, and I have expressed the opinion, and I still express the opinion, that there are circumstances which are hurrying us almost irresistibly to a disruption. * * * * I have seen at the North the formation of a great party, based upon the single idea of hostility to the institutions of the South. The only question with me, then, as to the continuance of the Union is, whether that party will take possession of the North? If they do, in my opinion the Union is at an end. * * * * * * What is that party pledged to? The great boasting idea of that party is, that freedom is national and slavery is sectional. That party, then, are obliged, if they come into power, as is recommended in the resolutions of the state of Maine presented to the Senate yesterday, to abolish slavery in the District of Columbia, and to prohibit it in all the territories, arsenals, and dock-yards in the United States. Well, then, it seems to me that if that party comes into power pledged to those measures, we shall be in the midst of chaos and anarchy and revolution."

"This great sectional party at the North goes upon the idea that, by uniting together at the North they can obtain the control of this government and dispense its vast patronage among themselves, and reduce the people of the South to a secondary and subordinate condition. * * * That party which places itself upon the position of giving power to the North, will eventually succeed; and when that party does succeed, in my opinion the Union will be at an end."

In the House, January 9, Mr. TALBOT of Ky. [Cong. Globe, page 176], said:—

"What was the aspect of political parties when we first met at this capitol? The Republican party had met at the North and organized themselves into a sectional Free Soil Abolition party, determined, many of them, upon a repeal of the fugitive slave law, and all of them upon the repeal of the Kansas-Nebraska bill; the restoration of the Missouri restrictive line; the restriction of slavery in the territories; the non-admission of any more slave states into this Union. This party, Mr. Clerk, promised no good to the country, but, by its system of political warfare, threatened a disruption of the Union. What else, sir? The great American party, * * * a few days before we met here, held a meeting at Cincinnati, nine states being represented, and they, too, adopted a platform threatening the institutions of the South, though it might cost this glorious Union to carry out their principles."

In the House, January 11, Mr. DOWDELL of Ala. [Cong. Globe, page 217], said:—

"I make free to declare my opinion, not by way of threatening, but, I trust, as a patriot, who desires the best interests of his country, that if the gentlemen who are in a majority in this House fairly represent the section of the Union from which they come—if they are the types of Northern majorities, and the principle which I understand them to profess shall become the settled opinions of controlling majorities in the Northern states, and shall be attempted to be made law in this country, through the forms of federal legislation, then the continued Union of the states will be an impossibility, or, if possible, the greatest curse which could be inflicted upon any people."

In reference to the Republican party, Mr. Dowdell said:—

"Sectional and fanatic, it is bent upon the destruction of the rights of a whole section. It threatens to do that which cannot be done without being followed by a speedy dissolution of these states."

In the House, January 11 Mr. STEWART of Md. [Cong. Globe, page 220,] said:—

"It had to be disposed of, and now again must be met. The question of the admission of a new state from the territory in dispute will soon be presented. * * * * * Minor questions, however important otherwise, must be subordinate to this great national exigency which involves in its settlement possibly the destinies of this glorious Union."

In the House, January 30, Mr. BOYCE of S. C., [Cong. Globe, page 320], said:—

"I look upon the election of Mr. Banks as one of the greatest misfortunes that could happen to this country. * * * * I look upon his principles, if carried, as death to the Constitution and to the Union. The result of his principles, if carried out, would be inevitably revolution. * * * * For my own part, whenever that question is put to me—to-day, to-morrow, next week, or next year, if it be anarchy, or the extreme anti-slavery opinions of Mr. Banks, I shall say, anarchy for ever."

In the House, January 19, Mr. BOCOCK of Va., addressing himself to the Republicans [Cong. Globe, page 264,] said:—

"You cheat yourselves with the delusion that your platform makes you national. You declare war on the institution of slavery wherever the strong arm of this government can reach it, and call that a national platform. To justify so absurd a position, you love to employ the specious phrase that 'freedom is national, and slavery sectional.' I tell gentlemen that it is a cheat and delusion. * * * When in your platform you come forward and

say that your institutions alone are entitled to the protection of the government, and that ours are to be discountenanced and restricted by its action, then you lay down a sectional platform and array yourselves into a sectional party. You put us beyond the pale of the Constitution, and you force us to fight you by every fair and honorable means; and we shall do it."

Mr. GIDDINGS and others. Agreed!

Mr. BOCOCK. "Rest assured that we will do it."

In the Senate, March 5 [Cong. Globe, page 584], Judge BUTLER of S. C. said:—

* * * "I have such confidence in the good sense of the people of this country, that I believe republican institutions might survive the present Union. Really, it is broken already. * * * I would rather that it should be dissolved to-morrow—I wish my words measured—in preference to living in a Union without the protection of a Constitution which gives me an equality. I should tell my people so to-morrow."

In the Senate, on the 27th of March [Cong. Globe, page 758], the foregoing remarks of Judge BUTLER being made a subject of comment, he said:—

"I say now, calmly, that when a Northern majority shall acquire such a control over the legislation of this country as to disfranchise the slaveholding states in any respect in which they have an equality under the Constitution of the country, I will not agree to live under this government, when the Union can survive the Constitution. * * * All that I have contended for, is, that the common domain of this government, acquired by the common blood and treasure of all parts of the United States, shall be just as free to one class of citizens as another. * * * But, sir, if an insulting interference were to be made by a majority of Congress, or such an interference as would exclude a slaveholder on the broad ground that he was unworthy of equality with a non-slaveholding population, do you suppose I would stay in the Union if I could get out of it?"

In the House, January 17 [App. to Cong. Globe, page 60], Mr. STEPHENS of Ga. said:—

"I was willing to divide as an alternative only, but a majority of the North would not consent to it; and now we have got the great principle, established in 1850, carried out in the Kansas-Nebraska bill, that Congress, after removing all obstructions, is not to intervene against us. This is the old Southern Republican principle, attained after a hard and protracted struggle in 1850, and I say, if Congress ever again exercises the power to exclude the South from an equal participation in the common territories, I, as a Southern man, am for resisting it. The gentleman from Tennessee does not say what he would do in that contingency."

In the Senate, February 25 [App. to Cong. Globe, page 95], Mr. JONES of Tenn. said:—

"We have a question before us and the country which I think of far more importance to our interst and honor, and to the perpetuity of our institutions, than the question whether or not Mr. Crampton shall be withdrawn. * * * * The beginning of the difficulties may be found in an earnest, ardent, and—pardon me for saying—a reckless determination to repeal that clause of the Kansas-Nebraska bill which abrogates the Missouri restriction. * * * * We ask nothing but what the Constitution guaranties to us. That much we do ask. That much we will have. I do not wish to be excited about this matter. We do not mean to be driven from our propriety; but there is a fixed, immutable, universal determination on the part of the South never to be driven a single inch further. * * * If we are not to enjoy our rights under the Constitution, tell us so; and if we may, let us separate peaceably and decently. * * * * I tell you in every hand there will be a knife, and there will be war to the knife and the knife to the hilt."

In the House, March 13 [App. to Cong. Globe, page 157], Mr. TAYLOR of La., said:—

"If the counsels of these men [the Republicans] find favor with us, a few short weeks or months may be sufficient to fill a land where it has been all sunshine, with 'clouds and darkness;' and amid the surrounding gloom such contentions and conflicts may arise, in which section may be arrayed against section, state against state, and perhaps man against man, in deadly strife, as would make all men * * * shudder with fear."

In the House, March 13 [App. to Cong. Globe, page 230], Mr. LETCHER of Va. said:—

"So far as the South are concerned, sir, I will tell you now what I have no doubt will be the fact—what I believe firmly and conscientiously, that if you [the Republicans] should have power here, and undertake to pass measures to carry out the principles which you profess, you would find that we had spirit enough to separate from you, and make the effort, at least, to take care of ourselves.

A VOICE. What measures?

Mr. LETCHER. If you undertake to repeal the fugitive slave law, and deprive us of the means of recovering our property when it is stolen from us. * * * If you undertake to abolish slavery in the District of Columbia, and prohibit it in the territories of the United States by Congressional legislation. * * * You will find that the South, if it has a particle of self-respect—and I know that it has—will be prepared to resist any, and all such measures."

In the House, April 1 [App. to Cong. Globe, page 297], Mr. WARNER of Ga. said:—

"We have been told by those who advocate this line of policy, that they do not desire to interfere with slavery in the states where it exists; and yet it is their intention to pre-

vent the extension of slavery, by excluding it from the common territory. * * It matters but little with me, whether a man takes my property outright, or restricts me in the enjoyment of it, so as to render it of but little or no value to me. * * * Slavery cannot be confined within certain specified limits without producing the destruction of both master and slave; it requires fresh lands. * * * * If the slaveholding states should ever be so regardless of their rights, and their power, as co-equal states, to be willing to submit to this proposed restriction, * * * they could not do it. * * * They ought not to submit to it upon principle, if they could, and could not if they would.

"It is in view of these things, sir, that the people of Georgia have assembled in convention, and solemnly resolved that, if Congress shall pass a law excluding them from the common property, with their slave property, they will disrupt the ties that bind them to the Union. This position has not been taken by way of threat or menace. Georgia never threatens, but Georgia always acts."

In the House, April 4 [App. to Cong. Globe, p. 351], Mr. Smith of Tenn. said:—

"In my humble judgment, we should first look to the preservation of the Constitution of the United States; secondly, to the protection of the rights of the states; and, thirdly, to the preservation of the Federal Union. * * * So far as I am concerned, after the preservation of the rights of the states, which I, as an individual, or as a Representative, will never agree to see infringed, the next most important object which ought to actuate every patriot of this land, is the preservation of the Union. * * * * I believe that it [the Wilmot Proviso] is unconstitutional, unjust, and wrong. * * Unless the South can unite and defend these men of the North, who stand by the guarantees of the Constitution, for the rights of the states, the Union is gone. * * * In the struggle which is soon to come off—a struggle on the issue of which are suspended the mighty doctrines of this nation—yes, sir, in my humble opinion, the very existence of this Union, the true-hearted, conservative, and patriotic men of the whole country * * * will stand bravely together around the broad banner of the Democratic party."

In the House, Jan. 9 [App. to Cong. Globe, page 54], Mr. Bowie of Md. said:—

"They [the Republicans] say they are not Abolitionists, because, forsooth, they are not for interfering with slavery in the states. Why, sir, did you ever see or hear of a fanatic who was fanatical enough to go to that extent? They are called Abolitionists, and justly so, because they advocate the power of Congress to abolish slavery in the territories of the Union, and in the District of Columbia. * * There is a majority here in favor of the principles of non-intervention of Congress on the subject of domestic slavery in the territories. That majority ought to be brought together in some mode of conciliation: for it must be admitted that no other question is half so vital to the preservation of the Union. * * * These are interesting questions [relating to the naturalization laws], to be sure, but they strike no chord in our hearts which vibrates with sounds of national disunion. They bring no tears to the eyes of the patriot, when brooding over the broken fragments of a ruined country. * * * But let this Congress attempt to strike down the constitutional rights of the South, then you, and I, and all of us will strike, though bloody treason flourish over us."

In the House, April 7, Mr. Keitt of S. C. said:—

"Sir, the next contest will be a momentous one. It will turn up the question of slavery, and the constitutional rights of the South. The South should establish in the platform the principle that the right of a southern man to his slave is equal, in its length and breadth, to the right of a northern man to his horse. She should make the recognition of the right full, complete, and indisputable. * * * * Let the North refuse admission to a state because of slavery in her constitution, and the history of this Union is closed. * * * * * * * If it [the government] becomes the puppet of abolitionism, if it becomes, in our very midst, to us a foreign government, the South will tear it down, from turret to foundation-stone. Abolish the inter-state slave trade, and we will trample your usurpations under foot. Repeal the fugitive slave law, and the South will meet you with gauntlets on. In the next presidential election the North will decide the probable fate of the Union. If the banner of Black Republicanism is lifted to victory, the South will raise aloft her symbol of sovereignty, and interpose her own shield for the safety of her citizens. Let the conservatives of the North beware!"

In the House, April 9, Hon. E. S. Shorter of Ala. said:—

"Do you believe that the South, less patriotic now than in the days of the Revolution, will quietly submit to the sacrifice of her rights, and still cling to the Union? If such is public opinion at the North, let it be at once undeceived. We understand, gentlemen, what our rights are under the Constitution, and with the blessing of God we mean to maintain them. We ask for nothing more—will be content with nothing less.

* * * * * *

"I hope and pray God that my section of the Union may never again, in an evil hour, be inclined to 'compromise' with the North on the subject of slavery.

* * * * * *

"I believe in the right of a sovereign state to secede from the Union whenever she determines that the Federal Constitution has been violated by Congress; and that this govern-

ment has no constitutional power to coerce such seceding state.

* * * * * *

"I think South Carolina mistook her remedy —secession, and not nullification, ought to have been her watchword.

* * * * *

"The extraordinary exertions made by Massachusetts and the Black Republican party of the North, to rob the South of her equal rights in the territories, has had one effect. You have thoroughly aroused the southern states to a sense of their danger. You have caused them coolly to estimate the value of the Union; and we are determined to maintain our equality in it, or independence out of it.

* * * * *

"The South has planted itself where it intends to stand or fall, Union or no Union, and that is, upon the platform laid down by the Georgia Convention.

* * * * *

"We tell you plainly that we take issue with you; and whenever you repeal the fugitive slave law, or refuse to admit a state on account of slavery in her constitution, or our equality in the territories is sacrificed by an act of Congress, then the star of this Union will go down to rise no more.

"Should we be forced to dissolve the Union in order to preserve southern institutions and southern civilization, we will do it in peace, if we can; in war, if we must; and let the God of Battles decide between us.

"The shadows, sir, of the coming storm already darken our pathway. It will soon be upon us with all its fury."

—

"Now, sir, as to the measures of this party, in the event of its success.

"First. Kansas will be hurried into the Union under the Topeka constitution, in violation of law and every principle of right and justice; next the Wilmot proviso will be adopted, and thus slavery put under the ban of the government; it will be abolished in the District of Columbia; the slave trade between the states interdicted; slavery excluded from the dock-yards and arsenals, and everywhere else where the government has jurisdiction. These, sir, are the measures of the Black Republican party. They are not all included in the platform, I know; but should it succeed and the Union survives, they will be fastened upon the country. Sir, I make no threats; but I tell the gentlemen on the other side of this House, plainly, as it is my solemn duty to do, as the representative of a hundred thousand freemen upon this floor, that we submit to no further aggressions upon us, 'there is a point beyond which forbearance ceases to be a virtue,' and that for the future 'we tread no steps backwards.' We are done, gentlemen, with compromises. All that have been made you forced upon us; and while we have observed them in good faith, you have shamelessly disregarded and trampled them under foot. I hold up before you the Constitution as it came from the hands of its immortal authors, northern and southern men—itself a compromise; we claim our rights under that, and we intend to have them."—*Hon. Wm. Barksdale of Miss., in House of Representatives, July* 23, 1856.

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"Sir, I am no alarmist; nor am I a disunionist. I represent a people here who love the Union—a people who have always been distinguished for their conservatism, who have always been represented in the councils of the nation by men noted for their Union-loving patriotism—a people that honored Clay, who combined in his person much of the genius of our institutions—a people who have ever thrown themselves into the breach to save the Union when the conflicts of contending factions threatened to destroy it; but, sir, if John C. Fremont should be elected, pledged as he is to war upon the institutions of the South, composed as his administration would be of men from but one section of the Union, filled as the federal offices would be by sectional men, all pledged to make common cause against the South, with a Congress backing up his administration, such as the present House, who conceive no measure too unconstitutional, too revolutionary, too disgraceful, to meet their sanction, so as it makes war upon the South, the frightful mien of disunion forces itself on them as far the preferable alternative between it and oppression and disgrace in the Union. They would then, still remindful of its past glories, the memories of its giant statesmen, the heroic deeds of valor of its noted warriors, prefer rather to cut short its existence than to blacken those brilliant recollections with the record of its future disgrace."—*Hon. H. C. Burnett of Ky., in the House of Representatives, July* 28, 1856.

Southern Senators.

PROTEST AGAINST THE ADMISSION OF CALIFORNIA.

IMMEDIATELY after the passage of the bill admitting California, a Protest, of which the following is the material portion, was made:—

"We, the undersigned senators, deeply impressed with the importance of the occasion, and with a solemn sense of the responsibility under which we are acting, respectfully submit the following protest against the bill admitting California as a state into this Union, and request that it may be entered upon the Journal of the Senate. We feel that it is not enough to have resisted in debate alone a bill so fraught with mischief to the Union and the states which we represent, with all the resources of argument which we possessed; but that it is also due to ourselves, the people whose interests have been intrusted to our care, and to posterity, which even in its most distant generations may feel its consequences, to leave in whatever form may be most solemn

and enduring, a memorial of the opposition which we have made to this measure, and of the reasons by which we have been governed, upon the pages of a journal which the Constitution requires to be kept so long as the Senate may have an existence. We desire to place the reasons upon which we are willing to be judged by generations living and yet to come, for our opposition to a bill whose consequences may be so durable and portentous as to make it an object of deep interest to all who may come after us.

"We have dissented from this bill because it gives the sanction of law, and thus imparts validity to the unauthorized action of a portion of the inhabitants of California, by which an odious discrimination is made against the property of the fifteen slaveholding states of the Union, who are thus deprived of that position of equality which the Constitution so manifestly designs, and which constitutes the only sure and stable foundation on which this Union can repose.

"Because the right of the slaveholding states to a common and equal enjoyment of the territory of the Union has been defeated by a system of measures which, without the authority of precedent, of law, or of the Constitution, were manifestly contrived for that purpose, and which Congress must sanction and adopt, should this bill become a law.

"Because to vote for a bill passed under such circumstances would be to agree to a principle, which may exclude for ever hereafter, as it does now, the states which we represent from all enjoyment of the common territory of the Union; a principle which destroys the equal rights of their constituents, the equality of their states in the confederacy, the equal dignity of those whom they represent as men and as citizens in the eye of the law, and their equal title to the protection of the government and the Constitution.

"Because all the propositions have been rejected which have been made to obtain either a recognition of the rights of the slaveholding states to a common enjoyment of all the territory of the United States, or to a fair division of that territory between the slaveholding and non-slaveholding states of the Union—every effort having failed which has been made to obtain a fair division of the territory proposed to be brought in as the state of California.

"But, lastly, we dissent from this bill, and solemnly protest against its passage, because, in sanctioning measures so contrary to former precedent, to obvious policy, to the spirit and intent of the Constitution of the United States, for the purpose of excluding the slaveholding states from the territory thus to be erected into a state, this government in effect declares, that the exclusion of slavery from the territory of the United States is an object so high and important as to justify a disregard not only of all the principles of sound policy, but also of the Constitution itself. Against this conclusion we must now and for ever protest, as it is destructive of the safety and liberties of those whose rights have been committed to our care, fatal to the peace and equality of the states which we represent, and must lead, if persisted in, to the dissolution of that confederacy, in which the slaveholding states have never sought more than equality, and in which they will not be content to remain with less."

This protest was signed by Messrs. Mason and Hunter, Senators from Virginia; Messrs. Butler and Barnwell, Senators from South Carolina; Mr. Turney, Senator from Tennessee; Mr. Pierre Soulé, Senator from Louisiana; Mr. Jefferson Davis, Senator from Mississippi; Mr. D. R. Atchison, Senator from Missouri; and Messrs. J. Morton and D. L. Yulee, Senators from Florida.

Southern States.

Address to the People of the.

At a large meeting of southern members of both Houses of Congress, held at the Capitol on the evening of the 7th instant, the Hon. Hopkins L. Turney of Tenn. having been appointed chairman at a previous meeting, took the chair; and, on motion of the Hon. David Hubbard of Ala. the Hon. Wm. J. Alston of Ala. was appointed secretary.

Whereupon, the Hon. A. P. Butler of S. C., from the committee appointed at a preliminary meeting, reported an Address to the Southern People, recommending the establishment, at Washington City, of a newspaper, to be devoted to the support and defence of southern interests, which was read, and with some slight modifications adopted.

The following resolution was offered by the Hon. Thomas L. Clingman of N. C., and unanimously adopted by the meeting:—

Resolved, unanimously, That the committee, in publishing the address, be instructed to give with it the names of the senators and representatives in Congress who concur in the proposition to establish the southern organ, as manifested by their subscription to the several copies of the plan in circulation, or who may hereafter authorize said committee to include their names.

Maryland.

Senator—Thos. G. Pratt.

Virginia.

Senators—R. M. T. Hunter, J. M. Mason.

Representatives—

J. A. Seddon,	Alex. R. Holladay,
Thos. H. Averett,	Thos. S. Bocock,
Paulus Powell,	H. A. Edmundson,
R. K. Meade,	Jeremiah Morton.

North Carolina.

Senator—Willie P. Mangum.

Representatives—

T. L. Clingman, A. W. Venable,
W. S. Asbe.

South Carolina.

Senators—A. P. Butler, F. H. Elmore.

Representatives—

John McQueen,	Wm. F. Colcock,
Jos. A. Woodward,	James L. Orr,
Daniel Wallace,	Armistead Burt,

Isaac E. Holmes.

Georgia.

Senators—Jno. McP. Berrien, Wm. C. Dawson.

Representatives—

Joseph W. Jackson,	Robert Toombs,
Alex. H. Stephens,	H. A. Haralson,

Allen F. Owen.

Alabama.

Senator—Jeremiah Clemens.

Representatives—
David Hubbard, S. W. Inge,
F. W. Bowden, W. J. Alston,
S. W. Harris.

Mississippi.

Senator—Jefferson Davis.

Representatives—
W. S. Featherston, A. G. Brown,
Jacob Thompson, W. McWillie.

Louisiana.

Senators—S. U. Downs, Pierre Soule.

Representatives—
J. H. Harmanson, Emile La Sere,
Isaac E. Morse.

Arkansas.

Senators—Solon Borland, W. K. Sebastian.
Representative—R. W. Johnson.

Texas.

Representatives—Volney E. Howard, D. S. Kaufman.

Missouri.

Senator—D. R. Atchison.
Representative—James S. Green.

Kentucky.

Representatives—R. H. Stanton, James L. Johnson.

Tennessee.

Senator—Hopkins L. Turney.

Representatives—
James H. Thomas, C. H. Williams,
Fred'k P. Stanton, John H. Savage,
J. G. Harris.

Florida.

Senators—Jackson Morton, D. L. Yulee.
Representative—E. Carrington Cabell.

And upon motion, the meeting adjourned.

HOPKINS L. TURNEY, Chairman.

Attest:—Wm. J. Alston, Secretary.

ADDRESS TO THE PEOPLE OF THE SOUTHERN STATES.

The committee to which was referred the duty of preparing an address to the people of the slaveholding states, upon the subject of a Southern organ, to be established in the city of Washington, put forth the following:—

FELLOW-CITIZENS—A number of Senators and Representatives in Congress, from the Southern states of the confederacy, deeply impressed with a sense of the dangers which beset those states, have considered carefully our means of self-defence within the Union and the Constitution, and have come to the conclusion that it is highly important to establish in this city a paper which, without reference to political party, shall be devoted to the rights and interests of the South, so far as they are involved in the questions growing out of African slavery. To establish and maintain such a paper your support is necessary, and accordingly we address you on the subject.

In the contest now going on, the constitutional equality of fifteen states is put in question. Some sixteen hundred millions worth of negro property is involved, directly; and, indirectly, though not less surely, an incalculable amount of property in other forms. But to say this, is to state less than half the doom that hangs over you. Your social forms and institutions, which separate the European and the African races into distinct classes, and assign to each a different sphere in society, are threatened with overthrow. Whether the negro is to occupy the same social rank with the white man, and enjoy equally with him the rights, privileges, and immunities of citizenship, in short, all the honors and dignities of society, is a question of greater moment than any mere question of property can be.

Such is the contest now going on—a contest in which public opinion, if not the prevailing, is destined to be a most prominent force, and yet no organ of the united interests of those assailed has as yet been established; nor does there exist any paper which can be the common medium for an interchange of opinions amongst the Southern states. Public opinion, as it has been formed and directed by the combined influence of interest and prejudice, is the force which has been most potent against us in the war now going on against the institution of negro slavery; and yet we have taken no effectual means to make and maintain that issue with it, upon which our safety and perhaps our social existence depends. Whoever will look to the history of this question, and to the circumstances under which we are now placed, must see that our position is one of imminent danger, and one to be defended by all the means, moral and political, of which we can avail ourselves in the present emergency. The warfare against African slavery commenced, as it is known, with Great Britain, who, after having contributed mainly to its establishment in the new world, devoted her most earnest efforts, for purposes not yet fully explained, to its abolition in America. How wisely this was done so far as her own colonies were concerned, time has determined, and all comment upon this subject on our part would now be entirely superfluous. If, however, her purpose was to reach and embarass us on this suject, her efforts have not been without success. A common origin, a common language, have made the English literature ours to a great extent, and the efforts of the British government and people to mould the public opinion of all who speak the English language, have not been vain or fruitless. On the contrary, they have been deeply felt wherever the English language is spoken, and the more efficient and dangerous, because, as yet, the South has taken no steps to appear and plead at the bar of the world, before which she has been summoned. and by which she has been tried already without a hearing. Secured by constitutional guarantees, and independent of all the world, so far as its domestic institutions were concerned, the South has reposed under the consciousness of right and independence, and forborne to plead at a bar which she knew had no jurisdiction over this particular subject. In this we have been theoretically right, but practically we have made a great mistake.

All means, political, diplomatic, and literary, have been used to concentrate the public opinion, not only of the world at large, but of our own country, against us; and resting upon the undoubted truth that our domestic institutions were the subjects of no government

but our own local governments, and concerned no one but ourselves, we have been passive under these assaults, until danger menaces us from every quarter. A great party has grown up, and is increasing in the United States, which seems to think it a duty they owe to earth and heaven, to make war on a domestic institution, upon which are staked our property, our social organization, and our peace and safety. Sectional feelings have been invoked, and those who wield the power of this government have been tempted almost, if not quite beyond their power of resistance, to wage a war against our property, our rights, and our social system, which, if successfully prosecuted, must end in our destruction. Every inducement, the love of power, the desire to accomplish what are, with less truth than plausibility, called "reforms," all are offered to tempt them to press upon those who are represented, and in fact seem, to be an easy prey to the spoiler. Our equality under the Constitution is in effect denied, our social institutions are derided and contemned, and ourselves treated with contumely and scorn through all the avenues which have as yet been opened to the public opinion of the world. That these assaults should have had their effect is not surprising, when we remember that as yet we have offered no organized resistance to them, and opposed but little, except the isolated efforts of members of Congress who have occasionally raised their voices against what they believed to be wrongs and injustice.

It is time that we should meet and maintain an issue in which we find ourselves involved by those who make war upon us in regard to every interest that is peculiar to us, and which is not enjoyed in common with them, however guarantied by solemn compact, and no matter how vitally involving our prosperity, happiness, and safety. It is time that we should take measures to defend ourselves against assaults, which can end in nothing short of our destruction if we oppose no resistance to them. Owing to accidental circumstances, and a want of knowledge of the true condition of things in the southern states, the larger portion of the press and of the political literature of the world has been directed against us. The moral power of public opinion carries political strength along with it, and, if against us, we must wrestle with it or fall. If, as we firmly believe, truth is with us, there is nothing to discourage us in such an effort.

The eventual strength of an opinion is to be measured not by the number who may chance to entertain it, but by the truth which sustains it; we believe, nay, we know, that the truth is with us, and therefore we should not shrink from the contest. We have too much staked upon it to shrink or to tremble—a property interest, in all its forms, of incalculable amount and value; the social organization, the equality, the liberty, nay, the existence of fourteen or fifteen states of the confederacy —all rest upon the result of the struggle in which we are engaged. We must maintain the equality of our political position in the Union. We must maintain the dignity and respectability of our social position before the world; and we must maintain and secure our liberty and rights, so far as our united efforts can protect them; and, if possible, we must effect all this within the pale of the Union, and by means known to the Constitution. The Union of the South upon these vital interests is necessary, not only for the sake of the South, but perhaps for the sake of the Union. We have great interests exposed to the assaults, not only of the world at large, but of those who, constituting the majority, wield the power of our own confederated states. We must defend those interests by all legitimate means, or else perish either in, or without, the effort. To make a successful defence, we must unite with each other upon the one vital question, and make the most of our political strength. We must do more—we must go beyond our entrenchments, and meet even the more distant and indirect, but by no means harmless assaults, which are directed against us. We, too, can appeal to public opinion. Our assailants act upon theory—to their theory we can oppose experience. They reason upon an imaginary state of things—to this we may oppose truth and actual knowledge. To do this, however, we too must open up avenues to the public mind; we, too, must have an organ through which we can appeal to the world, and commune with each other. The want of such an organ heretofore, has been, perhaps, one of the leading causes of our present condition.

There is no paper at the seat of government through which we can hear or be heard fairly and truly by the country. There is a paper here which makes the abolition of slavery its main and paramount end. There are other papers here which make the maintenance of political parties their supreme and controlling object, but none which consider the preservation of sixteen hundred millions of property, the equality and liberty of fourteen or fifteen states, the protection of the white man against African equality, as paramount over or even equal to the maintenance of some political organization which is to secure a President; and who is an object of interest, not because he will certainly rule or perhaps ruin the South, but chiefly for the reason that he will possess and bestow office and spoils. The South has a peculiar position, and her important rights and interests are objects of continual assault from the majority; and the party press, dependent as it is upon that majority for its means of living, will always be found laboring to excuse the assailants, and to paralyze all efforts at resistance. How is it now? The abolition party can always be heard through its press at the seat of government, but through what organ or press at Washington can Southern men communicate with the world, or with each other, upon their own peculiar interests? So far from

writing or permitting any thing to be written, which is calculated to defend the rights of the South, or state truly its case, the papers here are engaged in lulling the South into a false security, and in manufacturing there an artificial public sentiment, suitable for some Presidential platform, though at the expense of any and every interest you may possess, no matter how dear or how vital and momentous.

This state of things results from party obligations, and a regard to party success. And they but subserve the ends of their establishment, in consulting their own interests and the advancement of the party to which they are pledged. You cannot look to them as sentinels over the interests that are repugnant to the feelings of the majority of a self-sustaining party.

In the federal legislature, the South has some voice and some votes, but in the public press, as it now stands at the seat of government, the North has a controlling influence. The press of this city takes its tone from that of the North. Even our Southern press is subjected more or less to the same influence. Our public men, yes, our Southern men, owe their public standing and reputation too often to the commendation and praise of the Northern press. Southern newspapers republish from their respective party organs in this city, and in so doing reproduce, unconscious, doubtless, in most instances, of the wrong they do, the Northern opinion in relation to public men and measures. How dangerous such a state of things must be to the fidelity of your representatives, it is needless to say! They are but men, and it would be unwise to suppose that they are beyond the reach of temptations which influence the rest of mankind.

Fellow-citizens: It rests with ourselves to alter this state of things, so far as the South is concerned. We have vast interests which we are bound by many considerations to defend with all the moral and political means in our power. One of the first steps to this great end, is to establish a Southern organ here, a paper through which we may commune with one another, and the world at large. We do not propose to meddle with political parties as they now exist: we wish to enlist every Southern man in a Southern cause, and in defence of Southern rights, be he Whig or be he Democrat. We do not propose to disturb them, or to shake him in his party relations. All that we ask is, that he shall consider the constitutional rights of the South, which are involved in the great abolition movement, as paramount to all party and all other political considerations. And surely the time has come when all Southern men should unite for purposes of self-defence. Our relative power in the legislature of the Union is diminishing with every census, the dangers which menace us are daily becoming greater, and the chief instrument in the assaults upon us is the public press, over which, owing to our supineness, the North exercises a controlling influence. So far as the South is concerned, we can change and reverse this state of things. It is not to be borne that public sentiment at the South should be stifled or controlled by the party press.

Let us have a press of our own, as the North has, both here and at home—a press which shall be devoted to Southern rights, and animated by Southern feelings; which shall look not to the North, but the South, for the tone which is to pervade it. Claiming our share of power in federal legislation, let us also claim our share of influence in the press of the country. Let us organize in every Southern town and county, so as to send this paper into every house in the land. Let us take, too, all the means necessary to maintain the paper by subscription, so as to increase its circulation, and promote the spread of knowledge and truth. Let every portion of the South furnish its full quota of talent and money to sustain a paper which ought to be supported by all, because it will be devoted to the interest of every Southern man. It will be the earnest effort of the committee who are charged with these arrangements, to procure editors of high talent and standing; and they will also see that the paper is conducted without opposition and without reference to the political parties of the day. With these assurances, we feel justified in calling upon you, the people of the Southern states, to make the necessary efforts to establish and maintain the proposed paper.

A. P. Butler,
Jackson Morton,
R. Toombs,
J. Thompson.

May 6, 1850.

Squatter Sovereignty.

Power of Congress over Slavery in the Territories.

Hon. Green Adams of Ky., in the House of Representatives, July 28, 1848, held the following doctrine:—

Because I maintain that the power to legislate upon the subject of slavery is expressly granted in the third section of the fourth article of the Constitution, giving to Congress the "power to dispose of, and make all needful rules and regulations respecting the territory and other property belonging to the United States." I would ask, gentlemen, under what other clause of the Constitution do they derive the power to legislate for the territories at all? where do they obtain the right to establish a territorial government, unless it be from the clause here given? And if Congress derives its powers to make territorial governments, and to legislate for the territories, from this clause in the Constitution, has it not the power to legislate upon every subject that does not conflict with the Federal Constitution? And where in the Constitution is the restriction in regard to slavery? * * * *

Suppose, as is argued, that the term "dispose of," can have no reference or application to government, do they restrict the power "to

make all needful rules and regulations?" Congress, as I understand from the language of the Constitution, has not only the power "to dispose of" the territories, but also "to make all needful rules and regulations" respecting them. But Mr. Calhoun argues that the terms "to make all needful rules and regulations" are never applied in the Constitution to government, which implies persons to be governed, and he assumes that in every case where they are used in the Constitution, they refer to property, to things, or some process, such as the rules of court, or the House of Congress, for the government of its proceedings. Now, I take it that rules for the government of the House of Congress are nothing more nor less than laws to govern persons in their conduct, and not to govern property or things. But I need only refer, gentlemen, to the eighth section of the first article of the Constitution, which gives to Congress the power "to make rules for the government and regulation of the land and naval forces," to show that this position is incorrect, and that the terms "rules and regulations" are applied in the Constitution to the government of persons. And now, Mr. Chairman, I maintain that the term "rules and regulations," when used in the Constitution, mean nothing else than laws, and the convention which framed the Constitution, using them with reference to civil government, could have intended to give them no other meaning, it being not only their common law, but universal signification. Congress, then, according to the Constitution, can make all needful laws respecting the territories, and Congress is to be the judge of what are needful. But, sir, Mr. Calhoun and other gentlemen have admitted the constitutional power, by recommending and advocating the passage of the bill this morning laid upon the table in this House, under the sanction of their oaths to support the Constitution.

But, sir, my honorable colleague from the ninth district [Mr. French], who found it necessary to discuss this question, because no other Kentuckian had spoken upon the subject, leaves his own Constitution, and travels off to Great Britain to get Judge Blackstone's definition of absolute rights, to show that Congress has no right to legislate upon the subject of slavery in the territories; and, very suitable to the position which he assumes, he has no occasion for the rights of personal security, or the rights of personal liberty, but he arrays, with much force and gravity, the right of private property, and arguing upon the right to enjoy private property, and the fact that slaves are property in the slave states, and that the public lands in the territories are the property of all the states, the slave as well as the free states, he adduces the corollary, that Congress has no constitutional right to legislate upon the subject of slavery in the territories. Now, sir, no person will deny the absolute right of persons to enjoy their private property, and no person has a greater aversion than I to the interference by government with private, vested, legal rights; but I would ask if the passage of a law by Congress, prohibiting the introduction of slavery into the territories, or, if you please, authorizing slavery in the territories (for I hold that slavery cannot exist without the authority of positive law), interferes with the rights of citizens in the slave states to enjoy their slave property? No, sir, not at all. If that be an interference with the right to enjoy slave property, there is scarcely a state in this Union that has not been guilty of this interference with the right of property. I am now temporarily residing in the District of Columbia; if I purchase a slave here to-day, he is my private property, I have a right to control and enjoy the benefit of his service. But, sir, can I take that slave to Kentucky, the land of my birth and the home of my fathers, and enjoy my right to his service there? No, sir, my colleague knows that the laws of Kentucky prohibit it, and would inflict an onerous penalty by way of fine, as well as imprisonment, for a violation of that law; and that the courts of Kentucky have enforced the law, and maintained its constitutionality. But, Mr. Chairman, my colleague contends that all the states are joint owners of the land in the territories, and, consequently, Congress has no right to legislate there upon the subject of slavery — at least to prohibit citizens from slave states from carrying their slave property there, and holding them as slaves. So, too, the public lands in the state of Ohio are equally the property of all the states; now, will my colleague contend that, under his absolute right to enjoy his slave property in Kentucky, he can take them to the state of Ohio, and settle upon the public lands there, and hold his slaves as property? Certainly he will not. He knows that the courts of Kentucky have decided that he cannot, and that, if he take up his residence upon the public lands of Ohio with his slaves, and should afterwards remove back to Kentucky, retaining his slaves in possession all the time, the courts in Kentucky will liberate them in obedience to the operation of the laws of Ohio. Mr. Chairman, I utterly repudiate this doctrine of a man's carrying the civil institutions of his own country into whatever state, territory, or country he may go. It is subversive of the just and necessary rules of national law, upon which the comity of nations is based. Who, sir, will deny the doctrine of international law, that when a person emigrates from one country to another, or even takes up a temporary residence, that, of justice and necessity, he must be obedient to the laws and institutions of the country in which he is residing at the time, and from which he expects protection?

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"I have thus, Mr. Chairman, briefly stated my objections to my friend and colleague's [Mr. Wilmot] celebrated amendment. I will now make some observations of a general cha-

racter upon the subject of slavery, in relation to which so much has been said in this debate, in order that my position and views may not be misconstrued. First, however, permit me to premise, that if we had acquired either New Mexico or California, and a bill was before the House providing territorial governments therein, or a bill was before the House providing for the admission of either of those provinces as states (the territory being first acquired by treaty), I would vote for a provision excluding slavery. I favor the principle contained in the amendment of my colleague, and will go for engrafting it upon the legislation of the country, but in the proper form, and at the proper time and place, when the power to do so can be rightfully exercised."—*Hon. Richard Brodhead, in the House of Representatives, Feb.* 9, 1847.

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"The second objection which I propose to consider, connected with this alleged seizure of the public domain, is, that a Southern man cannot go there because he cannot take his property with him, and is thus excluded by peculiar considerations from his share of the common property.

"So far as this branch of the subject connects itself with slaves, regarded merely as property, it is certainly true that the necessity of leaving and of disposing of them may put the owners to inconvenience—to loss, indeed—a state of things incident to all emigration to distant regions; for there are many species of that property, which constitutes the common stock of society, that cannot be taken there. Some because they are prohibited by the laws of nature, as houses and farms; others because they are prohibited by the laws of man, as slaves, incorporated companies, monopolies, and many interdicted articles; and others, again, because they are prohibited by statistical laws, which regulate the transportation of property, and virtually confine much of it within certain limits, which it cannot overcome, in consequence of the expense attending distant removal; and among these latter articles are cattle, and much of the property which is everywhere to be found. The remedy in all these cases is the same, and is equally applicable to all classes of proprietors, whether living in Massachusetts, or New York, or South Carolina, and that is to convert all these various kinds of property into the universal representative of value, money, and to take that to these new regions, where it will command whatever may be necessary to comfort or to prosperous enterprise. In all these instances the practical result is the same, and the same is the condition of equality.

"Such a principle would strike at independent and necessary legislation, at many police laws, at sanitary laws, and at laws for the protection of public and private morals. Ardent spirits, deadly poisons, implements of gaming, as well as various articles, doubtful foreign bank bills, among others, injurious to a prosperous condition of a new society, would be placed beyond the reach of legislative interdiction, whatever might be the wants or the wishes of the country upon the subject. For the constitutional right by which it is claimed that these species of property may be taken by the owners to the 'territory' of the United States, cannot be controlled, if it exist by the local legislature; for that might lead, and in many cases would lead, to the restriction of its value. * * * *

"And we are thus brought to this strange, practical result: that in all controversies relative to these prohibited articles, it is not the statute-book of the country where they are to be held which must be consulted to ascertain the rights of the parties, but the statute-books of other governments, whose citizens thus, in effect, bring their laws with them, and hold on to them."—*Mr. Cass,* 1*st sess.* 33*d Congress.*

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"I take it for granted that what I have said will satisfy the Senate of that first truth, that slavery does not exist there by law, unless slavery was carried there the moment the treaty was ratified by the two parties to the treaty, under the operation of the Constitution of the United States.

"Now, really, I must say that the idea that *eo instanti* upon the consummation of the treaty, the Constitution of the United States spread itself over the acquired country, and carried along with it the institution of slavery, is so irreconcilable with any comprehension, or any reason which I possess, that I hardly know how to meet it."—*Mr. Clay in* 1850.

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"In claiming the right for the inhabitants, instead of Congress, to legislate for the territories, the executive proviso assumes that the sovereignty over the territories is vested in the former; or, to express it in language used in a resolution offered by one of the Senators from Texas (General Houston), have 'the same inherent right of self-government as the people in the states.' The assumption is utterly unfounded, unconstitutional, without example, and contrary to the entire practice of the government, from its commencement to the present time."—*Mr. Calhoun, March* 1850.

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"How strange, therefore, it does appear that any one who will look at the subject should conclude that Congress can create or destroy slavery anywhere, particularly when it is remembered that all the constitutional provisions look to its protection! And notwithstanding all these, it is boldly asserted that Congress has the implied power to abolish or prohibit it in the territories. The Republican party claims this power for Congress, and insists that slavery is sectional and anti-slavery national; and that, therefore, legislation should keep it from the territories. If these men mean that slavery exists only in a certain section of the Union, then they are right; but if they mean to say that it is made sectional by the Constitution, then they are wrong; and

to prove this it is only necessary to reply that slavery may exist in all the states or none, and that, too, without any alteration of the Constitution; and so well was this provided for, that all the guarantees which slavery needs will enure at once to the slaveholders upon the adoption of that institution by any of the states. New York might determine to-morrow to establish slavery, and if she did, all the rights which the slaveholders of Georgia possess would be at once secured to those of that state, and she would be entitled also to the three-fifths representation on this floor. All can see at once, therefore, the utter absurdity contained in the doctrine that slavery is sectional. Under our Constitution it may exist throughout the country or nowhere in it; but should it exist, no matter where, the Constitution recognises and protects it. And the great principle lying at the foundation of this whole subject is, that sovereignty alone has the power to create or destroy it, and this attribute is possessed neither by Congress, nor the territorial legislature, which is but the creature of our will. And, sir, when I speak of sovereign power, I mean such as that Virginia exercised in the ordinance of 1787, and which she possesses to-day over this subject in the territories, to the extent of the interest which she, as a state, holds therein."—*Hon. M. J. Crawford of Geo., Dec.* 16, 1856.

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"But you say that we propose to prohibit by law your emigrating to the territories with your property. We propose no such thing. We recognise your right in common with our own, to emigrate to the territories with your property, and there hold and enjoy it, in subordination to the laws you may find in force in the country. Those laws, in some respects, differ from our own, as the laws of the various states of this Union vary, on some points, from the laws of each other. Some species of property are excluded by law in most of the states, as well as territories, as being unwise, immoral, or contrary to the principles of sound public policy. For instance, the banker is prohibited from emigrating to Minnesota, Oregon, or California, with his bank. The bank may be proprty by the laws of New York, but ceases to be so when taken into a state or territory where banking is prohibited by the local law. So, ardent spirits, whiskey, brandy, all the intoxicating drinks, are recognised and protected as property in most of the states, if not all of them; but no citizen, whether from the North or South, can take this species of property with him, and hold, sell, or use it at his pleasure, in all the territories, because it is prohibited by the local law—in Oregon by the statutes of the territory, and in the Indian country by the acts of Congress. Nor can a man go there and take and hold his slave, for the same reason. These laws, and many others involving similar principles, are directed against no section, and impair the rights of no state in the Union. They are laws against the introduction, sale, and use of specific kinds of property, whether brought from the North or the South, or from foreign countries."—*Mr. Douglas, in the Senate in* 1850.

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Mr. Madison said:—

"On one side it naturally occurs, that the right being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer, than the occasion might fairly require.

"The questions to be decided seem to be, first, whether a territorial restriction be an assumption of illegitimate power; or, second, a misuse of legitimate power; and if the latter only, when the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief the restriction was not within the true scope of the Constitution."—*Letter to Mr. Monroe, in* 1820.

"Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many cords of affection, can no longer live together as members of the same family—can no longer continue the mutual guardians of their mutual happiness—can no longer be fellow-citizens of one great, respectable, and flourishing empire. The kindred blood which flows in the veins of American citizens—the mingled blood which they have shed in defence of their sacred rights, consecrate their union, and excite horror at the idea of their becoming aliens, rivals, enemies. And if novelties are to be shunned, believe me, the most alarming of all novelties—the most wild of all projects—the most rash of all attempts, is that of rending us in pieces in order to preserve our liberties and promote our happiness."—*Federalist, page* 86.

"Should a state of parties arise, founded on geographical boundaries and other physical distinctions which happen to coincide with them, what is to control those great repulsive masses from awful shocks against each other?" *Letter to Mr. Walsh, dated Nov.* 27, 1819.

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"I am, and have been for many years, so much opposed to slavery, that I will never live in a state where it exists. But I believe that the Constitution has given no power to the general government to interfere in this matter, and that to have slaves or no slaves depends upon the people in each state or territory alone.

"But besides the constitutional objections, I am persuaded that the obvious tendency of such interferences on the part of the states which have no slaves with the property of their fellow-citizens of the others, is to produce a state of discord and jealousy that will in the end prove fatal to the Union. I believe in no other state are such wild and dangerous sentiments entertained on this sub-

ject as in Ohio."—*General Harrison in a Letter to President Monroe in* 1821.

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Debate in the House of Representatives, Dec. 11, 1856, on the power of Congress over Slavery in the Territories, &c.

Mr. Keitt. I understand the point to be made, that one portion of the Democratic party maintain the doctrine of squatter sovereignty, and the other do not. One portion of the party understands that neither the Congress of the United States nor the territorial legislature have the right to prohibit slavery in a territory. Another portion of the party believes that that right is given to the territorial legislature. Now, sir, the extent of the constitutional powers of the territorial legislature, under the Nebraska bill, depends, they say, upon the judicial construction of that bill. Well, sir, if the Supreme Court decides that this power is not conferred upon the territorial legislature, then the northern portion of the Democratic party do not claim the power, but are satisfied with the decision. The Democratic party makes this a judicial question. I shall, at a proper time, discuss this question myself.

Mr. H. Marshall. I will read a portion of testimony, which comes from the South; and I want Southern Democrats to respond here in the face of the nation, whether they endorse the sentiment. I read a statement of the principle of the Kansas bill made by a Senator from Virginia [Mr. Mason], during this session, in the other branch of Congress:—

"Now, what was the issue presented in the last canvass in the state so ably represented by the honorable Senator on this floor, or anywhere else, I know not; but I do know what was the issue on this subject which was presented in the political platform adopted at Cincinnati by the Democratic party. That issue was the doctrine of the Kansas-Nebraska bill. What was that? The territorial government was so organized there as to admit citizens of all the states, whether free or slave, to take their property into the territories; and when they organized themselves, or were organized under the law, into a legislative body, then to determine for themselves whether this institution should exist amongst them or not. The specific difference is, that under the Kansas law citizens from the slave states might go into the territory with their property; citizens from free states might go there holding no such property, and, when they got there and met in common council as a legislative body, they should determine whether the institution should prevail; whereas the party which the honorable Senator is now representing here declares that, in the organic law creating the government in the territory, there shall be a prohibition *in limine*, that no slaves shall go there. That was the issue presented by the platform adopted at Cincinnati."

I ask the Southern Democrat whether he endorses that as the philosophy of politics upon which Mr. Buchanan triumphed? I ask him to assert or deny it; for the first principle with public men in a government carried on by the intelligence and reposing on the virtue of the people, should be to explain their construction of constitutional power so that all may understand them.

Mr. Quitman. Will the gentleman yield to me?

Mr. H. Marshall. For a response, without a speech, I will.

Mr. Quitman. I am ready to make a response to the question for myself and that portion of the Democratic party South that thinks with me, but I decline to answer categorically and on the terms proposed. However, while the gentleman is defining his own position, let me ask him whether he believes Congress possesses the constitutional power to inhibit slavery in the territories of the United States while they are territories?

Mr. H. Marshall. If so humble an individual as myself could have attracted the gentleman's notice, he would have had a categorical answer to that question in a speech made by me during the last session. In that speech I distinctly stated that I do not believe Congress has power to prohibit slavery from going into the territories of the United States.

Mr. Quitman. I will, then, ask the gentleman——

Mr. H. Marshall. The gentleman seems to have reversed our relations. When I am trying to ascertain the position of the Democratic party, he proposes to occupy my time in ascertaining my position.

Mr. Quitman. It is not my intention to embarrass the distinguished gentleman from Kentucky. My only object is to learn where he stands on the constitutional power of Congress. If he does not hold that Congress has power to inhibit slavery in the territories, then where does that power rest, under our system of government?

Mr. H. Marshall. I will not be drawn from my line of argument; but, if I have time, I will answer the gentlemen's question before I take my seat. I call attention to the fact that the gentleman, with all his astuteness and experience, and with my example before him of returning a categorical answer to the question put me, declines to answer categorically the question I put to him.

Mr. Quitman. What is your question?

Mr. H. Marshall. Does Mr. Mason announce Democratic doctrine when he construes the principle of the Kansas-Nebraska bill, as defined in your platform at Cincinnati, to be that the people of a territory, when organized under the organic law, but while they remain in the territorial condition, have the right to determine for themselves, through a territorial legislature, and before they are about to adopt a state constitution, whether or not the institution of slavery should exist among them?

Mr. Quitman. I do not believe that the opinion which the gentleman draws from the short extract he has read is the opinion of Mr. Mason. If it is, then I dissent from it. I do not believe that the people of a territory possess sovereignty of any kind until that sovereignty is delegated by the states, through Congress, under the power delegated to Congress to admit states into the Union.

Mr. H. Marshall. If the Democratic party North hold the doctrine of squatter sovereignty as proclaimed by General Cass, and the Democratic party South hold the doctrine as stated by the gentleman from Mississippi, I would

like to know on which of them Mr. Buchanan was elected to the Presidency?

Mr. QUITMAN. I have no time to enter into details, or to refer to the sentiments held by various individuals in this country. I stand on principle, and go with those who hold the same principles that I do. I have confidence that the Democratic party throughout the length and breadth of the land hold the sentiments on this subject which I have just expressed.

Mr. MCMULLIN. I will tell the gentleman from Kentucky that the speech of Senator Mason, as reported and read by the gentleman, does not express his views on this subject. He and every member from Virginia upon this floor repudiate the doctrine of squatter sovereignty as promulgated by General Cass. A senator from Illinois [Mr. Trumbull] came here this morning and reported that Mr. Mason had made such a speech as the gentleman refers to. I called on Mr. Mason in reference to the matter, and he told me that he repudiated the doctrine of that speech, and would correct it.

Mr. H. MARSHALL. Ah! *correct* it!

Mr. MCMULLIN. It is a misprint.

Mr. H. MARSHALL. No, it is not a misprint. I heard it with my own ears.

Mr. MCMULLIN. Does the gentleman say that the Senator from Virginia [Mr. Mason] sustains the doctrine of that speech?

Mr. H. MARSHALL. I do not say what sentiments Mr. Mason entertains; nor do I quote from him except to ascertain the true Democratic doctrine, and to assist in establishing the principles decided by the last election. [Laughter.] I cannot say, except from the speech, where the distinguished Senator from Virginia stands.

But I do mean to say that I happened to be present and heard the speech of the Senator from Virginia. It was spoken substantially as reported, and with a precision that left upon my mind no doubt that he was expressing his sentiments. I am happy to hear that he will correct it; and I am glad to know from the gentleman from Virginia [Mr. McMullin] that the sentiment is not responded to by any gentleman representing the state of Virginia upon this floor.

Mr. MCMULLIN. Not by any member from Virginia; and if the gentleman from Kentucky will call upon Senator Mason, he will learn that that Senator utterly repudiates the doctrine of squatter sovereignty.

Mr. H. MARSHALL. This doctrine of squatter sovereignty is variously defined. I heard it defined by a distinguished Democrat in my own section of the country last summer, to be, that while the people of a territory have the right to decide on the question of the establishment or exclusion of slavery at the time of forming a constitution and state government, the first squatters, before the passage of an organic law for the government of the territory, had no such power. He was against the inherent popular sovereignty, but did not touch the question that presses. Perhaps that is the kind of squatter sovereignty which the Senator from Virginia is against also. What I mean by squatter sovereignty I will proceed to define. I assert the proposition, that the people of a territory, while it is a territory, whether with law or without law—no matter whether Congress has passed a law giving them the power or not—have no right, and Congress cannot give them the right, to exclude slavery from that territory.

Mr. MCMULLIN. That is my doctrine.

Mr. H. MARSHALL. Very well, that is what I denounce as squatter sovereignty. There I take my position, and there I took my position during the late canvass. And it was because the position taken by the Democratic party upon this point was construed to mean just what the speech of the Senator from Virginia says it did mean, that I announced everywhere upon the stump in my own state, that there was not a whit difference between the principles put forth by the northern branch of the Buchanan Democracy and those held by the moderate portion of the Fremont Republican party. I said that, so far as I was concerned, I would not toss a copper between them, since the active restriction advocated by the one and the squatter sovereignty advocated by the other, with equal certainty deprived me ultimately of my constitutional right. I had about as lief be told I should not carry my slave to the territory, as to tell me I might take him, but that the sword of Damocles should be all the time suspended over my head by a single hair.

Mr. QUITMAN. I would inquire if the gentleman voted for the admission of California as the measure was presented by General Taylor?

Mr. H. MARSHALL. I did vote for the admission of California, and whenever the gentleman desires it I shall be happy to show him the reason why I so voted.

Mr. QUITMAN rose.

Mr. H. MARSHALL. Mr. Speaker, whenever I attempt to enlighten the people as to what are the principles and doctrines of the Democratic party, gentlemen do not allow me to get through with two consecutive remarks without interruption. Let us have fairness and plainness about this matter. I come here with a speech not three days old, delivered in the Senate, and I am told that it does not contain the views of the gentleman who spoke it. I present statements brought into the Senate by gentlemen occupying the distinguished position of Senators, and I am told that they are not true, that the Democratic party did not go before the people of the North declaring themselves in favor of the doctrine of "popular sovereignty," or as opposed to the extension of slavery to the territories.

Mr. JEWETT. Mr. Speaker, the reference of my colleague to his course and line of discussion in the late canvass, renders it proper that I should propound to him a single question. Did you not, in your speech at the Big

Spring, declare that the Constitution did not carry slavery into the territories?

Mr. H. Marshall. I said nothing in any speech which I made in Kentucky, inconsistent with the exact statement I have made to-day. I will state now for the gentleman, for his party, and for the country, that I do hold that the Constitution does not carry slavery into the territories of the United States. Let the gentleman make the most of that. I never have held that the Constitution carries slavery into a territory.

Mr. Keitt. Does it carry any kind of property?

Mr. H. Marshall. No, sir, it does not carry any kind of property there. Now, let my colleague answer. Will my colleague go before the people of Big Spring, and tell them that the Constitution does carry slavery into the territories?

Mr. Jewett. I will.

Mr. H. Marshall. Then my colleague and I make the issue fairly. My position is this: that the Constitution neither establishes any domestic institution in a territory, nor prohibits it, but that the Constitution of the United States protects whatever of right exists there. That is my doctrine. I take the position held by Mr. Clay. I would be as far from voting to-day to extend slavery into a territory, as I would from prohibiting it. I am neither an Abolitionist on the one side, nor a slavery propagandist upon the other. I want the constitutional rights of American citizens preserved.

Mr. Orr of S. C. Now I admit that there is a difference of opinion amongst Democrats as to whether this feature of squatter sovereignty be in the bill or not. But the great point upon which the Democratic party at Cincinnati rested was, that the government of the territories had been transferred from Congress, and, carrying out the spirit and genius of our institutions, had been given to the people of the territories. I am one of those who do not believe in the doctrine of squatter sovereignty. I do not believe that the Kansas-Nebraska bill establishes or recognises squatter sovereignty within the limits of the territories of Kansas and Nebraska; and the process of reasoning by which I reach that result is, that I see no authority in the Constitution of the United States which authorizes Congress to pass the Wilmot proviso or any anti-slavery restrictions in the territories; and I do not apprehend how Congress, not having the power itself, can create an authority and invest a creature with greater power and authority than it possesses itself. I know there are other gentlemen belonging to the Democratic party who think that the territorial legislatures are invested with authority to prohibit or introduce slavery within the territories.

But the gentleman from Tennessee [Mr. Smith] the other day struck the true point in this controversy, and it takes all the wind out of the sails of my friend from Kentucky, and leaves him high and dry upon land; and I invite his attention to the statements and arguments in reference to it.

I say, although I deny that squatter sovereignty exists in the territories of Kansas and Nebraska by virtue of this bill, it is a matter practically of little consequence whether it does or not; and I think I shall be able to satisfy the gentlemen of that. The gentleman knows that, in every slaveholding community of this Union, we have local legislation and local police regulations appertaining to that institution, without which the institution would not only be valueless, but a curse to the community. Without them the slaveholder could not enforce his rights when invaded by others; and if you had no local legislation for the purpose of giving protection, the institution would be of no value. I can appeal to every gentleman upon this floor who represents a slaveholding constituency, to attest the truth of what I have stated upon that point.

Now, the legislative authority of a territory is invested with a discretion to vote for or against laws. We think they ought to pass laws in every territory, when the territory is open to settlement, and slaveholders go there, to protect slave property. But if they decline to pass such laws, what is the remedy? None, sir. If the majority of the people are opposed to the institution, and if they do not desire it engrafted upon their territory, all they have to do is simply to decline to pass laws in the territorial legislature for its protection, and then it is as well excluded as if the power was invested in the territorial legislature, and exercised by them, to prohibit it. Now, I ask the gentleman, what is the practical importance to result from the agitation and discussion of this question as to whether squatter sovereignty does, or does not, exist? Practically it is a matter of little moment.

Mr. H. Marshall. Do I understand the gentleman from South Carolina to take the position, that if it is his constitutional right to take his negro into Kansas, or any other territory, he believes that his right becomes of no practical consequence unless he has a territorial legislature which will protect him in holding that property?

Mr. Orr. No, sir. The gentleman from Kentucky lives in a slaveholding state, and knows that there must be peculiar laws passed within the limits of that state, for the purpose of securing that peculiar species of property. Suppose a party in a territory inveigles away his slave, and there is no law making it a criminal offence, how do you reach him? Suppose an individual harbors your slave while in the territory, what remedy have you against him? What remedy have you to enforce the rights of the owner against trespassers and intermeddlers, unless you have a local legislature to pass laws to enforce those rights? I undertake to say that in the state of Kentucky, if there were no local legislation to protect the institution, the institution would be an unmitigated curse to the country.

Mr. H. Marshall. The Constitution pro-

tects the slave as property. It does not establish slavery or forbid it in a territory. When the citizen goes into the territory with his slave, holding him as property, the political law of this country protects him in his property, whatever that property is of right, and the common law of England furnishes him *the remedies* to assert his right. If my slave is beaten, I can maintain trespass—if he is *converted* or detained, I can maintain detinue or trover. The remedies I draw from the common law, the right to my slave from the relation legally established in a state, and which does not change by my passage to a territory of my own country, where no law prohibits it.

Mr. Orr. I suspect that the only common law which the gentleman could appeal to would be the common law of the territory. It certainly would not be the common law of England. The Constitution of the United States gives to me, or recognises, all the mere right of property I care to have in my slaves in a territory. It recognises and enforces it. It is not the right of *property in slaves* I speak of as requiring protection; but it is the local legislation of the territory to prevent that property being trespassed upon, tampered or interfered with by others.

But I pass on. The gentleman said he told his constituents, as I understood him, that he would not give the toss of a copper between the Buchanan Democracy of the North and the Fremont party.*

Mr. H. Marshall. I want to be understood on this subject.

Mr. Orr. And I wish to understand the gentleman; for the comparison he made was to me somewhat singular.

Mr. H. Marshall. I said that I would not give the toss of a copper for a choice between the Wilmot-provisoism of Mr. Fremont and the squatter-sovereignty doctrine of the Northern Democracy.

Mr. Orr. Am I to understand that the gentleman, in the last presidential contest, did not care the toss of a copper whether the Democratic or the Republican party was successful?

Mr. H. Marshall. If the gentleman is not astute enough to draw a distinction between a remark in regard to my general policy and one in reference to a particular position, then I cannot expect him to understand me. I refer the gentleman to the connexion in which I made the remark on which he comments. I was speaking of the practical consequences of the construction referred to, and said that they were the same to us whether we had the Wilmot proviso or squatter sovereignty. If I was to be hung, I would not care whether it was with a rope or a grape vine. [Laughter.] If both views take away from me my constitutional rights, it makes no difference whether the deprivation be sudden, or slow but certain.

Mr. Orr. Did the gentleman feel no interest in the presidential contest just closed, as between the Democratic and the Republican party?

Mr. H. Marshall. I believed that the Republican party only presented the distinctive feature of the Wilmot proviso on the slavery question, and that it did not present any administrative question.

Mr. Stanton. It presented the question of the Pacific Railroad.

Mr. H. Marshall. The fact is that I did not examine the platform of the Republican party very closely and fully. I stopped at the threshold. Learning their doctrine of Congressional power to prohibit slavery in the territories, I knew that I had nothing to do *with them;* and in regard to the Cincinnati platform I found myself, as in days gone by, with all my antagonism to the Democratic party. With reference to one thing, I never did know whether there was any platform on it or not. I allude to the foreign policy of the country. Sometimes it was said that the resolutions on that subject were a part of the platform, and at others that it made little difference how men felt about them.

Mr. Orr. The gentleman replies to my question with a good deal of qualification. I have no doubt that it is my obtuseness which prevents me from clearly seeing what is his answer. Let me ask him another question. What would have been his position if Mr. Fillmore had been out of the way? Or, if it was evident that Mr. Fillmore could not be elected, by which party, the Democratic or Republican, does he think the best interests of the country would be subserved?

Mr. H. Marshall. I never contemplated that proposition, as I always knew he would be in the way; and what there is of us, we always will keep in the way.

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"I differ with many of my Southern friends, not as to the right, but as to the source from which that right is derived. I do not think it comes from the Constitution of the United States. Before the Union was formed, before the Constitution was framed, and adopted, slavery—man's right of property in man—was recognised and admitted then, as it is now, all over the country, and by every one. This right of property is not the creature of local laws or municipal regulations; but it is the law, if I may use the expression, of common consent, protected and sanctioned, it is true, by local legislation, but not derived from it. Slavery, then, existing before the Constitution was framed—slaves being recognised as property everywhere—I have a right, by virtue of this universal recognition, to carry this, as any other property, into any territory or any state of this country where there is not some local law bearing upon this right

* The Loudoun (Va.) Democratic Mirror, speaking of a speech made by Hon. Humphrey Marshall, at Leesburg, recently, says:—

"He was also very severe upon Mr. Buchanan, charged him with being the squatter sovereignty candidate of the North, and declared that he would as leave see John C. Fremont, or the Devil himself, made President, as James Buchanan."

and preventing its exercise; but where there are these local prohibitory laws, however unjust, however unequal, however unfair I may deem them, I must yield them obedience until repealed or declared unconstitutional by the proper tribunals of the country. I hope I am understood."—*Mr. A. K. Marshall of Ky. in H. of R., Feb.* 4, 1857.

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Remarks of Hon. John A. Quitman of Miss. in House of Representatives, Dec. 18, 1856.

I come now to apply this principle of sovereignty to the territories. At the time of the formation of the Federal Constitution there were not in existence any such municipal communities as those we now term territories. Consequently the language of that instrument, which confers upon Congress the authority "to dispose of and make all needful rules and regulations for the territory and other property of the United States," was not intended to convey to Congress the right of legislation over the territories as subsequently constituted. This is clear. The context itself shows that the word "territory" was palpably used in the sense of property, for the disposal of which Congress, the common agent of the states, was to make the "needful rules and regulations," such as to survey the lands and to provide for their sale. This is further shown by the stronger and more explicit language used in conferring the power of legislation over such cession as might be made by the states for the seat of government. Whence, then, is derived the power of Congress to legislate for a territory, as we now understand the term? Before I proceed to answer this question of the power of municipal legislation, I should state, what necessarily follows from the views which I have already presented, that the people of a territory possess no sovereign power. They occupy the common territory of all the states, over which the states jointly not only possess the eminent domain, but also the ultimate sovereignty. The inhabitants of a territory possess no more sovereignty over it than if they had established their residences in the Russian empire. All the political powers that the people of a territory possess or acquire must come from the states, either by the common grant of all the states, or by cession from their agent, the federal government, under the Constitution. Now, sir, having fixed their true relations to the states, I shall proceed to answer the inquiry, Whence does Congress derive the right of legislation over the territories? It is, in my opinion, implied in the power delegated by the states to Congress in the Constitution, to admit new states into the Union upon equal footing with the original states. This right necessarily implies the right of Congress to prepare the *people* (or rather the *inhabitants*, for the term "people" technically signifies a community, politically organized, and cannot, in that sense, be applied to the inhabitants of a territory) for admission into the Union as a state. The major includes the minor—that is to say, under the power to "admit," Congress possesses the right of paving the way for that act—of making the preliminary arrangements for the important change of the political condition of a territory. It is under that power, then, and not under the right to make "rules and regulations" for the disposal of the common territory that Congress can legislate for the territories, or establish municipal governments therein. But, sir, this authority is limited to legislation, and does not extend to the exercise of any power properly appertaining to sovereignty, much less to the delegation of such attributes to the territorial government. The power of legislation, and that of making organic laws, are distinct things—the one may be exercised by the legislative branch of the government; the other is the exclusive attribute of the sovereign power. In the whole process, this high authority is brought into action in only one instance—on the admission of a new state. In the act of admission into the Union as a state, the people of a territory are at once collectively invested with sovereignty. From that instant they stand as the peer of every other state. The sovereign power passes to them, not from the federal government (for that government cannot hold it), but by the cession of the other states, in conformity with their constitutional compact, by which, by empowering Congress as their common agent to admit new states upon an equality with themselves, they have bound themselves to cede their joint sovereignty, until that moment retained, to their new sister.

From the principles I have laid down, Mr. Speaker, the inference clearly follows, that Congress, possessing merely the power of municipal legislation to prepare the territories for admission into the Union, has no power to exclude or abolish slavery in the territories. Much less have the inhabitants of a territory, possessing no inherent sovereignty, and having no political powers except those derived from Congress, this right.

A glance at the condition of the inhabitants of any portion of our common territory, before the establishment of any territorial government, may still further tend to illustrate my views. What is the condition of the residents now upon the Gadsden purchase—the inhabitants of the rich and fruitful hills and dales of Arizonia? Are they in a state of nature, like the wild savage, without a political status, without laws to restrain them, or without rights to be protected? I think not; for I differ from my friend from South Carolina [Mr. Orr], in the opinion which he the other day advanced, as to the state of a territory. There is, sir, in my opinion, a common law, which exists in every portion of our common country, as well in the states as in the common territory, from the instant of its acquisition; and that law is the Constitution of the United States.

Mr. Orr. In speaking of the common law, I had reference to the common law of England. I stated expressly, that, in my belief, the Constitution extended over the territories.

Mr. Quitman. I then understood the gentleman to take the ground that no law for the protection of property existed in any of the territories, until made by the territorial legislature. I think that I now comprehend his idea better. I maintain, in the first place, that the inhabitants of such portions of our territory have all the rights, privileges, and immunities provided or reserved in the Constitution. Furthermore, every citizen of any of the states, from whatever section of the country he goes, taking up his residence on the common territory of the states, carries with him all the essential rights which he possessed in his own state. The states being joint proprietors and co-sovereigns, the citizen of each state stands, as it were, upon the soil of his own state, as much so as if he stood upon the deck of an American vessel on the high seas. The general principles of law that are common to all the states, founded on usage and general conformity, prevail in and constitute the common law of the territory. There may be no judicial organization to enforce that law, but it has vitality, and exists; and, upon the establishment of judicial tribunals, would be recognised and acted upon without positive legislation on the subject of these rights. Prominent among these rights, is that property recognised by any of the states. When that right, as in the case of slaves, is recognised by the organic law of nearly one-half of the states in the Union, and at least in one instance acknowledged by the Constitution of the United States, it not only exists and is available in the common territory of the states before the establishment of civil government there, but is far beyond the reach of both the federal and territorial governments when found on the common possessions of the states. There is but one power that can destroy my right to my slave, and that is the state in which I hold him, or to which I voluntarily carry him. If the federal government does not possess the right, it is absurd to say that one of its departments has it. While I concede to that high tribunal, the Supreme Court of the United States, the right to determine finally all cases of law and equity which come within its jurisdiction, I deny its authority to settle questions which involve the political rights of the states. The Constitution is the work of the states, and they must construe it for themselves upon all questions affecting their rights. These would cease to be rights, if subject to the antagonistic power against which they were limited. It is absurd to suppose that the states, in the formation of the Constitution, jealous of their great essential political rights, would have left them at the mercy of that very power, against the encroachments of which they were erecting a barrier. It is yet more absurd to suppose that they would have left them, by construction, to one department of the government—and that department, both from its mode of appointment and its tenure of office, the least responsible to the people.

I approve, Mr. Speaker, the principles of the Kansas-Nebraska act. I claim, under it, and under the Constitution, the right to carry my slave into either of those territories. I know that this right, if a case can be made on it, may be the subject of the examination and decision of the Supreme Court of the United States, and that that decision, in any given case, would be final. I would abide by it, as a settlement of the case decided; but I am not willing to let it go to the world that I would respect the precedent, or that I would surrender the principle that the assertion of such essential rights belongs exclusively to the states aggrieved by their violation. The Supreme Court, in my opinion, possesses no jurisdiction to decide finally upon the political rights of the states. I am still old-fashioned enough to stand squarely upon the doctrines of the Virginia and Kentucky resolutions of 1798–'99.

At last, Mr. Speaker, this whole subject resolves itself into several great questions connected with the theory of our political system.

Is this essentially a national government, or is it a union of sovereign states?

Does the sovereignty, or supreme power, reside in the central government, or the mass of the people of our country, as a nation, one and indivisible? or does it yet repose in the sovereign states?

The solution of these great questions has, at various periods of our political history, occupied the attention of the best statesmen of the country. The radical principles involved in them divided the gigantic intellects of Calhoun and Webster. Almost all the differences of opinion that exist, as to the action of the federal government on the practical issues which spring up from day to day, grow out of the various solutions of these questions. Therefore they are, indeed, worthy of repeated discussion.

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"It is objected to the bill, that it establishes 'squatter sovereignty,' by which is meant the right of the people, in their territorial character, by their Legislative Council, to establish or prohibit slavery. Now, a word more on this subject. If it were true that the 'squatter sovereignty' feature existed in the bill, what would the South lose by it? As long as the Missouri restriction stands, slavery cannot go into this territory. If you repeal the restriction, and establish 'squatter sovereignty,' slaves may be admitted there. It would then depend on the will of the settlers of the territory. They might admit it or not. The decision would be according to the popular will; and there would be a chance for the South; while, under the Missouri restriction, she has no chance."—*Mr. Ready of Tenn. in House of Representatives, 1st session 33d Congress.*

Mr. WEBSTER, in the debate upon the Oregon bill, in 1848, says:—

"I am not going into metaphysics, for therein I should encounter the honorable member from South Carolina, and we should wander, in 'endless mazes lost,' until after the time for the adjournment of Congress. The Southern states have peculiar laws, and by those laws there is property in slaves. This is purely local. The real meaning, then, of Southern gentlemen, in making this complaint, is, that they cannot go into the territories of the United States, carrying with them their own peculiar local law—a law which creates property in persons. This, according to their own statement, is all the ground of complaint they have. Now, here I think gentlemen are unjust towards us. How unjust they are, others will judge—generations that will come after us will judge. It will not be contended that this sort of personal slavery exists by general law. It exists only by local law. I do not mean to deny the validity of that local law where it is established; but I say it is, after all, nothing but local law. It is nothing more. And wherever that local law does not extend, property in persons does not exist. Well, sir, what is now the demand on the part of our Southern friends? They say, 'We will carry our local laws with us wherever we go. We insist that Congress does us injustice, unless it establishes in the territory, in which we wish to go, our own local law.' This demand I for one resist and shall resist. It goes upon the idea that there is an inequality, unless persons under this local law, and holding property by authority of that law, can go into new territory, and there establish that local law, to the exclusion of other law. Mr. President, it was a maxim of the civil law, that between slavery and freedom, freedom should always be presumed, and slavery must always be proved. If any question arose as to the *status* of an individual in Rome, he was presumed to be free until he was proved to be a slave. So, I suppose, is the general law of mankind. An individual is to be presumed to be free until a law can be produced which creates ownership in his person. I do not dispute the force and validity of the local law, as I have already said, but I say it is a matter to be proved; and, therefore, if individuals go into any part of the earth, it is to be proved that they are not freemen, or else the presumption is that they are.

"Now, our friends seem to think that an inequality arises from restraining them from going into the territories, unless there be a law provided which shall protect their ownership in persons. The assertion is, that we create an inequality. Is there nothing to be said on the other side in relation to inequality? Sir, from the date of this Constitution, and in the councils that formed and established this Constitution, and I suppose in all men's judgment since, it is received as a settled truth, that slave labor and free labor do not exist well together. I have before me a declaration of Mr. Mason, in the convention that formed the Constitution, to that effect. He says that the objection to slave labor is, that it puts free white labor in disrepute; that it makes labor to be regarded as derogatory to the character of the free white man, and that he despises to work—to use his expression—where slaves are employed. This is a matter of great interest to the free states, if it be true, as to a great extent it certainly is, that wherever slave labor prevails, free white labor is excluded or discouraged. I agree that slave labor does not necessarily exclude free labor totally. There is free white labor in Virginia, Tennessee, and other states; but it necessarily loses something of its respectability by the side of, and when associated with, slave labor. Wherever labor is mainly performed by slaves, it is regarded as degrading to free men. The free men of the North, therefore, have a deep interest to keep labor free—exclusively free—in the new territories.

"But, sir, let us look further into this alleged inequality. There is no pretence that Southern people may not go into territory which shall be subject to the ordinance of 1787. The only restraint is, that they shall not carry slaves thither, and continue that relation. They say this shuts them altogether out. Why, sir, there can be nothing more inaccurate in point of fact than this. I understand that one-half the people who settled in Illinois are people, or descendants of people, who came from the Southern states. And I suppose that one-third of the people of Ohio are those or descendants of those, who emigrated from the South; and I venture to say, that in respect to those two states, they are at this day settled by people of Southern origin in as great a proportion as they are by the people of Northern origin, according to the general numbers and proportion of the people, South and North. There are as many people from the South, in proportion to the whole people of the South, in those states, as there are from the North, in proportion to the whole people of the North. There is, then, no exclusion of Southern people: there is only the exclusion of a peculiar local law. Neither in principle nor in fact is there any inequality.

"The question now is, whether it is not competent to Congress, in the exercise of a fair and just discretion, to say that, considering that there have been five slaveholding states added to this Union out of foreign acquisitions, and as yet only one free state, whether, under this state of things, it is unreasonable and unjust in the slightest degree to limit their further extension? That is the question. I see no injustice in it. As to the power of Congress, I have nothing to add to what I said the other day. I have said that I shall consent to no extension of the area of slavery upon this continent, nor any increase of slave representation in the other House of Congress."

In Mr. Webster's speech of the 7th of

March, 1850, on the compromise measures of that year, said:—

"Sir, wherever there is a particular good to be done—wherever there is a foot of land to be stayed back from becoming slave territory—I am ready to assert the principle of the exclusion of slavery. I am pledged to it from the year 1837; I have been pledged to it again and again; and I will perform those pledges."

States.

Reservations of, in their Instructions to their Delegates in the Continental Congress.

The Pennsylvania instructions contain the following reservation:—

"Reserving to the people of this colony the sole and exclusive right of regulating the internal government and police of the same."

And, in a subsequent instruction, in reference to suppressing the British authority in the colonies, Pennsylvania uses this language:—

"Unanimously declare our willingness to concur in a vote of the Congress declaring the United Colonies free and independent states, provided the forming the government and the regulation of the internal police of this colony be always reserved to the people of the said colony."

Connecticut, in authorizing her delegates to vote for the Declaration of Independence, attached to it the following condition:—

"Saving that the administration of government, and the power of forming governments for, and the regulation of the internal concerns and police of each colony, ought to be left and remain to the respective colonial legislatures."

New Hampshire annexed this proviso to her instructions to her delegates to vote for independence:—

"Provided the regulation of our internal police be under the direction of our own Assembly."

New Jersey imposed the following condition:—

"Always observing that, whatever plan of confederacy you enter into, the regulating the internal police of this province is to be reserved to the colonial legislature."

Maryland gave her consent to the Declaration of Independence upon the condition contained in this proviso:—

"And that said colony will hold itself bound by the resolutions of a majority of the United Colonies in the premises, provided the sole and exclusive right of regulating the internal government and police of that colony be reserved to the people thereof."

Virginia annexed the following condition to her instructions to vote for the Declaration of Independence:—

"Provided that the power of forming government for, and the regulations of the internal concerns of the colony, be left to respective colonial legislatures."

Story, Judge.

On a Slave Case in England.

Salem, near Boston, Sept. 22, 1828.

To Rt. Hon. Wm. Lord Stowell:

My Lord: I have the honor to acknowledge the receipt of your letters of January and May last, the former of which reached me in the latter part of spring, and the latter quite recently. * * * *

I have read with great attention, your judgment in the slave case from the Vice-Admiralty Court in Antigua. Upon the fullest considerations which I have been able to give the subject, I entirely concur in your views. If I had been called upon to pronounce a judgment in a like case, I should certainly have arrived at the same result, though I might not have been able to present the reasons which led to it in such a striking and convincing manner. It appears to me that the decision is impregnable.

In my native state (Mass.), the state of slavery is not recognised as legal; and yet, if a slave should come hither and afterwards return to his own home, we should certainly think that the local law would reattach upon him, and that his servile character would be redintegrated. I have had occasion to know that your judgment has been extensively read in America (where questions of this nature are not of unfrequent discussion), and I never have heard any other opinion but that of approbation of it expressed among the profession of the law. I cannot but think that, upon questions of this sort, as well as general maritime law, it were well if the common lawyers had studied a little more extensively the principles of public and civil law, and had looked beyond their own municipal jurisprudence.

* * I remain with the highest respect,

Your most ob't serv't,

Joseph Story.

Supreme Court.

Political Power of.

In the House of Representatives, Jan. 1831, Mr. Davis of South Carolina, from the Committee on the Judiciary, to which the Judiciary Act had been referred, made the following report:—

That the committee, profoundly impressed with the importance of matter referred to their consideration, have bestowed upon it that deliberation it so eminently required; and the investigation has resulted in a solemn conviction that the 25th section of an act of Congress, entitled "An act to establish the judicial courts of the United States," passed on the 4th Sept., 1789, is unconstitutional, and ought to be repealed. *This sect. is in the following words:—*

"Sec. 25. And be it further enacted, *That a final judgment or decree in any suit, in the highest court of law or equity of a state in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the*

United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any state, on the ground of their being repugnant to the Constitution, *treaties, or laws, of the United States, and the decision is in favor of such their validity, or where is drawn in question the construction of any clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision is against the title, right, privilege, or exemption, specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute, or commission, may be re-examined and reversed or affirmed* in the Supreme Court of the United States, *upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor, of the court, rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a Circuit Court, and the proceeding upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision, as before provided, may, at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal, in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before-mentioned questions of validity or construction of the said Constitution, treaties, statutes, commissions, or authorities, in dispute."*

The Supreme Court virtually claims the right, under the Constitution, to pronounce *political* judgments, and asserts the power, under the judicial act, of carrying them into execution, by coercing sovereign states. The committee readily admit that there is great difficulty in distinguishing between *political* laws and judgments, and *civil* laws and judgments, in most of the governments of the world, but confidently believe that it was foreseen and provided for by the framers of the Federal Constitution, by the division and limitations of power we find there, between the federal and state governments. None deny that such a division of powers was made by the Constitution, between the federal government and the states, by the grant of specific powers to the former, and the reservation of all ungranted powers to the latter; but a great diversity of opinion has existed as to the power to which resort must be had to determine questions and controversies that might arise between the several departments of our federative system. The question is not a new one. In the great political contest in 1798 and 1799, this very question made a distinction, and marked the line of division between the two parties that then divided the country. The Federal party, who were then in power, asserted, that the federal court (which had just then declared and enforced as constitutional, the alien and sedition laws,) was the tribunal of last resort established by the Constitution, to judge of and determine questions of controversy between the departments of the federal government, and between the federal government and the states. The Republican, or State Rights party of that day, on the contrary, denied that the judicial department of the federal government, or all the departments of that government conjointly, were empowered to decide finally and authoritatively, in questions of sovereignty, *controversies* between a state and the federal government, and asserted and insisted that there was no common tribunal established by the Constitution for such a purpose, and that, consequently, each party had the right to judge of and determine the extent of its own rights and powers. The avowed political creed of that party was, that the Union was the result of a compact between the people of the several states, in their sovereign and corporate capacities and characters of separate and independent societies or states, and not as one entire people forming one nation. That these were the opinions and principles of the Republican party of that day, is proven by Mr. Jefferson, Mr. Madison, and many other able constitutional lawyers.

The committee do not mention the names of these distinguished men for the purpose merely of using their opinions as authority for the principles they advocate, but to establish the fact that the great body of the American people did pass upon, sanction, and adopt these principles, as forming the true theory of our government, which was manifested by the promotion of these gentlemen to the very stations where these principles were to be tested by action and practice. As it is now a matter of unquestioned history, that Mr. Jefferson penned the memorable resolutions commonly called the Kentucky Resolutions, and that Mr. Madison wrote the Virginia Report, the committee feel entitled to quote them as authority upon questions of constitutional law. * * *

The committee are of opinion that the delegated powers resulting from the compact of governments to which the states are parties, are limited by the plain sense and intention of the instrument constituting that compact, and are no farther valid than they are authorized by the grants enumerated in that compact, and that it is incumbent in this, as in every other exercise of power by the federal government, to prove from the Constitution that it grants the particular power exercised, that if the powers granted be valid, it is solely because they are granted, and all other powers not granted, are not valid. Testing the 25th section of the act aforesaid, by the foregoing principles and expositions, the committee cannot perceive any grant of power in the Constitution to warrant the enactment.

That the Constitution does not confer power on the federal judiciary over the judicial departments of the states, by any express grant, is certain from the fact that the state judiciaries are not once named in that instru-

ment. On the contrary, it declares that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish; thus giving power to organize a judicial system capable of exercising every function to which the judicial power of the United States extended, "and intending to create a new judiciary, to exercise the judicial powers of a new government," unconnected with, and independent of, the state judiciaries.*

It is no more necessary to the harmonious action of the federal and state governments, that the federal courts should have power to control the decisions of state courts by appeal, than that the federal legislature should have power to control the legislation of the states, or the federal executive a state executive, by a negative. It cannot be, that when a direct negative on the laws of a state was proposed in convention, as part of the Federal Constitution, and rejected, that it was intended to confer on the federal courts, by implication, a power subjecting their whole legislation, and their judgments and decrees on it, to this negative of the federal courts. It cannot be, that this prostration of the independency of the state judicatories, this overthrow of the state governments as co-ordinate powers, could be left to any implication of authority.

The committee are, therefore, of opinion, that the power to enact the 25th section above recited, is not expressed in the Constitution of the United States, nor properly an incident to any express power, and necessary to its execution. That, if continued and acquiesced in as construed by the Supreme Court, it raises the decision of the judiciary above the authority of the sovereign parties to the Constitution, may be a warrant for the assumption of powers not delegated in the other departments, nor carried by the forms of the Constitution before the judicial department, and whose decisions would be equally authoritative and final with the decisions of that department.

However, therefore, it may be admitted or denied, that the judicial department of the federal government is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort in relation to the authorities of the other departments of that government, it can never be authorized so to decide in relation to the rights of the parties to the constitutional compact, from which the judicial, as well as the other departments, hold their delegated trusts; on any other hypothesis, the delegation of judicial power would annul the power delegating it, and the concurrence of this department in usurped powers might subvert for ever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve.*

The whole judicial power of the United States is declared by the Constitution to be vested in one Supreme Court, and in such inferior courts as Congress shall, from time to time, ordain and establish. Can Congress, by legislation, invest state courts with any portion of that power? Did the Convention contemplate, in using the term appellate jurisdiction, the right and power of taking an appeal from a state court to the Supreme Court? The answer to these questions must be found in the Constitution. The Supreme Court is given original jurisdiction only in two classes of cases, to wit: in all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party. The only cases in which a state can be a party are, 1st, where the controversy is between two or more states; and 2d, where the controversy is between a state, or the citizens thereof, and foreign states. In all other cases, before mentioned, says the Constitution, the Supreme Court shall have appellate jurisdiction. What courts have the original jurisdiction in all those cases before mentioned in the second section of the third article, of which the Supreme Court has only the appellate jurisdiction? Let the Constitution answer: in "such inferior courts as Congress shall, from time to time, ordain and establish." Is a state court an inferior court? The Constitution does not say so. If the framers of the Constitution had so considered them, and had intended the right and power of taking an appeal from their judgments to the Supreme Court, it was an easy matter, and they doubtless would have said so: their omitting to do so, is proof irresistible that the power was not intended to be given. It is unreasonable to believe that they who were so very precise and specific in the enumeration of cases and powers of infinitely less moment, would have left to implication and inference a power that breaks down all the barriers between state and federal governments.

The Constitution not only invests the whole judicial power of the United States in two specified tribunals, but also prescribes and declares the duties, and rights, and tenure of office of the judges who shall constitute them; not one of which is applicable to the courts or judges of state courts. The courts, in the first place, must be such as are established by Congress; the judges must receive their appointments from the President, with the consent of the Senate; they are to hold their offices during good behavior; their compensation cannot be diminished, during their continuance in office; and are made liable to be impeached and removed from office by the Senate of the United States. Such are the courts and judges that the Constitution invested with the jurisdiction of all "other cases before mentioned" in the second section of the third article of that instrument, with the exception of two classes of cases over which original jurisdiction is given to the Supreme Court. Not one of all these requisites characterizes state courts or judges. The state courts are not established by Congress; the

* Mr. Madison.

state judges do not receive their appointments from the President, by and with the advice and consent of the Senate; they hold their offices not necessarily during good behavior, but by such tenure as the state shall choose; their compensation may be diminished at the pleasure of the states; and they are not responsible to, or liable to be impeached before the Senate of the United States. * *

The committee believe that it is the imperative duty of Congress to repeal, without delay, any of its acts in contravention of the Constitution, be the consequences what they may. If Congress had no power to pass such laws, they are null and void, and ought not to remain on the statute book; if such be really necessary, the power that created the Constitution can and will amend it. Necessity and expedience are the pleas of the tyrant; amendment the dictate of the Constitution. By pursuing the former course, we trample upon the Constitution; by following the latter, we go back to the people, the original source of all power. * * * * * *

It has also been urged as a branch of this argument, that the 25th section is indispensable to that supremacy of the federal court which is required to preserve the peace of the country with foreign powers, and to render uniform all judgments in treaty cases. The answer to these objections (to the repeal of the 25th section) the committee believe to be full and perfect in the case of Hunter *v.* Martin, and prefer presenting it in the language of the able judge who delivered it.

"I have said that this controlling power was not essential to preserve the peace of the nation; (Hunter *v.* Fairfax, 4 Mumford.) Without going to other considerations or authorities on the subject, it is sufficient to remark that the American people have decided that it is no cause of offence to foreign nations to have their cause decided, and exclusively and finally decided, by the state tribunals. In that amendment to the Constitution by which the jurisdiction of the federal courts is prohibited in suits brought against the states by foreign citizens or subjects, this construction is most undoubted, and has never been complained of. Since the adoption of that amendment, the election of jurisdiction has been entirely taken away from foreigners in all suits against the states; and those suits can now be brought in the states' courts in exclusion of every other; and that, too, in cases in which, from the circumstance of the states themselves being parties, it might, perhaps, be plausibly urged that the judges of the state courts were not free from bias. I consider that this declaration by the American people, and which has never excited a murmur in foreign nations, has put down the notion now in question. It has settled the question for ever, that it is no cause of war to foreign nations that the state judiciaries should finally decide the causes elected to be brought therein by their subjects. It has consequently overthrown the only foundation on which the whole superstructure of the 25th section of the judicial act has been supposed to rest.

"That pretence is the only one on which the power in question could be attempted to be justified. That of rendering uniform all judgments in the case of treaties, is still less tenable, and is even not attained by the actual provisions of the judicial act. Under that act the appeal equally lies to the Supreme Court of the United States, where such uniformity already exists, and is *denied* where it is *wanting*.

"If, for example, the Supreme Court of the United States has decided against a treaty, and the Supreme Court of a state decides the same way, there this uniformity already exists, and yet the appeal is allowed. If, on the other hand, the former court decides against a treaty, and the latter in favor of it, this uniformity is wanting, yet the appeal is denied."

The following is the unanimous opinion of the Supreme Court of Virginia, in the above stated case:—

"The court is unanimously of opinion that the appellate power of the Supreme Court of the United States does not extend to this court, under a sound construction of the Constitution of the United States; that so much of the 25th section of the act of Congress to establish the judicial power of the United States as extends the appellate judicial power of the Supreme Court to this court, is not in pursuance of the Constitution of the United States; and that the writ of error in this case was improvidently allowed under the authority of that act; that the proceedings thereon in the Supreme Court were *coram non judicem*, in relation to this court; and that obedience to its mandate be declined by this court."

The committee will present one more judicial opinion of a state court against the powers contended for by the Supreme Court of the United States.

The Supreme Court of the Commonwealth of Pennsylvania, in the case of the Commonwealth *v.* Cobbett, (3 Dallas, 473,) solemnly and unanimously refused to permit the defendant, who was an alien, to remove a cause in which he was sued by the state in its Supreme Court, into a Circuit Court of the United States, notwithstanding the comprehensiveness of the words of the 12th section of the judicial act. The court, after deciding in the most explicit terms that all power not granted to the government of the United States, remained with the several states; that the federal government was a league or treaty, made by the individual states as one party, and all the states as another; that when two nations differ as to the construction of a league or treaty existing between them, neither has the exclusive right to decide it; and that if one of the states should differ with the United States, as to the extent of the grant made to them, there is no common umpire between them but the people, by an amendment of the Constitution; went on to declare its own opinion on the subject, and overruled the motion,

on the ground that the sovereign state of Pennsylvania could not, on account of its dignity, be carried before that court. This was the solemn and unanimous decision of the Supreme Court of one of the most respectable and republican states of the Union.

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VIEWS OF THE MINORITY.

The minority of the committee will proceed to advance, in a distinct form, a few of the reasons why, in their opinion, the 25th section of this act ought not to be repealed.

And, in the first place, it ought to be the chief object of all governments to protect individual rights. In almost every case involving a question before a state court under this section of the judiciary act, the Constitution, laws, or treaties of the United States are interposed for the protection of individuals. Does a citizen invoke the protection of an act of Congress upon a trial before a state court, which decides that act to be unconstitutional and void, and renders judgment against him? This section secures his right of appeal from such a decision to the Supreme Court of the United States.

When a citizen, in a suit before a state court, contends that a state law by which he is assailed, is a violation of the Constitution of the United States, and therefore void (if his plea should be overruled), he may bring this question before the Supreme Court of the United States.

In like manner, when an individual claims any right before a state court under the Constitution or laws of the United States, and the decision is against his claim, he may appeal to the Supreme Court of the United States.

If this section were repealed, all these important individual rights would be forfeited.

The history of our country abundantly proves that individual states are liable to high excitements and strong prejudices. The judges of these states would be more or less than men if they did not participate in the feelings of the community by which they are surrounded. Under the influence of these excitements, individuals whose rights happen to clash with the prevailing feeling of the state, would have but a slender hope of obtaining justice before a state tribunal. There would be the power and the influence of the state sovereignty on the one side, and an individual who had made himself obnoxious to popular odium on the other. In such cases, ought the liberty or the property of a citizen, so far as he claims the same under the Constitution or laws of the United States, to be finally decided before a state court, without an appeal to the Supreme Court of the United States, on whom the construction of this very Constitution and these laws has been conferred, *in all cases*, by the Constitution?

The Supreme Court, considering the elevated character of its judges, and that they reside in parts of the Union remote from each other, can never be liable to local excitements or local prejudices. To that tribunal our citizens can appeal with safety and with confidence (as long as the 25th section of the judicial act shall remain upon the statute book), whenever they consider that their rights, under the Constitution and laws of the United States, have been violated by a state court. Besides, should this section be repealed, it would produce a denial of equal justice to parties drawing in question the Constitution, laws, or treaties of the United States.

In civil actions, the plaintiff might then bring his action in a federal or state court, as he pleased, and as he thought he should be most likely to succeed; whilst the defendant would have no option, but must abide the consequences, without the power of removing the cause from a state into a federal court, except in the single case of his being sued out of the district in which he resides; and this, although he might have a conclusive defence under the Constitution and laws of the United States.

Another reason for preserving this section is, that without it, there would be no uniformity in the construction and administration of the Constitution, laws, and treaties of the United States. If the courts of twenty-four distinct, sovereign states, each possess the power, in the last resort, of deciding upon the Constitution and laws of the United States, their construction may be different in every state of the Union. That act of Congress which conforms to the Constitution of the United States, and is valid, in the opinion of the Supreme Court of Georgia, may be a direct violation of the provisions of that instrument, and be void, in the judgment of the Supreme Court of South Carolina. A state law in Virginia might in this manner be declared constitutional, whilst the same law, if passed by the legislature of Pennsylvania, would be void. Nay, what would be still more absurd, a law or treaty of the United States with a foreign nation, admitted to be constitutionally made, might secure rights to the citizens of one state, which might be denied to those of another. Although the same Constitution and laws govern the Union, yet the rights acquired under them, would vary with every degree of latitude. Surely the framers of the Constitution would have left their work incomplete, had they established no common tribunal to decide its own construction, and that of the laws and treaties made under its authority. They are not liable to this charge, because they have given express power to the judiciary of the union over "all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

The first Congress of the United States have, to a considerable extent, carried this power into execution by the passage of the judicial act; and it contains no provision more important than the 25th section.

This section ought not to be repealed, because, in the opinion of the minority of the

Committee on the Judiciary, its repeal would seriously endanger the existence of this Union. The chief evil which existed under the old Confederation, and which gave birth to the present Constitution, was, that the general government could not act directly upon the people, but only by requisition upon sovereign states. The consequence was, that the states either obeyed or disobeyed these requisitions, as they thought proper. The present Constitution was intended to enable the government of the United States to act immediately upon the people of the states, and to carry its own laws into full execution, by virtue of its own authority. If this section were repealed, the general government would be deprived of the power, by means of its own judiciary, to give effect either to the Constitution which called it into existence, or to the laws and treaties made under its authority. It would be compelled to submit, in many important cases, to the decisions of state courts, and thus the very evil, which the present Constitution was intended to prevent, would be entailed upon the people. The judiciary of the states might refuse to carry into effect the laws of the United States; and without that appeal to the Supreme Court which the 25th section authorizes, these laws would thus be entirely annulled, and could not be executed without a resort to force.

This position may be illustrated by a few striking examples. Suppose the legislature of one of the states, believing the tariff laws to be unconstitutional, should determine that they ought not to be executed within its limits. They accordingly pass a law, imposing the severest penalties upon the collector and other custom house officers of the United States within their territory, if they should collect the duties on the importation of foreign merchandise. The collector proceeds to discharge the duties of his office under the laws of the United States, and he is condemned and punished before a state court, for violating this state law. Repeal this section, and the decision of the state court would be final and conclusive; and any state could thus nullify any act of Congress which she deemed to be unconstitutional.

The executive of one of the states, in a message to the legislature, has declared it to be his opinion, that the land belonging to the United States within her territory is now the property of the state, by virtue of her sovereign authority. Should the legislature be of the same opinion, and pass a law for the punishment of the land officers of the United States who should sell any of the public lands within her limits, this transfer of property might be virtually accomplished by the repeal of the 25th section of the judicial act. Our land officers might then be severely punished, and thus prohibited by the courts of that state from performing their duty, under the laws of the Union, without the possibility of redress in any constitutional or legal form. In this manner, the title of the United States to a vast domain, which has cost the nation many millions, and which justly belongs to the people of the several states, would be defeated or greatly impaired.

Another illustration might be introduced. Suppose the legislature of Pennsylvania, being of opinion that the charter of the Bank of the United States is unconstitutional, were to declare it to be a nuisance, and inflict penalties upon all its officers for making discounts or receiving deposites. Should the courts of that state carry such a law into effect, without the 25th section there would be no appeal from their decision; and the legislature and courts of a single state might thus prostrate an institution established under the Constitution and laws of the United States. * * *

It has of late years been contended that this section of the judicial act was unconstitutional, and that Congress do not possess the power of investing the Supreme Court with appellate jurisdiction in any case which has been finally decided in the courts of the states. It has also been contended, that, even if they do possess this power, it does not extend to cases in which a state is a party. On this branch of the question we would refer the House to the very able and conclusive argument of the Supreme Court of the United States in the cases of Martin *v.* Hunter's lessee, (1st Wheaton, 304,) and Cohens *v.* the state of Virginia, (6 Wheaton, 264,) by which the affirmative of these propositions is clearly established. It may be proper, however, that we should make a few observations upon this part of the question. Those who have argued in favor of these positions assert that the general words of the Constitution, extending the judicial power of the Union "to all cases, in law and equity," arising under the Constitution and laws of the United States, ought, by construction, to be restricted to such cases, in law and equity, as may originate in the courts of the Union. They would thus establish a limitation at war with the letter, and, in our opinion, equally at war with the spirit of the instrument. Had such been the intention of the framers of the Constitution, they well knew in what language to express that intention. Had it been their purpose to restrict the meaning of the general language which they had used in the first clause of the section, they could have done so with much propriety in the second. This clause, after providing "that, in all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction," proceeds to declare "that, in all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. On the supposition contended for, it is wholly unaccountable that the framers of the Constitution did not limit the natural effect of the words used in the first clause, by making the second to read, "that, in all the

other cases before mentioned," arising in the inferior courts of the United States, "the Supreme Court shall have appellate jurisdiction." But no such restriction exists; and, from the fair import of the words used in both clauses, the Supreme Court possess the power of finally deciding "all cases, in law and equity," arising under the Constitution, the laws, and the treaties of the United States, no matter whether they may have originated in a federal or in a state court, and no matter whether states or individuals be the parties.

* * *

The eleventh amendment to the Constitution of the United States interferes in no respect with the principles for which we have contended. It is in these words: "The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."

Chief Justice Marshall, in delivering the opinion of the court in the case of Cohens *v.* Virginia, has given so clear, and, in our opinion, so correct an exposition of the true construction of the amendment, that we shall, in conclusion, present to the House a few extracts from that opinion, instead of any argument of our own. He says that "the first impression made on the mind by this amendment is, that it was intended for those cases, and for those only, in which some demand against a state is made by an individual in the courts of the Union. If we consider the causes to which it is to be traced, we are conducted to the same conclusion. A general interest might well be felt in leaving to a state the full power of consulting its convenience in the adjustment of its debts, or of other claims upon it; but no interest could be felt in so changing the relation between the whole and its parts, as to strip the government of the means of protecting, by the instrumentality of its courts, the Constitution and laws from active violation. The words of the amendment appear to the court to justify and require this construction."

"To commence a suit is to demand something by the institution of process in a court of justice; and to prosecute the suit is, according to the common acceptation of language, to continue that demand. By a suit commenced by an individual against a state, we should understand process sued out by that individual against the state, for the purpose of establishing some claim against it by the judgment of a court; and the prosecution of that suit is its continuance. Whatever may be the stages of its progress, the actor is still the same. Suits had been commenced in the Supreme Court against some of the states before the amendment was introduced into Congress, and others might be commenced before it should be adopted by the state legislatures, and might be depending at the time of its adoption. The object of the amendment was not only to prevent the commencement of future suits, but to arrest the prosecution of those which might be commenced when this article should form a part of the Constitution. It, therefore, embraces both objects; and its meaning is, that the judicial power shall not be construed to extend to any suit which may be commenced, or which, if already commenced, may be prosecuted against a state, by the citizens of another state. If a suit, brought in one court, and carried by legal process to a supervising court, be a continuation of the same suit, then this suit is not commenced nor prosecuted against a state. It is clearly, in its commencement, the suit of a state against an individual, which suit is transferred to this court, not for the purpose of asserting any claim against the state, but for the purpose of asserting a constitutional defence agains a claim made by a state."

"Under the judiciary act, the effect of a writ of error is simply to bring the record into court, and submit the judgment of the inferior tribunal to re-examination. It does not, in any manner, act upon the parties; it acts only on the record. It removes the record into the supervising tribunal. Where, then, a state obtains a judgment against an individual, and the court rendering such judgment overrules a defence set up under the Constitution or laws of the United States, the transfer of this record into the Supreme Court, for the sole purpose of inquiring whether the judgment violates the Constitution or laws of the United States, can, with no propriety, we think, be denominated a suit commenced or prosecuted against the state, whose judgment is so far re-examined.—Nothing is demanded from the state. No claim against it of any description is asserted or prosecuted. The party is not to be restored to the possession of anything.—Essentially, it is an appeal on a single point; and the defendant who appeals from a judgment rendered against him, is never said to commence or prosecute a suit against the plaintiff who has obtained the judgment. The writ of error is given rather than an appeal, because it is the more usual mode of removing suits at common law, and because, perhaps, it is more technically proper where a single point of law, and not the whole case, is to be re-examined. But an appeal might be given, and might be so regulated as to effect every purpose of a writ of error. The mode of removal is form, and not substance. Whether it be by writ of error or appeal, no claim is asserted, no demand is made, by the original defendant; he only asserts the constitutional right to have his defence examined by that tribunal whose province it is to construe the Constitution and laws of the Union." * * *

The point of view in which this writ of error, with its citation, has been considered uniformly in the courts of the Union, has been well illustrated by a reference to the course of this court in suits instituted by the United States. The universally received opinion is,

that no suit can be commenced or prosecuted against the United States; that the judiciary act does not authorize such suits: yet writs of error, accompanied with citations, have uniformly issued for the removal of judgments in favor of the United States into a superior court, where they have, like those in favor of an individual, been re-examined, and affirmed or reversed. It has never been suggested that such writ of error was a suit against the United States, and therefore not within the jurisdiction of the appellate court.

It is, then, the opinion of the court, that the defendant who removes a judgment rendered against him by a state court into this court, for the purpose of re-examining the question whether that judgment be in violation of the Constitution or laws of the United States, does not commence or prosecute a suit against a state, whatever may be its opinion, where the effect of the writ may be to restore the party the possession of a thing which he demands."

JAMES BUCHANAN,
WILLIAM W. ELLSWORTH,
E. D. WHITE.

A bill was accordingly reported (4 against 3 in committee), and on an objection to its second reading by Mr. Doddridge, it was rejected by the following vote:—

YEAS.—Messrs. Anderson, Armstrong, Arnold, Bailey, Noyes Barber, John S. Barbour, Barringer, Bartley, Bates, Baylor, Beekman, John Blair, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Burges, Butman, Cahoon, Chilton, Clark, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dorsey, Drayton, Dwight, Eager, Earll, Ellsworth, G. Evans, Johua Evans, Edward Everett, Findlay, Finch, Forward, Fry, Gilmore, Gorham, Green, Grennell, Gurly, Halsey, Hemphill, Hodgess, Holland, Hoffman, Hubbard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Wm. W. Irvin, Johns, C. Johnston, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Leiper, Lent, Letcher, Magee, Mallary, Martindale, Lewis Maxwell, McCreery, McDuffie, McIntire, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Pearce, Pierson, Powers, Reed, Richardson, Rose, Russell, Sanford, Scott, Wm. B. Shepard, A. H. Shepperd, Shields, Sill, Speight, A. Spencer, R. Spencer, Sprigg, Standefer, Sterigere, Henry R. Storrs, Wm. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, J. Thomson, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, C. P. White, E. D. White, Williams, Wilson, Wingate, Young.—137.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Barnwell, Bell, James Blair, Bouldin, Cambreleng, Campbell, Chandler, Claiborne, Clay, Coleman, Conner, Daniel, Davenport, W. R. Davis, Desha, Draper, Foster, Gaither, Gordon, Hall, Harvey, Haynes, Hinds, Jarvis, R. M. Johnson, Lamar, Lecompte, Lewis, Loyall, Lumpkin, Lyon, Martin, Thomas Maxwell, McCoy, Nuckolls, Overton, Patton, Pettis, Polk, Potter, Roane, Wiley Thompson, Trezvant, Tucker, Wickliffe, Wild, Yancey.—51.

Tariffs.

THE SEVERAL, ENACTED BY CONGRESS FROM 1789 TO 1857.

	Character of the Bill and other remarks.	Date of each Act.
No. 1.	Specific and ad valorem rates, latter from 5 to 15 per cent., . .	4 July, 1789.
2.	Specific and ad valorem rates, latter from 3 to 15½ " . . .	10 August, 1790.
3.	This act only affected "spirits" paying specific duties, ...	3 March, 1791.
4.	Specific and ad valorem rates, latter from 7½ to 15 per cent., . .	2 May, 1792.
5.	Specific and ad valorem rates, latter from 10 to 20 per cent., . .	7 June, 1794.
6.	This act affected but few articles paying specific and ad valorem rates, ...	29 January, 1795.
7.	This act affected but few articles paying specific and ad valorem rates, ...	3 March, 1797.
8.	This act only affected "salt" paying a specific duty, ...	8 July, 1797.
9.	This act affected but few articles paying specific and ad valorem rates, ...	13 May, 1800.
10.	This act, commonly called "Mediterranean fund," imposing an additional duty of 2½ per cent. in addition to the duties now imposed by law, ...	26 March, 1804.
11.	This act affected but few articles paying specific rates, ...	27 March, 1804.
12.	This act imposed *double duties*, known as *war duties*, ...	1 July, 1812.
13.	This act only affected "salt" paying a specific duty, ...	29 July, 1813.
14.	This act continued the double duties, No. 12, to 30th June, 1817,	5 February, 1816.
15.	Specific, minimum, and ad valorem rates, latter from 7½ to 30 per cent., ...	27 April, 1816.
16.	This act affected but few articles paying specific rates, ...	20 April, 1818.
17.	This act affected but few articles paying specific and ad valorem rates, ...	20 April, 1818.
18.	This act only affected "wines" paying specific rates, ...	3 March, 1819.
19.	Specific, minimum, compound, and ad valorem, latter from 12 to 50 per cent., ...	22 May, 1824.
20.	Specific, minimum, compound, and ad valorem, latter from 20 to 50 per cent., ...	19 May, 1828.
21.	This act only affected "wines" paying specific rates, ...	24 May, 1828.
22.	This act only affected "coffee, tea, and cocoa," paying specific rates, and reducing the rate, ...	20 May, 1830.
23.	This act only affected "molasses" paying specific rates, . . .	29 May, 1830.
24.	This act only affected "salt" paying specific rates, ...	29 May, 1830.
25.	This act only affected "wines of France" paying specific rates, .	13 July, 1832.

	Character of the bill and other remarks.	Date of each Act.
26.	Specific, minimum, compound, and ad valorem, the latter from 5 to 50 per cent., ...	14 July, 1832.
27.	This act affected but few articles paying ad valorem rates, . . .	2 March, 1833.
28.	Compromise Act—looking to a reduction of duties to 20 per cent.,	2 March, 1833.
29.	Specific and ad valorem, latter from 12½ to 20 per cent., . . .	11 Sept'r, 1841.
30.	Specific, minimum, compound, and ad valorem, the latter from 1 to 50 per cent., ...	30 August, 1842.
31.	The rates of duty imposed by this act are exclusively ad valorem, and arranged by schedules, and from 5 to 100 per cent., . .	30 July, 1846.
32.	The rates of duty imposed by this act are exclusively ad valorem, arranged by schedules, and from 4 to 30 per cent., ...	3 March, 1857.

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1. Entitled "An act for laying a duty on goods, wares, and merchandise imported into the United States."

This act consists of specific and ad valorem duties, the latter ranging from five to fifteen per centum. The free list quite small. It was approved on the 4th July, 1789.

The yeas and nays, on the passage of the bill, not taken in either House of Congress.

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2. Entitled "An act making further provision for the payment of the debts of the United States."

This act consists of specific and ad valorem duties, the latter ranging from five to fifteen and a half per centum. The free list quite small. It was approved on the 10th August, 1790.

The vote in the House of Representatives on its passage stood as follows:—Yeas 40; nays 15.

In the Senate the yeas and nays not taken.

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3. Entitled "An act reapealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead, and also upon spirits distilled within the United States, and for appropriating the same."

This act only affected "spirits,'" the duties being altogether specific. It was approved on the 3d March, 1791.

The vote in the House of Representatives on its passage stood as follows:—Yeas 35; nays 21.

The vote in the Senate was, yeas 20; nays 5.

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4. Entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned."

This act consists of specific and ad valorem duties, the latter ranging from seven and a half to fifteen per centum. The free list quite small. It was approved on the 2d May, 1792.

The vote in the House of Representatives on its passage stood as follows:—Yeas 37: nays 20.

In the Senate yeas and nays not taken.

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5 Entitled "An act laying additional duties on goods, wares, and merchandise imported into the United States."

This act consists of specific and ad valorem duties, the latter ranging from ten to twenty per centum. The free list not extended. It was approved on the 7th January, 1794.

The yeas and nays on the passage of the bill not taken in either House of Congress.

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6. Entitled "An act supplementary to the several acts imposing duties on goods, wares, and merchandise."

This was limited to but few articles (five) specific and ad valorem, the latter being ten and twenty per centum. It was approved on the 29th January, 1795.

The yeas and nays on the passage of the bill not taken in either House of Congress.

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7. Entitled "An act for raising a further sum of money by additional duties on certain articles imported, and for other purposes."

This was limited to but few articles (ten) specific and ad valorem, the latter being at fifteen per centum. It was approved on the 3d March, 1797.

The vote in the House of Represenatives on its passage stood as follows:—Yeas 66; nays 21.

In the Senate the yeas and nays not taken.

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8. Entitled "An act laying an additional duty on salt imported into the United States, and for other purposes."

This, as its title indicates, only affected the duty on "salt," fixing the same at 20 cents per bushel. It was approved on the 8th July, 1797.

The vote in the House of Representatives on its passage stood as follows:—Yeas 45; nays 40.

In Senate, yeas and nays not taken.

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9. Entitled "An act to lay additional duties on certain articles imported."

This act is confined to certain enumerated articles, which pay specifics and ad valorems, the latter being at twelve and a half per centum. It was approved on the 13th May, 1800.

The yeas and nays, on the passage of the bill, not taken in either House of Congress.

10. Entitled "An act further to protect the commerce and seamen of the United States against the Barbary powers."

This act is commonly called the "Mediterranean fund," and imposed an additional duty of 2½ per centum ad valorem, in addition to the duties now imposed by law upon all goods paying an ad valorem duty. It was approved on the 26th March, 1804.

The vote in the House of Representatives on its passage, stood as follows:—Yeas 98; nays —.

The vote in the Senate was yeas 20, nays 5.

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11. Entitled "An act imposing more specific duties on the importation of certain articles, and also for levying and collecting light money on foreign ships or vessels, and for other purposes."

This act consists altogether of articles paying specific duties, and the free list extended to six articles. It was approved on the 27th March, 1804.

The vote in the House of Representatives on its passage stood as follows:—Yeas 65; nays 41.

In the Senate, yeas and nays not taken.

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12. Entitled "An act for imposing (double) duties upon all goods, wares, and merchandise imported from any foreign port or place, and for other purposes."

This act was approved 1st July, 1812, and the duties imposed commonly known as the *war duties*, being then engaged in a war with Great Britain.

The vote in the House of Representatives on its passage stood as follows:—Yeas 76; nays 48.

The vote in the Senate was yeas 20, nays 9.

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13. Entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries."

This, as its title indicates, only affected the duty on "salt," fixing the same at 20 cents per bushel, computing the same at 56 pounds. It was approved on the 29th July, 1813.

The vote in the House of Representatives on its passage stood as follows:—Yeas 90; nays 55.

The vote in the Senate was yeas 20, nays 10.

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14. Entitled "An act to continue in force the act entitled 'An act imposing additional duties upon all goods, wares, and merchandise imported from any foreign port or place, and for other purposes.'"

Double duties imposed by the act of 1st July, 1812, continued until 30th June, 1817. Additional duty until a new tariff of duties shall be levied by law after 30th June, 1817; this, however, never went into operation, being superseded by the act approved 27th April, 1816. It was approved on the 5th Feb. 1816.

In the House of Representatives, yeas and nays not taken.

The vote in the Senate was yeas 25, nays 5.

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15. Entitled "An act to regulate the duties on imports and tonnage."

By this act the whole tariff system was remodelled. It consists of specific and ad valorem duties, the latter ranging from seven and a half to thirty per centum. For the first term the minimum feature is introduced and applied to cotton cloths of a certain description, and on cotton, twist, yarn, and thread. It was approved on the 27th April, 1816.

The vote in the House of Representatives on its passage stood as follows:—Yeas 88; nays 54.

The vote in the Senate was yeas 25, nays 7, on the engrossment and third reading. On its passage yeas and nays not taken.

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16. Entitled "An act to increase the duty on iron in bars and bolts, iron in pigs, castings, nails and alum."

This act, as its title indicates, only affected the duty on certain articles (seven) paying specific duties. It was approved 20th April, 1816.

The vote in the House of Representatives on its passage stood as follows:—Yeas 88; Nays 47.

In the Senate, yeas and nays not taken.

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17. Entitled "An act to increase the duties on certain manufactured articles."

This act affected the duties on but thirteen articles, paying specific and ad valorem duties, of the latter ranging from twenty-four to thirty per centum. It was approved 20th April, 1816. The yeas and nays on the passage of the bill, not taken in either House of Congress.

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18. Entitled "An act to regulate the duties on wines."

This act, as its title indicates, only affected the duty on wines not enumerated in the act of 27th April, 1816, fixing the rates of duty at 20 and 25 cents per gallon. It was approved 3d March, 1819.

The yeas and nays on the passage of the bill not taken in either House of Congress.

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19. Entitled "An act to amend the several acts imposing duties on imports."

This act changed the whole system of duties. It consists of specifics, ad valorems, compounds and minimums, in addition to cotton cloths, twist, yarn and thread, the minimum system is extended to Leghorn hats and bonnets, hats or bonnets of straw, chip or grass, the ad valorems range from twelve to fifty per cent. It was approved on the 22d May, 1824.

The vote in the House of Representatives on its passage stood as follows:—Yeas 105; nays 94.

The vote in the Senate was:—Yeas 26; nays 21.

20. Entitled "An act in alteration of the several acts imposing duties on imports."

This act changes the rates of duty upon the articles named therein—which pay specifics, ad valorems, compound and minimums, the latter is now extended to manufactures of wool and form four classes, 1st, shall not exceed 50 cents, shall be deemed to cost 50 cents; 2d, shall exceed 50 cents and not exceed $1, shall be deemed to cost $1.00; 3d, shall exceed $1 and not exceed $2.50, shall be deemed to cost $2.50; 4th shall exceed $2.50 and not exceed $4, shall be deemed to cost $4, and thereon to pay a duty of forty-five per centum. Wool is subject to a compound duty of 4 cents per pound and ad valorem of 40 per cent. for one year, 45 per cent. two years and thereafter 50 per centum in addition. The ad valorems range from twenty to fifty per centum. It was approved on the 19th May, 1828.

The vote on its passage in the House of Representatives stood as follows:—Yeas 105; nays 94.

YEAS.—Messrs. Anderson of Pa., Armstrong of Va., Baldwin of Conn., Barber of Conn., Barlow, Barnard of N. Y., Beecher of O., Belden of N. Y., Blake of Ind., Brown of N. H., Buchanan of Pa., Buckner of Ky., Buck of Vt., Bunner of N. Y., Burges of R. I., Chase of N. Y., Chilton of Va., Clarke of N. Y., Clarke of Ky., Condict of Ky., Coulter of Pa., Creighton of O., Crowninshield of Mass., Daniel of Ky., Davenport of O., De Graff of N. Y., Dickinson of N. Y., Duncan of Ill., Dwight of Mass., Earll of N. Y., Findlay of O., Forward of Pa., Fry of Pa., Garnsey of N. Y., Garrow of N. Y., Green of Pa., Harvey of N. H., Healy of N. H., Hobbie of N. Y., Hoffman of N. Y., Hunt of Vt., Jennings of Ind., Johns of Del., Keese of N. Y., King of Pa., Lawrence of Pa., Lecompte of Ky., Leffler of Va., Letcher of Ky., Little of Md., Lyon of Ky., Magee of N. Y., Mallary of Vt., Markell of N. Y., Martindale of N. Y., Marvin of N. Y., Maxwell of Va., McHatton of Ky., McKean of Pa., McLean of O., Merwin of Conn., Metcalfe of Ky., Miller of Pa., Mioer of Pa., Mitchell of Pa., Moore of Ky., Orr of Pa., Phelps of Conn., Pierson of N. J., Ramsey of Pa., Russell of O., Sergeant of Pa., Sloane of O., Smith of Ind., Stanberry of O., Stevenson of Pa., Sterigere of Pa., Stewart of Pa., Storrs of N. Y., Stower of N. Y., Strong of N. Y., Swann of N. J., Swift of Vt., Sutherland of Pa., Taylor of N. Y., Thompson of N. J., Tracy of N. Y., Tucker of N. J., Vance of O., Van Horn of Pa., Van Rensselaer of N. Y., Vinton of O., Wales of Vt., Whipple of N. H., Whittlesey of O., Wickliffe of Ky., Wilson of Pa., J. J. Wood of N. Y., Silas Wood of N. Y., Woods of O., Woodcock of N. Y., Wolff of Pa., Wright of N. Y., Wright of O., Yancey of Ala.—105.

NAYS.—Messrs. Alexander of Va., Allen of Mass., Allen of Va., Alston of N. C., Anderson of Me., Archer of Va., Bailey of Mass., P. P. Barbour of Va., Barker of N. H., Barringer of N. C., Bartlett of N. H., Bates of Mass., Bates of Mo., Bell of Tenn., Blair of Tenn., Brent of La., Bryan of N. C., Butman of Me., Cambreleng of N. Y., Carson of N. C., Carter of S. C., Claiborne of Va., Conner of N. C., Crockett of Tenn., Culpepper of N. C., Davenport of Va., Davis of Mass., Davis of S. C., Desha of Tenn., Dorsey of Md., Drayton of S. C., Everett of Mass., Floyd of Ga., Fort of Ga., Gale of Md., Gilmer of Ga., Gorham of Mass., Gurley of La., Haile of Miss., Hallock of N. Y., Hall of N. C., Hamilton of S. C., Haynes of Ga., Hodges of Mass., Holmes of N. C., Ingersoll of Conn., Isacks of Tenn., Johnson of N. Y., McCoy of Va., McDuffie of S. C., McIntire of Me., McKee of Ala., Mercer of Va., Mitchell of Tenn., Moore of Ala., Newton of Va., Nuckolls of S. C., Oakley of N. Y., O'Brien of Me., Owen of Ala., Pearce of R. I., Plant of Conn., Polk of Tenn., Randolph of Va., Reed of Mass., Richardson of Mass., Ripley of Me., Rives of Va., Roane of Va., Sawyer of N. C., Shepperd of N. C., Smyth of Va., Sprague of Me., Taliaferro of Va., Thompson of Ga. Trezvant of Va., Tucker of S. C., Turner of N. C., Varnum of Mass., Verplanck of N. Y., Ward of N. Y., Washington of Md., Weems of Md., Wilde of Ga., Williams of N. C., Wingate of Me.—94.

The vote in the Senate was yeas 26, nays 21.

YEAS.—Messrs. Barnard of Pa., Barton of Mo., Bateman of N. J., Benton of Mo., Bouligny of La., Chase of Vt., Dickerson of N. J., Eaton of Tenn., Foot of Conn., Harrison of O., Hendricks of Ind., Johnson of Ky., Kane of Ill., Knight of R. I., McLane of Del., Marks of Pa., Noble of Ind., Ridgeley of Del., Rowan of Ky., Ruggles of O., Sanford of N. Y., Seymour of Vt., Thomas of Ill., Van Buren of N. Y., Webster of Mass., Willey of Conn.—26.

NAYS.—Messrs. Berrien of Ga., Branch of N. C., Chambers of Md., Chandler of Me., Cobb of Ga., Ellis of Miss., Hayne of S. C., Johnston of La., King of Ala., McKinley of Ala., Macon of N. C., Parris of Me., Robbins of R. I., Silsbee of Mass., Smith of Md., Smith of S. C., Tazewell of Va., Tyler of Va., White of Tenn., Williams of Miss., Woodbury of N. H.—20.

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21. Entitled "An act altering the duties on wines imported into the United States." As the title of this act indicates, it only affects the duties on wines, which are all specific and range from ten to fifty cents per gallon. It was approved 24th May, 1828.

The vote on its passage in the House of Representatives stood as follows:—Yeas 79; nays 72.

The vote in the Senate was:—Yeas 25; nays 10.

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22. Entitled "An act to reduce the duties on coffee, tea, and cocoa."

The duties on the articles named were reduced by this act—the rates fixed being all specific. It was approved 20th May, 1830.

The yeas and nays on the passage of the bill not taken in either House of Congress.

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23. Entitled "An act to reduce the duty on molasses, and to allow a drawback on spirits distilled from foreign materials."

The duty on molasses was reduced to 5 cents per gallon specific.

It was approved on the 29th May, 1830.

The vote on its passage in the House of Representatives stood as follows:—Yeas 118; nays 60.

The vote in the Senate on a third reading was yeas 30, nays 8; the yeas and nays not taken on a final passage.

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24. Entitled "An act to reduce the duty on salt."

The duty on salt was reduced to 15 cents per bushel of 56 pounds specific. It was approved 29th May, 1830.

The vote in the House of Representatives on its passage stood as follows:—Yeas 105; nays 83.

The vote in the Senate was:—Yeas 24; nays 15.

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25. Entitled "An act to carry into effect the convention between the United States and his majesty the King of the French, concluded at Paris on the 4th July, 1831."

This act affected the duties on the wines of France, the 10th section fixing the rates of duty which are specific. It was approved on the 13th July, 1832. The yeas and nays on the passage of the bill, not taken in either House of Congress.

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26. Entitled "An act to alter and amend the several acts imposing duties on imports."

This act repealed all previous ones in relation to fixing the rates of duties, and imposed new ones, being free, specifics, compound, ad

valorems, and minimums. The free list is greatly extended, many articles subject to a compound duty, specific and ad valorems—the ad valorems ranging from five to fifty per centum—the *minimums* only applied to cotton cloths, cotton twist, yarn and thread. It was approved on the 14th July, 1832. The vote in the House of Representatives on its passage stood as follows: Yeas 132; nays 65.

The vote in the Senate was, yeas 32 nays 16.

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27. Entitled "An act to explain and amend the act to alter and amend the several acts imposing duties on imports passed July 14, 1832, so far as relates to hardware and certain manufactures of copper and brass and other articles."

This act only affected certain articles enumerated, (seven) all paying ad valorems. It was approved 2d March, 1833.

The yeas and nays not taken in the House of Representatives.

The vote in the Senate was yeas 17, nays 8.

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28. Entitled "An act to modify the act of the 14th July, 1832, and all other acts imposing duties on imports."

This is generally known as the Compromise Act, its object being to effect a gradual reduction of duties, as follows:—

From and after 31st December, 1833, on all articles where the duties shall exceed twenty per centum ad valorem, a deduction of one tenth of such excess.

From and after 31st December, 1835, another tenth part to be deducted; from and after 31st December, 1837, another tenth part to be deducted; from and after 31st December, 1839, another tenth part to be deducted; from and after 31st December, 1841, one half of the residue to be deducted; from and after 31st December, 1842, the other half to be deducted; thus bringing all articles down to a uniform rate of twenty per centum ad valorem. This act was approved 2d March, 1833.

The vote in the House of Representatives on its passage stood as follows:—Yeas 119; nays 85.

YEAS.—Messrs. Adair of Ky., Alexander of Va., Chilton Allen of Ky., Robert Allen of Va., Anderson of Me., Angel of N. Y., Archer of Va., Armstrong of Va., John S. Barbour of Va., Barnwell of S. C., Barringer of N. C., James Bates of Me., Bell of Tenn., Bergen of N. Y., Bethune of N. C., Blair of Tenn., Blair of S. C., Boon of Ind., Bouck of N. Y., Bouldin of Va., Branch of N. C., John Brodhead of N. H., Bullard of La., Cambreleng of N. Y., Carr of Ind., Carson of N. C., Chinn of Va., Claiborne of Va., Clay of Ala., Clayton of Ga., Coke of Va., Conner of N. C., Corwin of O., Coulter of Pa., Craig of Va., Creighton of O., Daniel of Ky., Davenport of Va., Warren R. Davis of S. C., Doubleday of N. Y., Drayton of S. C., Draper, Duncan of Ill., Felder of S. C., Findlay of O., Fitzgerald of Tenn., Foster of Ga., Gaither of Ky., Gilmore of Pa., Gordon of Va., Griffin of S. C., Thomas H. Hall of N. C., Wm. Hall of Tenn., Harper of N. H., Hawes of Ky., Hawkins of N. C., Hoffman of N. Y., Holland of Me., Horn of Pa., Howard of Md., Hubbard of N. H., Irvin of O., Isacks of Tenn., Jarvis of Me., Jenifer of Md., Richard M. Johnson of Ky., Cave Johnson of Tenn., Joseph Johnson of Va., Kavanagh of Me., Kerr of Md., Lamar of Ga., Lansing of N. Y., Lecompte of Ky., Letcher of Ky., Lewis of Ala., Lyon of Ky., Mardis of Ala., Mason of Va., Marshall of Ky., Maxwell of Va., William McCoy of Va., McDuffie of S. C., McIntire of Me., McKay of N. C., Mitchell of S. C., Newnan of Ga., Newton of Va., Nuckolls of S. C., Patton of Va., Plummer of Miss., Polk of Tenn., Rencher of N. C., Roane of Va., Root of N. Y., Semmes of Md., Sewall, Wm. B. Shepard of N. C., Augustus H. Shepperd of N. C., Smith of Pa., Speight of N. C., Spence of Md., Stanberry of O., Standifer of Tenn., Francis Thomas of Md., Philemon Thomas of La., Wiley Thompson of Geo., John Thompson of O., Tompkins of Ky., Verplanck of N. Y., Ward of N. Y., Washington of Md., Wayne of Geo., Weeks of N. H., Elisha Whittlesey of O., Campbell P. White of N. Y., Edward D. White of La., Wickliffe of Ky., Williams of N. C., Worthington of Md.—119.

NAYS.—Messrs Adams of Mass., Heman Allen of Vt., Allison of Pa., Appleton of Mass., Arnold of Tenn., Ashley of Mo., Babcock of N. Y., Banks of Pa., Noyes Barber of Conn., Barstow of N. Y., Isaac C. Bates of Mass., Beardsley of N. Y., Briggs of Mass., John C. Brodhead, Bucher of Pa., Burd of Pa., Burges of R. I., Cahoon of Vt., Chandler of N. H., Choate of Mass., Collier of N. Y., Lewis Condict of N. J., Silas Condit of N. J., Cooke of O., Cooke of N. Y., Cooper, Crane, Crawford of Pa., John Davis of Mass., Dayan of N. Y., Dearborn of Mass., Denny of Pa., Dewart of Pa., Dickson of N. Y., Ellsworth of Conn., George Evans of Me., Joshua Evans of Pa., Everett of Mass., Horace Everett of Vt., Ford of Pa., Grennell of Mass., Hiland Hall of Vt., Heister of Pa., Hodges of Mass., Hogan of N. Y., Hughes of N. J., Huntingdon of Conn., Ihrie of Pa., Ingersoll of Conn., Kendall of Mass., Kennon of O., King of Pa., King of N. Y., Henry King of Pa., Leavitt of O., Mann of Pa., McCarty of Ind., McCoy of Pa., McKennan of Pa., Mercer of Va., Milligan of Del., Muhlenberg of Pa., Nelson of Mass., Pearce of R. I., Pendleton of N. Y., Pierson of N. Y., Pitcher of N. Y., Potts of Pa., Randolph of N. J., John Reed of Mass., Edward C. Reed of N. Y., Russell of O., Slade of Vt., Southard of N. J., Stephens of Pa., Storrs of Conn., Sutherland of Pa., Taylor of N. Y., Vinton of O., Wardwell of N. Y., Watmough of Pa., Wilkin of N. Y., Wheeler of N. Y., Frederick Whittlesey of N. Y., Young of Conn.—85.

The vote in the Senate was yeas 29, nays 16.

YEAS.—Messrs. Bell of N. H., Bibb of Ky., Black of Miss., Calhoun of S. C., Chambers of Md., Clay of Ky., Clayton of Del., Ewing of O., Foot of Conn., Forsyth of Ga., Frelinghuysen of N. J., Grundy of Tenn., Hill of N. H., Holmes of Me., Johnston of La., King of Ala., Mangum of N. C., Miller of S. C., Moore of Ala., Naudain of Del., Poindexter of Miss., Rives of Va., Robinson of Ill., Sprague of Me., Tomlinson of Conn., Tyler of Va., Waggaman of La., White of Tenn., Wright of N. Y.—29.

NAYS.—Messrs. Benton of Mo., Buckner of Mo., Dallas of Pa., Dickerson of N. J., Dudley of N. Y., Hendricks of Ind., Knight of R. I., Prentiss of Vt., Robbins of R. I., Ruggles of O., Seymour of Vt., Silsbee of Mass., Smith of Md., Tipton of Ind., Webster of Mass., Wilkins of Pa.—16.

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29. Entitled "An act relating to duties and drawbacks."

The rates of duty fixed by this act of an ad valorem character did not exceed twenty per centum, that being the *maximum* rate—the lowest being twelve and a half per centum, while there were only twelve articles which paid a specific duty; the free list, however, was extended, and embraced a great many articles heretofore subject to pay a duty. It was approved on the 11th September, 1841.

The vote in the House of Representatives on its passage stood as follows:—Yeas 116; nays 101.

The vote in the Senate was yeas 33, nays 11.

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30. Entitled "An act to provide revenue from imports and to change and modify existing laws imposing duties on imports, and for other purposes."

This act changed the entire rates of duties and fixed the same at specific, minimum, compound and ad valorem rates, the latter ranging from one to fifty per centum. It was approved on the 30th August, 1842.

The vote in the House of Representatives

on its passage stood as follows:—Yeas 105; nays 103.

YEAS.—Messrs. Allen of Me., Landaff W. Andrews of Ky., Sherlock J. Andrews of O., Appleton of Mass., Aycrigg of N. J., Babcock of N. Y., Baker of Mass., Barnard of N. Y., Barton of Va., Beeson of Pa., Bidlack of Pa., Birdseye of N. Y., Blair of N. Y., Boardman of Conn., Borden of Mass., Briggs of Mass., Brockway of Conn., Charles Brown of Pa., J. Brown of Pa., Brunell of Mass., Calhoun of Mass., Childs of N. Y., Chittenden of N. Y., John C. Clark of N. Y., James Cooper of Pa., Cowen of O., Cranston of R. I., Cushing of Mass., Davis of Ky., Davis of N. Y., Edwards of Mo., Everett of Vt., Ferris of N. Y., Fessenden of Me., Fillmore of N. Y., Gerry of Pa., Giddings of O., Patrick G. Goode of O., Gordon of N. Y., Granger of N. Y., Gustine of Pa., Hall of Vt., Halstead of N. J., Houck of N. Y., Howard of Mich., Hudson of Mass., Hunt of N. Y., C. J. Ingersoll of Pa., Joseph R. Ingersoll of Pa., James Irwin of Pa., William W. Irwin of Pa., Kane of Pa., John P. Kennedy of Md., Robert McClellan of N. Y., McKennan of Pa., Thomas F. Marshall of Ky., Mason of O., Mattocks of Vt., Maxwell of N. J., Maynard of N. Y., Moore of La., Morgan of N. Y., Morris of O., Morrow of O., Newhard of Pa., Osborne of Conn., Parmenter of Mass., Pearce of Md., Plumer of Pa., Pope of Ky., Powell of Va., Proffit of Ind., Ramsay of Pa., Randall of Me., Randall of Md., Randolph of N. J., Read of Pa., Ridgway of O., Briggs of N. Y., Rodney of Del., Russell of O., Russell of Pa., Saltonstall of Mass., Sanford of N. Y., Slade of Vt., Smith of Conn., Sollers of Md., Stratton of N. J., John T. Stuart of Ill., Taliaferro of Va., Richard W. Thompson of Ind., Tillinghast of R. I., Toland of Pa., Tomlinson of N. Y., Trumbull of Conn., Van Buren of N. Y., Van Rensselaer of N. Y., Wallace of Ind., Ward of N. Y., Edward D. White of La., Williams of Conn., Joseph L. Williams of Tenn., Yorke of N. J., Young of Vt.—105.

NAYS.—Messrs. Adams of Mass., Arnold of Tenn., Arrington of N. C., Atherton of N. H., Black of Ga., Botts of Va., Boyd of Ky., Aaron V. Brown of Tenn., Milton Brown of Tenn., Burke of N. H., Butler of Ky., Caldwell of N. C., Caldwell of S. C., John Campbell of S. C., W. B. Campbell of Tenn., Thomas J. Campbell of Tenn., Caruthers of Tenn., Cary of Va., Casey of Ill., Clifford of Me., Clinton of N. Y., Coles of Va., Colquitt of Ga., Doan of O., Doig of N. Y., Edwards of Mo., Egbert, Floyd of N. Y., Foster of N. Y., Foster of Ga., Gamble of Ga., Gentry of Tenn., Gilmer of Va., Goggin of Va., Goode of Va., Graham of N. C., Green of Ky., Gwin of Miss., Habersham of Ga., Harris of Va., Hastings of O., Hays of Va., Holmes of S. C., Hopkins of Va., Houston of Ala., Hubard of Va., Hunter of Va., Johnson of Md., Cave Johnson of Tenn., Jones of Va., Kennedy of Ind., King of Ga., Lane of Ind., Lewis of Ala., Linn of N. Y., Littlefield of Me., McClellan of Tenn., McKay of N. C., McKeon of N. Y., Mallory of Va., Mason of Md., Mathiot of O., Mathews of O., Medill of O., Miller of Me., Mitchell of N. C., Owsley of Ky., Payne of Ala., Rayner of N. C., Reding of N. H., Reynolds of Ill., Rhett of S. C., Rogers of S. C., Roosevelt of N. Y., Saunders of N. C., Shaw of N. H., Shepperd of N. C., Shields of Ala., William Smith of Va., Sprigg of Ky., Steenrod of Va., Summers of Va., Sumter of S. C., Jacob Thompson of Miss., John B. Thompson of Ky., Triplett of Ky., Turney of Tenn., Underwood of Ky., Warren of Ga., Washington of N. C., Waterson of Tenn., Weller of O., Williams of Md., H. Williams of Tenn., Wise of Va., Wood of N. Y., —103.

The vote in the Senate was yeas 24, nays 23.

YEAS.—Messrs. Barrow of La., Bates of Mass., Bayard of Del., Buchanan of Pa., Choate of Mass., Conrad of La., Crafts of Vt., Crittenden of Ky., Dayton of N. J., Evans of Me., Huntington of Conn., Miller of N. J., Morehead of Ky., Phelps of Vt., Porter of Mich., Simmons of R. I., Smith of Ind., Sprague of Me., Sturgeon of Pa., Tallmadge of N. Y., White of Tenn., Williams of Me., Woodbridge of Mich., Wright of N. Y.—24.

NAYS.—Messrs. Allen of O., Archer of Va., Bagby of Ala., Benton of Mo., Berrien of Ga., Calhoun of S. C., Clayton of Del., Cuthbert of Ga., Fulton of Ark., Graham of N. C., Henderson of Miss., King of Ala., Linn of Mo., Mangum of N. C., Merrick of Md., Preston of S. C., Rives of Va., Sevier of Ark., Smith of Conn., Tappan of O., Walker of Miss., Woodbury of N. H., Young of Ill.—23.

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31. Entitled "An act reducing the duty on imports, and for other purposes."

For the first time, the rates of duty are exclusively ad valorem, and arranged by schedules; paying from 5 to 100 per centum. It was approved on the 30th July, 1846.

The vote in the House of Representatives, on its passage, stood as follows:—Yeas 114; nays 95.

YEAS.—Messrs. Stephen Adams of Miss., Anderson of Me., Atkinson of Va., Bayly of Va., Bedinger of Va., Benton of N. Y., Biggs of N. C., Black of S. C., Bowlin of Mo., Boyd of Ky., Brinkerhoff of O., Brockenbrough of Fla., Brown of Va., Burt of S. C., Cathcart of Ind., Chapman of Va., Chapman of Ala., Chase of Tenn., Chipman of Mich., Clarke of N. C., Cobb of Ga., Collin of N. Y., Cullom of Tenn., Cunningham of O., Daniel of N. C., Dargan of Ala., Davis of Miss., De Mott of N. Y., Dobbin of N. C., Douglas of Ill., Dromgoole of Va., Dunlap of Me., Ellsworth of N. Y., Faran of O., Ficklin of Ill., Fries of O., Giles of Md., Goodyear of N. Y., Gordon of N. Y., Grover of N. Y., Hamlin of Me., Haralson of Ga., Harmanson of La., Henly of Ind., Hilliard of Ala., Hoge of Ill., Holmes of S.C., Hopkins of Va., Hough of N. Y., Houston of Ala., Hubard of Va., Hunt of Mich., Hunter of Va., Johnson of N. H., Johnson of Va., Andrew Johnson of Tenn., Jones of Tenn., Jones of Ga., Kaufman of Texas, Kennedy of Ind., Preston King of N. Y., Lawrence of N. Y., Leake of Va., La Sere of La., Lumpkin of Ga., Maclay of N. Y., McClelland of Mich., McClernand of Ind., McConnell of Ala., McCrate of Me., McDowell of O., McDowell of Va., McKay of N. C., Martin of Ky., Martin of Tenn., Morris of O., Morse of La., Moulton of N. H., Niven of N. Y., Norris of N. H., Parish of O., Payne of Ala., Perrill of O., Phelps of Mo., Pillsbury of Texas, Rathbun of N. H., Reid of Pa., Relfe of Mo., Rhett of S. C., Roberts of Miss., Sawtelle of Me., Sawyer of O., Simpson of S. C., Seammon of Me., Seddon of Va., Alexander D. Simms of S. C., Sims of Mo., Thomas Smith of Ind., Smith of Ill., Stanton of Tenn., Starkweather of O., St. John of O., Strong of N. Y., Thompson of Miss., Thurman of O., Tibatts of Ky. Towns of Ga., Tredway of Va., Wick of Ind., Williams of Me., Wilmot of Pa., Wood of N. Y., Woodward of S. C., Yancey of Ala.—114.

NAYS.—Messrs. Abbott of Mass., Adams of Mass., Arnold of Tenn., Ashmun of Mass., Barringer of N. C., Bell of Ky., James Black of Pa., Blanchard of Pa., Brodhead of Pa., Milton Brown of Tenn., Buffington of Pa., Campbell of N. Y., Campbell of Pa., Carroll of N. Y., Cocke of Tenn., Collamer of Vt., Cranston of R. I., Crozier of Tenn., Culver of N. Y., Darragh of Pa., Davis of Ky., Delano of O., Dixon of Conn., Dockery of N. C., Edsall of N. J., Erdman of Pa., Ewing of Pa., Ewing of Tenn., Foot of Vt., Foster of Pa., Garvin of Pa., Gentry of Tenn., Giddings of O., Graham of N. C., Grider of Ky., Grinnell of Mass., Hampton of N. J., Harper of O., Holmes of N. Y., Houston of Del., Hubbard of Conn., Hudson of Mass., Hungerford of N. Y., Hunt of N. Y., Chas. J. Ingersoll of Pa., Joseph R. Ingersoll of Pa., Jenkins of N. Y., King of Mass., Leib of Pa., Lewis of N. Y., Levin of Pa., Long of Md., McClean of Pa., McGaughey of Ind., McHenry of Ky., McIlvaine of Pa., Marsh of Vt., Miller of N. Y., Mosely of N. Y., Pendleton of Va., Perry of Md., Pollock of Pa., Ramsey of Pa., Ritter of Pa., Rockwell of Mass., Rockwell of Conn., Root of O., Runk of N. J., Russell of N. Y., Schenck of O., Seaman of N. Y., Severance of Me., Smith of Conn., Smith of N. Y., Caleb B. Smith of Ind., Stephens of Ga., Stewart of Pa., Strohm of Pa., Sykes of N. J., Thibodeaux of La., Thomasson of Ky., Thompson of Mass., Thompson of Pa., Tilden of O., Toombs of Ga., Trumbo of Ky., Vance of O., Vinton of O., Wheaton of N. Y., White of N. Y., Winthrop of Mass., Woodruff of N. Y., Wright of N. J., Young of Ky., Yost of Pa.—95.

The vote in the Senate was yeas 28, nays 28.

YEAS.—Messrs. Allen of O., Ashley of Ark., Atchison of Mo., Atherton of N. H., Bagby of Ala., Benton of Mo., Breese of Ill., Bright of Ind., Calhoun of S. C., Cass of Mich., Chalmers of Miss., Colquitt of Ga., Dickinson of N. Y., Dix of N. Y., Fairfield of Me., Hannegan of Ind., Houston of Texas, Jarnagin of Tenn., Lewis of Ala., McDuffie of S. C., Pennybacker of Va., Rusk of Texas, Semple of Ill., Sevier of Ark., Speight of Miss., Turney of Tenn., Westcott of Fla., Yulee of Fla.—28.

NAYS.—Messrs. Archer of Va., Berrien of Ga., Barrow of La., Cameron of Pa., Cilley of N. H., J. M. Clayton of Del., T. Clayton of Del., Corwin of O., Crittenden of Ky., Davis of Mass., Dayton of N. J., Evans of Me., Greene of R. I., Huntington of Conn., Johnson of La., Johnson of Md., Mangum of N. C., Miller of N. J., Morehead of N. C., Niles of Conn., Pearce of Md., Phelps of Vt., Simmons of R. I., Sturgeon of Pa., Upham of Vt., Webster of Mass., Woodbridge of Mich.—28.

Thus making a tie, when the Vice-President of the United States (Mr. Dallas) voted in the affirmative, and the bill passed.

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32. Entitled "An act reducing the duty on imports, and for other purposes."

This act is exclusively ad valorem, paying from 4 to 30 per centum, and a reduction

upon the rates of the act of 1846 (No. 31). The free list is extended, and now embraces a great many articles heretofore subject to duty. As this is the present law, and goes into effect on the 1st July, 1857, the Editor should remark that this does not indicate the views of the House of Representatives or the Senate of the United States on the subject of the tariff; but is the result of a committee of conference on the disagreeing vote of the two Houses. It was approved on the 3d March, 1857.

The vote in the House of Representatives, on agreeing to the report of the committee of conference, stood as follows:—Yeas 122; nays 72.

YEAS.—Messrs. *Aiken*, *Allen*, Barclay, *Hendley S. Bennett*, Benson. Bishop, *Bocock*, *Bowie*, *Branch*, Buffinton, Burlingame, *Burnett*, *Cadwalader*, Lewis D. Campbell, CARLILE, *Caskie*, Chaffee. Ezra Clarke, *Clingman*, *Williamson R. W. Cobb*, Comins, *Craige*, *Crawford*, Damrell, *Davidson*, HENRY WINTER DAVIS, Timothy Davis, Day, Dean, *Denver*, De Witt, Dickson, *Dowdell*, *Edmundson*, *Elliott*, *English*, ETHERIDGE, EUSTIS, EVANS, *Faulkner*, Flagler, *Florence*, FOSTER, *Thomas J. D. Fuller*, *Garnett*, *Goode*, *Greenwood*, *Augustus Hall*, J. MORRISON HARRIS, *Sampson W. Harris*, *Thomas L. Harris*, HAVEN, *Herbert*, Thomas R. Horton, Valentine B. Horton, *Houston*, *Jewett*, *George W. Jones*, *Keitt*, *Kelly*, *Kidwell*, Knapp, Knowlton, LAKE, *Letcher*, *Lumpkin*, Mace, ALEXANDER K. MARSHALL, *Samuel S. Marshall*, *Maxwell*, *McMullin*, *McQueen*, Killian Miller, *Smith Miller*, *Millson*, *Morrison*, Mott, Murray, Nichols, *Orr*, *Peck*, Pelton, Perry, Pike, *Powell*, PURYEAR, *Quitman*, READY, *Ruffin*, *Rust*, Sage, *Sandidge*, *Savage*, *Seward*, *Shorter*, *Samuel A. Smith*, *William Smith*, WILLIAM R. SMITH, Spinner, *Stewart*, Stranahan, *Talbott*, Tappan, *Taylor*, Thurston, Trafton, UNDERWOOD, *Vail*, VALE, Wakeman, *Walker*, Israel Washburne, Welch, *Wells*, *Wheeler*, WHITNEY, *Williams*, *Winslow*, Wood, Woodruff, *Daniel B. Wright*, *John V. Wright*, ZOLLICOFFER.—123.

NAYS.—Messrs. AKERS, Albright, Allison, Ball, Barbour, Henry Bennett, Billinghurst, Bingham, Bliss, Bradshaw, Brenton, BROOM, James H. Campbell, *Caruthers*, Colfax, Covode, Cragin, CULLEN, Cumback, Dodd, DUNN, Durfee, Edie, HENRY M. FULLER, Galloway, Granger, Harlan, HARRISON, Hodges, Holloway, Howard, Kelsey, KENNETT, King, Knight, Knox, Kunkel, Leiter, HUMPHREY MARSHALL, McCarty, Millward, MOORE, Morgan, Morrill, Norton, Andrew Oliver, *Packer*, Parker, Pennington, Pettit, Pringle, Purviance, RICAUD, Roberts, Robison, Sabin, Sapp, Scott, Sherman, Simmons, Stanton, SWOPE, Thorington, Todd, Tyson, Wade, Walbridge, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Watson, Woodworth.—72.

The vote in the Senate was yeas 33, nays 8. That is, upon agreeing to the report of the committee of conference.

YEAS.—Messrs. ADAMS, BELL of Tenn., *Benjamin*, *Biggs*, *Bigler*, *Butler*, *Clay*, *Douglas*, *Evans*, Fish, *Fitch*, *Fitzpatrick*, Foster, *Green*, *Gwin*, HOUSTON, *Hunter*, *Johnson*, *Mallory*, *Mason*, Nourse, *Pugh*, *Reid*, *Rusk*, *Sebastian*, Seward, *Stuart*, *Toombs*, *Toucey*, Trumbull, *Weller*, Wilson, *Yulee*.—33.

NAYS.—Messrs. *Allen*, *Brodhead*, Collamer, Foot, *Geyer*, *James*, Wade, *Wright*.—8.

Temporal Allegiance due the Pope.

EXTRACTS from the declarations and testimonies of six of the principal universities of Europe, on the three following propositions, submitted to them, at the request of Mr. Pitt, by the Catholics of London, in 1789:—

THE PROPOSITIONS.

1. Has the Pope, or Cardinals, or any body of men, or any individual of the Church of Rome, any civil authority, power, jurisdiction, or pre-eminence whatsoever, within the realm of England?

2. Can the Pope, or Cardinals, or any body of men, or any individual of the Church of Rome, absolve or dispense with his Majesty's subjects from their oath of allegiance, upon any pretext whatsoever?

3. Is there any principle in the tenets of the Catholic faith by which Catholics are justified in not keeping faith with heretics, or other persons differing from them in religious opinions, in any transaction, either of a public or a private nature?

After an introduction, according to the usual forms, the Sacred Faculty of Divinity of Paris answer the first query by declaring:

Neither the Pope, nor the Cardinals, nor any body of men, nor any other person of the Church of Rome, hath any civil authority, civil power, civil jurisdiction, or civil pre-eminence whatsoever in any kingdom; and, consequently, none in the kingdom of England, by reason or virtue of any authority, power, jurisdiction, or pre-eminence by Divine institution inherent in, or granted, or by any other means belonging to the Pope or the Church of Rome. This doctrine the Sacred Faculty of Divinity of Paris has always held, and upon every occasion maintained, and upon every occasion has rigidly proscribed the contrary doctrines from her schools.

Answer to the Second Query.—Neither the Pope, nor the Cardinals, nor any body of men, nor any person of the Church of Rome, can, by virtue of the keys, absolve or release the subjects of the King of England from their oath of allegiance.

This and the first query are so intimately connected, that the answer of the first immediately and naturally applied to the second, &c.

Answer to the Third Query.—There is no tenet in the Catholic Church by which Catholics are justified in not keeping faith with heretics, or those who differ from them in matters of religion. The tenet, that it is lawful to break faith with heretics, is so repugnant to common honesty and the opinions of Catholics, that there is nothing of which those who have defended the Catholic faith against Protestants have complained more heavily, than the malice and calumny of their adversaries in imputing this tenet to them, &c., &c.

Given at Paris, in the General Assembly of the Sorbonne, held on Thursday, the eleventh day before the calends of March, 1789.

Signed in due form.

University of Douay, January 5, 1789.—At a meeting of the Faculty of Divinity of the University of Douay, &c.

To the first and second queries the Sacred Faculty answers:—That no power whatsoever, in civil or temporal concerns, was given by the Almighty, either to the Pope, the Cardinals, or the Church herself, and, consequently, that kings and sovereigns are not, in temporal concerns, subject, by the ordination of God, to any ecclesiastical power whatsoever; neither can their subjects, by any authority granted, to the Pope or the Church, from above, be freed from their obedience, or absolved from their oath of allegiance.

This is the doctrine which the doctors and professors of divinity hold and teach in our schools, and this all the candidates for degrees in divinity maintain in their public theses, &c.

To the third question, the Sacred Faculty answers:—That there is no principle of the Catholic faith, by which Catholics are justified in not keeping faith with heretics, who differ from them in religious opinions. On the contrary, it is the unanimous doctrine of Catholics, that the respect due to the name of God so called to witness, requires that the oath be inviolably kept, to whomsoever it is pledged, whether Catholic, heretic, or infidels, &c.

Signed and sealed in due form.

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University of Louvain.—The Faculty of Divinity at Louvain, having been requested to give her opinion upon the questions above stated, does it with readiness—but struck with astonishment that such questions should, at the end of this eighteenth century, be proposed to any learned body, by inhabitants of a kingdom that glories in the talents and discernment of its natives. The Faculty being assembled for the above purpose, it is agreed, with the unanimous assent of all voices, to answer the first and second queries absolutely in the negative.

The Faculty does not think it incumbent upon her in this place to enter upon the proofs of her opinion, or to show how it is supported by passages in the Holy Scriptures, or the writings of antiquity. That has already been done by Bossuet, De Marca, the two Barclays, Goldastus, the Pithaeuses, Argentre Widrington, and his Majesty, King James the First, in his dissertation against Bellarmine and Du Perron, and by many others, &c.

The Faculty then proceeds to declare that the sovereign power of the state is in no wise (not even indirectly, as it is termed) subject to, or dependent upon, any other power, though it be a spiritual power, or even though it be instituted for eternal salvation, &c.

That no man, nor any assembly of men, however eminent in dignity and power, not even the whole body of the Catholic Church, though assembled in general council, can, upon any ground or pretence whatsoever, weaken the bond of union between the sovereign and the people; still less can they absolve or free the subjects from their oath of allegiance.

Proceeding to the third question, the said Faculty of Divinity (in perfect wonder that such a question should be proposed to her) most positively and unequivocally answers: That there is not, and there never has been, among the Catholics, or in the doctrines of the Church of Rome, any law or principle which makes it lawful for Catholics to break their faith with heretics, or others of a different persuasion from themselves, in matters of religion, either in public or private concerns.

The Faculty declares the doctrines of the Catholics to be, that the divine and natural law, which makes it a duty to keep faith and promises, is the same, and is neither shaken nor diminished, if those with whom the engagement is made, hold erroneous opinions in matters of religion, &c.

Signed in due form, on the 18th of Novem ber, 1788.

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University of Alcala.—To the first question, it is answered: That none of the persons mentioned in the proposed question, either individually or collectively, in counsel assembled, have any right in civil matters; but that all civil power, jurisdiction, and pre-eminence, are derived from inheritance, election, the consent of the people, and other such titles of that nature.

To the second, it is answered in like manner: That none of the persons above mentioned have a power to absolve the subjects of his Britannic Majesty from their oaths of allegiance.

To the third question, it is answered: That the doctrine which would exempt Catholics from the obligation of keeping faith with heretics, or with any other persons who dissent from them in matters of religion, instead of being an article of Catholic faith, is entirely repugnant to its tenets.

Signed in the usual form, March 17, 1789.

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University of Salamanca.—To the first question, it is answered: That neither Pope nor Cardinals, nor any assembly or individual of the Catholic Church, have, as such, any civil authority, power, jurisdiction, or pre-eminence in the kingdom of England.

To the second, it is answered: That neither Pope nor Cardinals, nor any assembly or individual of the Catholic Church, can, as such, absolve the subjects of Great Britain from their oaths of allegiance, or dispense with its obligations.

To the third, it is answered: That it is no article of Catholic faith, not to keep faith with heretics, or with persons of any other description, who dissent from them in matters of religion.

Signed in the usual form, March 7, 1789.

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University of Valadolid.—To the first question, it is answered: That neither Pope, Cardinals, or even a general council, have any civil authority, power, jurisdiction, or pre-eminence, directly or indirectly, in the kingdom of Great Britain, or over any other kingdom or province in which they possess no temporal dominion.

To the second, it is answered: That neither Pope nor Cardinals, nor even a general council, can absolve the subjects of Great Britain from their oaths of allegiance or dispense with their obligation.

To the third, it is answered: That the obligation of keeping faith is grounded on the law of nature, which binds all men equally, without respect to their religious opinions; and with regard to Catholics, it is still more cogent,

as it is confirmed by the principles of their religion.

Signed in the usual form, February 17, 1789.

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"The Roman Catholic Archbishops of Ireland, at their meeting in Dublin, in 1791, addressed a letter to the Pope, wherein they described the misrepresentations that had been recently published of their consecration oath, and the great injury to the Catholic body arising from them. * * *

"After due deliberation at Rome, the congregation of Cardinals appointed to superintend the ecclesiastical affairs of these kingdoms, returned an answer (of which the following is an extract), by the authority and command of his holiness:—

"Most Illustrious and most Reverend Lords and Brothers:—

"We perceive from your late letter, the great uneasiness you labor under since the publication of a pamphlet entitled 'The Present State of the Church of Ireland,' from which our detractors have taken occasion to renew the old calumny against the Catholic religion with increased acrimony; namely: that this religion is, by no means, compatible with the safety of kings and republics; because, as they say, the Roman Pontiff being the father and master of all Catholics, and invested with such great authority, that he can free the subjects of other kingdoms from their fidelity and oaths of allegiance to kings and princes; he has it in his power, they contend, to cause disturbances and injure the public tranquillity of kingdoms, with ease. We wonder that you could be uneasy at these complaints, especially after your most excellent brother and apostolical fellow-laborer, the Archbishop of Cashel, and other strenuous defenders of the rights of the Holy See, had evidently refuted and explained away these slanderous reproaches in their celebrated writings. In this controversy, a most accurate discrimination should be made between the genuine rights of the Apostolical See, and those that are imputed to it by innovators of this age for the purpose of calumniating. The See of Rome never taught that faith is not to be kept with the heterodox: that an oath to kings separated from the Catholic communion, can be violated: that it is lawful for the Bishop of Rome to invade their temporal rights and dominions. We, too, consider an attempt or design against the life of kings and princes, even under the pretext of religion, as a horrid and detestable crime. * * *

"At the very commencement of the yet infant church, blessed Peter, prince of the apostles, instructing the faithful, exhorted them in these words: Be ye subject to every human creature for God's sake, whether it be to the king as excelling, or to governors as sent by him for the punishment of evil doers, and for the praise of the good: for so is the will of God, that by doing well you may silence the ignorance of foolish men. The Catholic Church being directed by these precepts, the most renowned champions of the Christian name replied to the Gentiles, when raging against them, as enemies of the empire, with furious hatred: we are constantly praying (Tertullian in Apologet. chap. xxx.) that all the emperors may enjoy long life, quiet government, a loyal household, a brave army, a faithful senate, an honest people, and general tranquillity. The bishops of Rome, successors of Peter, have not ceased to inculcate this doctrine, especially to missionaries, lest any ill will should be excited against the professors of the Catholic faith in the minds of those who are enemies of the Christian name. We pass over the illustrious proofs of this fact, preserved in the records of ancient Roman Pontiffs, of which yourselves are not ignorant. We think proper, notwithstanding, to remind you of a late admonition of the most wise Pope Benedict XIV., who, in his regulations for the English missions, which are likewise applicable to you, speaks thus: The vicars Apostolic are to take diligent care that the missionaries behave on all occasions with integrity and decorum, and thus become good models to others; and particularly that they be always ready to celebrate the sacred offices, to communicate proper instructions to the people, and to comfort the sick with their assistance; that they, by all means, avoid public assemblies of idle men and taverns. * * * The vicars themselves are particularly charged to punish, in such manner as they can, but severely, all those who do not speak of the public government with respect.

"England herself can witness the deep-rooted impressions such admonitions have made on the minds of Catholics. It is well known that, in the late war, which had extended to the greater part of America, when most flourishing provinces, inhabited almost by persons separated from the Catholic Church, had renounced the government of the king of Great Britain, the Province of Canada alone, filled, as it is, almost with innumerable Catholics, although artfully tempted, and not yet forgetful of the French government, remained most faithful in its allegiance to England. Do you, most excellent prelates, converse frequently on these principles; often remind your suffragant prelates of them; when preaching to your people, exhort them, again and again, to honor all men, to love the brotherhood, to fear God, to honor the king.

"Those duties of a Christian are to be cherished in every kingdom and state, but particularly in your own, of Great Britain and Ireland, where, from the benevolence of a most wise king, and other most excellent rulers of those kingdoms, towards Catholics, no cruel and grievous burden is imposed, and Catholics themselves experience a mild and gentle government. If you pursue this line of conduct unanimously; if you act in the spirit of charity; if, while you direct the people of the Lord, you have nothing in view but the salvation of souls, adversaries will be ashamed

(we repeat it) to calumniate, and will freely acknowledge that the Catholic faith is of heavenly descent, and calculated not only to procure a blessed life, but likewise, as St. Augustin observes, in his one hundred and thirty-eighth letter, addressed to Marcellinus, to promote the most lasting peace of this earthly city, inasmuch as it is the safest prop and shield of kingdom. Let those who say (the words are those of the holy doctor) that the doctrine of Christ is hostile to the republic, produce an army of such soldiers as the doctrine of Christ has required; let them furnish such inhabitants of provinces, such husbands, such wives, such parents, such children, such masters, such servants, such kings, such judges, finally, such payers of debts and collectors of the revenue, as the doctrine of Christ enjoins, and then they may dare to assert that it is inimical to the republic—rather let them not hesitate to acknowledge that it is, when practised, of great advantage to the republic. The same holy doctor, and all the other fathers of the Church, with one voice, most clearly demonstrate, by invincible arguments, that the whole of this salutary doctrine cannot exist with permanent consistency and stability, or flourish except in the Catholic society, which is spread and preserved all over the world, by communion with the See of Rome, as a sacred bond of union, divinely connecting both. From our very high esteem and affection for you, we earnestly wish that the great God may very long preserve you safe. Farewell.

"As your lordship's most affectionate brother,

"L. Cardinal Antonelli, Prefect.

"A. Archbishop of Aden, Secretary.

"Rome, June 23, 1791."

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The following document was drawn up by the Roman Catholic committee in Dublin, and published by them on the 17th of March, 1792, after it had been submitted to the Archbishops and Bishops of Ireland, and received their entire sanction. To give it greater weight, the same instrument was put into the form of an oath, retaining, as far as possible, the very words. It was then submitted to the Pope and Cardinals, who solemnly declared that it was consonant to, and expressive of, the Roman Catholic doctrine; and then it was taken by the Catholic archbishops, bishops, priests, and laity of Ireland.

"We the Catholics of Ireland, in deference to the opinion of many respectable bodies and individuals among our Protestant brethren, do hereby, in the face of our country, of all Europe, and before God, make this, our deliberate and solemn declaration.

"We abjure, disavow, and condemn the opinion, that princes excommunicated by the Pope, and council, or by any ecclesiastical authority whatsoever, may, therefore, be deposed or murdered by their subjects, or by any other persons. We hold such doctrine in detestation, as wicked and impious; and we declare that we do not believe that either the Pope, with or without the general council, or any prelate or priest, or any ecclesiastical power whatsoever, can absolve the subjects of this kingdom, or any of them, from their allegiance to his Majesty King George III., who is, by authority of Parliament, the lawful king of this realm.

"2. We abjure, condemn, and detest as unchristian and impious, the principle that it is lawful to murder, or destroy, or anywise injure any person whatsoever, for or under the pretence of being heretics; and we declare solemnly before God, that we believe no act in itself unjust, immoral, or wicked, can ever be justified or excused by or under the pretence or color that it was done either for the good of the Church, or in obedience to any ecclesiastical power whatsoever.

"3. We further declare, that we hold it as unchristian and impious principle, that 'no faith is to be kept with heretics.' This doctrine we detest and reprobate, not only as contrary to our religion, but as destructive of morality, of society, and even of common honesty; and it is our firm belief, that an oath made to any person not of the Catholic religion, is equally binding as if it were made to any Catholic whatsoever.

"4. We have been charged with holding, as an article of our belief, that the Pope, with or without a general council, or that certain ecclesiastical powers, can acquit or absolve us before God from our oaths of allegiance, or even from the just oaths or contracts entered into between man and man.

"Now we utterly renounce, abjure, and deny that we hold or maintain any such belief, as being contrary to the peace and happiness of society, inconsistent with morality, and above all, repugnant to the true spirit of the Catholic religion."

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Below we give an extract from an address of the Bishops of the Catholic Church recently assembled in council at Baltimore:—

Beloved brethren of the laity, we embrace you all with paternal affection, and entreat you to walk circumspectly, for the days are evil. You know what manner of precepts we have given you in the name of the Lord Jesus; for this is the will of God, your sanctification. Be peaceful, sober, just, and faithful in the performance of all duties towards all mankind. Practise patience, forbearance, charity towards all. In the exercise of your rights as free citizens, remember your responsibility to God, and act as freemen; but not as having liberty as a cloak for malice, but as the servants of God. Respect and obey the constituted authorities; for all power is from God, and they that resist the ordinances of God, purchase for themselves damnation. To the general and state governments you owe allegiance in all that regards the civil order; the authorities of the Church challenge your obedience in the things of salvation. We have no need of pressing this distinction, which you

fully understand and constantly observe. You know that we have uniformly taught you, both publicly and privately, to perform all the duties of good citizens, and that we have never exacted of you, as we ourselves have never made even to the highest ecclesiastical authority, any engagement inconsistent with the duties we owe to the country and its laws.

On every opportune occasion we have avowed these principles, and even in our communication to the late pontiff we rejected as a calumny the imputation that we were in civil matters subject to his authority. Be not disturbed at the misstatements of our tenets which are daily made, or at the efforts to deprive us of our civil rights and of the confidence and esteem of our fellow-citizens. Formidable as is the combination for this purpose, we do not despair that the justice and good sense of the nation will soon discover the groundless character of the suspicion thrown on the fidelity of Catholics, whose religion teaches them to respect and maintain the established order of society, under whatsoever form or government they may be placed. Brethren, let the light of your example shine before men, that they may see your good works and glorify your Father who is in Heaven. Pray for the conversion and salvation of all men, for this is the will of God, who desires that men may be saved and may come to the knowledge of the truth.

Given under our hands in Provincial Council at Baltimore, the 13th day of May, in the year of our Lord 1855.

† Francis Patrick, Archbishop of Baltimore.
† Rich. Vincent, Bishop of Wheeling.
† Michael, Bishop of Pittsburgh.
† John, Bishop of Richmond.
† John Nepomucene, Bishop of Philadelphia.
† Josue, Bishop of Erie.
John Berry, Adm'r of Savannah.
P. N. Lynch, D. D., Adm'r of Charlestown.

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Richmond, April 18, 1855.

Rev. Sir: Having heard and read much declamation against the Catholics, because of the alleged temporal power of the Pope, I take the liberty to inquire of you whether the Catholics in Virginia do acknowledge any temporal allegiance to the Pope; and whether, if this country could be and was assailed or invaded by the army of the Pope (if he had one), or by any other Catholic power, the Catholic citizens of this country, no matter where born, would not be as much bound to defend the flag of America, her rights and liberty, as any native-born citizen would be; and whether the performance of that duty would conflict with any oath, or vow, or other obligation of the Catholics?

My purpose is, with your leave, to make this note and your reply to it public.

With high respect, your friend, &c.,

James Lyons.

Richmond, Va., April 19, 1855.

Dear Sir: The letter, which you have addressed to me, contains three questions, to which you ask an answer, with a view to publication.

First Question: "Whether the Catholics in Virginia do acknowledge any temporal allegiance to the Pope?"

To this I answer, that unless there be in Virginia some Italians who owe allegiance to the Pope as a temporal prince, because they were born in his states, and are not naturalized citizens of this country, there are no Catholics in Virginia who owe or acknowledge any temporal allegiance to the Pope.

Second Question: "Whether, if this country could be and was assailed and invaded by the army of the Pope (if he had one), or by any other Catholic power, the Catholic citizens of this country, no matter where born, would not be as much bound to defend the flag of America, her rights and liberty, as any native-born citizens would be?"

Answer: To me, the hypothesis of an invasion of our country by the Pope, seems an absurdity; but should he come with armies to establish temporal dominion here, or should any other Catholic power make such an attempt, it is my conviction that all Catholic citizens, no matter where born, who enjoy the benefits and franchises of the Constitution, would be conscientiously bound, like native-born citizens, to defend the flag, rights and liberties of the republic, and repel such invasion.

Third Question: "Whether the performance of that duty would conflict with any oath, or vow, or other obligation of the Catholic?"

Answer: Catholics, reared in the Church as such, have not the custom of taking any oaths or vows, except the baptismal vows, "to renounce the Devil, his works and pomps." Persons converted to the faith, or those receiving degrees in theology, may be required to take the oath contained in the creed of Pius IV. of obedience to the Pope, which, as far as I know, has always been understood and interpreted to signify a spiritual obedience to him as head of the Church, and not obedience to him as a temporal prince. Bishops, on their consecration, also take an oath which, in our country, is different from the old form used in Europe. But none of these vows, oaths, and no other obligation of which I am aware, conflicts with the duty of a citizen of the United States to defend the flag and liberties of his country.

In conclusion, allow me to state that, as we have no article of faith teaching that the Pope, of divine right, enjoys temporal power as head of the Church, whatever some theologians or writers may have said on this point, must, like my answers to your inquiries, be considered as opinions for which the writers themselves only can be held responsible.

Yours, very truly, &c.,

J. McGill,
Bishop of Richmond.

Tennessee.

The Act approved May 26, 1790, provided a government for the territory of the United States south of the river Ohio, the same as that for the government of the Northwest Territory, except so far as was otherwise provided in the conditions expressed in an act of Congress entitled An act to accept a cession of the claims of the state of North Carolina to a certain district of western territory.

Amongst the conditions referred to above, contained in the act of April 2, 1790, embraced in the deed of cession from North Carolina to the United States, was the following:—

"Provided, that no regulations made or to be made by Congress, shall tend to emancipate slaves."

On the 8th of April, 1796, President Washington communicated to Congress that, amongst the privileges, benefits, and advantages secured to the inhabitants of the territory south of the Ohio, by the act of May 26, 1790, appeared to be the right of forming a permanent constitutional and state government, and of admission as a state, &c.; that Governor Blount had transmitted proofs of the several requisites to entitle the territory south of the Ohio to such admission, which, with the constitution thereof, and form of government on which they have agreed, &c., he now laid before Congress.

The Senate instructed a committee to bring in a bill for laying out into one state the territory ceded by the state of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof. This instruction was in pursuance of the report of the committee to whom was referred President Washington's message.

That report opposed the immediate admission of the state so formed out of said territory, upon the ground—

"That Congress must have previously enacted that the whole of the territory ceded by North Carolina, and which is only a part of the territory of the United States south of Ohio, should be laid out by Congress for one state before the inhabitants thereof (admitting them to amount to sixty thousand free persons) could claim to be admitted as a new state into the Union."

The bill reported from the committee being before the Senate on the 26th of May, 1796, it was passed by yeas and nays as follows:—

Yeas.—Messrs. Bingham of Pa., Bradford of R. I., Brown of Ky., Foster of R. I., Gunn of Ga., Latimer of Del., Martin of N. C., Potts of Md., Read of S. C., Ross of Pa., Rutherford of N. J., Strong of Mass., Tatnall of Ga., Tazewell of Va., Trumbull of Conn.—15.

Nays.—Messrs. Bloodworth of N. C., Burr of N. Y., Butler of S. C., Henry of Md., Langdon of N. H., Livermore of N. H., Marshall of Ky., Robinson of Vt.—8.

On the 28th of May, 1796, Mr. Giles, in the House of Representatives, made a report from the committee to whom was referred the bill from the Senate, recommending a change in the principles of the Senate bill. The report contended that the proceedings of these people had been so far regular as to authorize their immediate admission as a state, and opposed the plan of the Senate to delay the same, and order a census to be taken, &c. The report was supported by Messrs. Giles, Nicholas, Madison, Gallatin, Venable, W. Lyman, and Holland; and opposed by Messrs. W. Smith, Sitgreaves, Thatcher, Coit, and Harper.

The question was then taken on amending the Senate bill to conform to the report, when the amendment was carried by yeas and nays as follows:—

Yeas.—Messrs. Bailey of N. Y., Baldwin of Ga., Burd of Pa., Benton, Blount of N. C., Brent of Va., Bryan of N. C., Cabell of Va., Claiborne of Va., Coles of Va., Crabb of Md., Earle of S. C., Findley of Pa., Franklin of N. C., Gallatin of Pa., Giles of Va., Gillespie of N. C., Greenup of Ky., Grove of N. C., Hampton of S. C., Hancock of Va., Harrison of Va., Hathorn of N. Y., Havens of N. Y., Heath of Va., Heister of Pa., Holland of N. C., Jackson of Va., Locke of N. C., Lyman, Maclay of Pa., Macon of N. C., Madison of Va., Milledge of Ga., Moore of Va., New of Va., Nicholas of Va., Preston of Va., Richards of Pa., Rutherford of Va., Smith of Vt., Sprigg of Md., Thos. Sprigg, Swanwick of Pa., Tatam of N. C., Vancortlandt of N. Y., Venable of Va., Winn of S. C.—48.

Nays.—Messrs. Bourne of R. I., Bradbury of Mass., Coit of Conn., Cooper of N. Y., Dent of Md., A. Foster of N. H., D. Foster of Mass., Gilbert of N. Y., Gilman of N. H., Glen of N. Y., Goodrich of Conn., Griswold of Conn., Harper of S. C., Hindman of Md., Kittera of Pa., Lyman of Mass., Malbone of R. I., Murray of Md., Sitgreaves of Pa., J. Smith of N. H., N. Smith of Conn., J. Smith of N. J., W. Smith of S. C., Swift of Conn., Thatcher of Mass., Thompson of N. J., Tracy of Conn., Van Allen of N. J., Wadsworth of Mass., Williams of N. Y.—30.

The House then provided that said state (Tennessee) should be entitled to one representative until the next general census.

On the 30th of May, 1796, the bill was passed by the House.

A conference was agreed on by the two Houses, which reported that the Senate recede from its disagreement to the amendment of the House. The Senate receded, and the act, by the approval of the President, became a law on the 1st of June, 1796, and Tennessee was admitted into the Union upon a constitution formed without the previous authority of Congress assenting to her doing so.

Texas.

Annexation of.

The treaty negotiated with Texas for her annexation to the Union, by the administration of Mr. Tyler, was rejected by the Senate by the following vote:—

Yeas.—Messrs. Atchison of Mo., Bagby of Ala., Breese of Ill., Buchanan of Pa., Colquitt of Ga., Fulton of Ark., Haywood of N. C., Henderson of Miss., Huger of S. C., Lewis of Ala., McDuffie of S. C., Semple of Miss., Sevier of Ark., Sturgeon of Pa., Walker of Miss., Woodbury of N. H.—16.

Nays.—Messrs. Allen of O., Archer of Va., Atherton of N. H., Barrow of La., Bates of Mass., Bayard of Del., Benton of Mo., Berrien of Ga., Choate of Mass., T. Clayton of Del., Crittenden of Ky., Dayton of N. J., Evans of Me., Fairfield of Me., Foster of Tenn., Francis of R. I., Huntington of Conn., Jarnagin of Tenn., Johnson of Md., Mangum of N. C., Merrick of Md., Miller of N. J., Morehead of Ky., Niles of Conn., Pearce of Md., Phelps of Vt., Porter of Mich., Rives of Va., Simmons of R. I., Tallmadge of N. Y., Tappan of O., Upham of Vt., White of Ind., Woodbridge of Mich., Wright of N. Y.—35.

In the House of Representatives, 12th of Dec., 1844, Mr. C. J. Ingersoll of Pa., from the Committee on Foreign Relations, reported joint resolutions for the annexation of Texas.

Messrs. Weller of Ohio, Douglas of Ill., Tibbatts of Ky., Belser of Ala., Milton Brown of Tenn., Dromgoole of Va., McDowell of Ohio, Burke of N. H., Preston King of N. Y., and Robinson of N. Y., respectively introduced bills for the annexation of Texas.

The resolutions reported by Mr. Ingersoll, and those introduced by Messrs. Weller, Belser, as also the bills of Messrs. Dromgoole and McDowell, were silent on the subject of the Missouri compromise and slavery.

Mr. Tibbatts' bill contained a prohibition of slavery north of 36° 30′.

Mr. Douglas's resolutions embraced the following provision:—

"That nothing herein contained shall be so construed as to affect, or in any way to interfere, with the 6th section of the act approved the 6th of March, 1820, admitting the state of Missouri into the Union, and commonly called the Missouri compromise; that act having been passed and approved prior to the ratification of the treaty commonly called the Florida treaty, by which Texas was ceded to Spain."

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The propositions of Messrs. Brown and Burke contained the following provisions respectively:—

"And such states as may be formed out of that portion of said territory lying south of 36° 30′ north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each state asking permission may desire."

The bill of Mr. Preston King of N. Y., and that introduced by Mr. Robinson of N. Y., contained this provision respectively:—

"That such constitution shall contain a provision ceding to the United States the jurisdiction of the residue of the territory of Texas, in which slavery shall not exist, unless Congress shall hereafter so determine by law; and this act of admission shall not be construed to imply any assumption of, or intention on, the part of the United States . . . to impair the right of said state to the soil, &c., . . . or the right of the state of Texas to determine whether slavery shall or shall not exist in said state."

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On the 28th of January, 1845, Mr. M. Brown of Tenn. moved his resolutions, containing the provision before referred to, as an amendment.

Mr. Douglas of Ill. asked the gentleman to accept the following as a modification of his amendment, to come in after the last clause:—

"And in such states as shall be formed out of said territory, north of said Missouri compromise line, slavery or involuntary servitude except for crime shall be prohibited."

Mr. Brown accepted the modification.

Mr. Brown's proposition as modified was adopted in the Committee of the Whole.

The question in the House on the amendment of the Committee of the Whole, being the proposition of Mr. Brown as modified by Mr. Douglas, it was agreed to by yeas and nays as follows:—

YEAS.—Messrs. Arrington of N. C., Ashe of Tenn., Atkinson of Va., Bayly of Va., Belser of Ala., Bidlack of Pa., E. J. Black of Ga., James Black of Pa., Jas. A. Black of S. C., Blackwell of Tenn., Bower of Mo., Bowlin of Mo., Boyd of Ky., Brodhead of Pa., A. V. Brown of Tenn., M. Brown of Tenn., Wm. J. Brown of Ind., Burke of N. H., Burt of S. C., Caldwell of Ky., Campbell of S. C., Shepherd Cary of Me., R. Chapman of Ala., Chapman of Va., Chappell of Ga., Clinch of Ga., Clinton of N. Y., Cobb of Ga., Coles of Va., Cross of Ark., Cullom of Tenn., Daniel of N. C., J. W. Davis of Ind., Dawson of La., Dean of O., Dellet of Ala., Douglas of Ill., Dromgoole of Va., Duncan of O., Ellis of N. Y., Farlee of N. J., Ficklin of Ill., Foster of Pa., French of Ky., Fuller of Pa., Hammett of Miss., Haralson of Ga., Hays of Pa., Henly of Ind., Holmes of S. C., Hoge of Ill., Hopkins of Va., Houston of Ala., Hubard of Va., Hubbell of N. Y., Hughes of Mo., Chas. J. Ingersoll of Pa., Jameson of Mo., Cave Johnson of Tenn., Andrew Johnson of Tenn., George W. Jones of Tenn., Andrew Kennedy of Ind., Kirkpatrick of N. J., Labranche of La., Leonard of N. Y., Lucas of Va., Lumpkin of Ga., Lyon of Mich., Maclay of N. Y., McClernand of Ill., McConnell of Ala., McDowell of O., McKay of N. C., Mathews of O., Morse of La., Murphy of N. Y., Newton of Va., Norris of N. H., Owen of Ind., Parmenter of Mass., Payne of Ala., Pettit of Ind., Peyton of Tenn., E. D. Potter of Conn., Pratt of N. Y., D. S. Reid of N. C., Relfe of Mo., Rhett of S. C., Ritter of Pa., Roberts of Miss., Russell of N. Y., Saunders of N. C., Senter of Tenn., Thomas H. Seymour of Conn., Simons of Conn., Simpson of S. C., Slidell of La., John T. Smith of Pa., Thomas Smith of Ind., Robert Smith of Ill., Steenrod of Va., Stephens of Ga., Jno. Stewart of Conn., Stiles of Ga., Jas. W. Stone of Ky., Alfred P. Stone of O., Strong of N. J., Sykes of N. J., Taylor of Va., Thompson of Miss., Tibbatts of Ky., Tucker of Miss., Weller of O., Wentworth of Ill., Woodward of S. C., Jos. A. Wright of Ind., Yancey of Ala., Yost of Pa.—118.

NAYS.—Messrs. Abbot of Mass., Adams of Mass., Anderson of N. Y., Baker of Mass., Barringer of N. C., Barnard of N. Y., Benton of N. Y., Brangle of Md., Brinkerhoff of O., J. Brown of Pa., Buffington of Pa., Carpenter of N. Y., J. E. Cary of N. Y., Carroll of N. Y., Catlin of Conn., Causin of Md., Chilton of Va., Clingman of N. C., Collamer of Vt., Cranston of R. I., Dana of N. Y., Darragh of Pa., G. Davis of Ky., R. D. Davis of N. Y., Deberry of N. C., Dickey of Pa., Dillingham of Vt., Dunlap of Me., Elmer of N. J., Fish of N. Y., Florence of O., Foot of Vt., Giddings of O., Goggin of Va., Willis Green of Ky., B. Green of N. Y., Grinnell of Mass., Grider of Ky., Hale of N. H., H. Hamlin of Me., E. S. Hamlin of O., Hardin of Ill., Harper of O., Herrick of Me., Hudson of Mass., Wash. Hunt of N. Y., Jas. B. Hunt of Mich., Jos. R. Ingersoll of Pa., Irvin of Pa., Jenks of Pa., P. B. Johnson of O., J. P. Kennedy of Md., P. King of N. Y., D. P. King of Mass., McCauslen of O., McClelland of Mich., McIlvaine of Pa., Marsh of Vt., Edw. J. Morris of Pa., Jos. Morris of O., F. H. Morse of Me., Mosely of N. Y., Nes of Pa., Patterson of N. Y., Phœnix of N. Y., Pollock of Pa., E. R. Potter of R. I., Preston of Md., Purdy of N. Y., Ramsey of Pa., Rathbun of N. Y., Raynor of N. C., Redding of N. H., Robinson of N. Y., Rockwell of Mass., Rodney of Del., Rogers of N. Y., St. John of O., Sample of Ind., Schenck of O., Severance of Me., David L. Seymour of N. Y., Albert Smith of N. Y., C. B. Smith of Ind., Spence of Md., Stetson of N. Y., Andrew Stewart of Pa., Summers of Va., Thomasson of Ky., Tilden of O., Tyler of N. Y., Vance of O., Van Metre of O., Vinton of O., Wethered of Md., Wheaton of Mass., John White of Ky., White of Me., Williams of Mass., Winthrop of Mass., Wm. Wright of N. Y.—101.

The vote on the passage of the resolution was the same as the above vote on the amendment, with the exception that Messrs. McCauslen and Morris of Ohio, who voted against the amendment, voted for the resolution, and Mr. Spence of Md., who voted against the amendment, did not vote on the resolution at all, which made the vote on the passage of the resolution, yeas 120, nays 98.

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In the Senate, Feb. 27, 1845. The resolutions from the House, providing for the annexation of Texas, being before the body, Mr. Walker of Miss. offered as an amendment to the same sec. 3 of the resolution, as hereinafter published in the form in which they became a law.

Mr. Foster of Tenn. offered the following as an amendment to the amendment of Mr. Walker:—

And provided further, That in fixing the terms and conditions of such admission, it shall be expressly stipulated and declared, that the state of Texas, and such other states as may be formed of that portion of the present territory of Texas lying south of 36° 30′ north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each state so hereafter asking admission may desire.

Mr. Foster's amendment was rejected by yeas and nays as follows:—

YEAS.—Messrs. Archer of Va., Bayard of Del., Barrow of La., Berrien of Ga., Clayton of Del., Crittenden of Ky., Foster of Tenn., Hannegan of Ind., Huger of S. C., Jarnagin of Tenn., Johnson of Md., Mangum of N. C., Merrick of Md., Morehead of Ky., Pearce of Md., Phelps of Vt., Rives of Va., Sevier of Ark.—18.

NAYS.—Messrs. Allen of O., Ashley of Ark., Atchison of Mo., Atherton of N. H., Bagby of Ala., Bates of Mass., Benton of Mo., Breese of Ill., Buchanan of Pa., Choate of Mass., Colquitt of Ga., Dayton of N. J., Dickinson of N. Y., Dix of N. Y., Evans of Me., Fairfield of Me., Francis of R. I., Haywood of N. C., Henderson of Miss., Huntington of Conn., Lewis of Ala., McDuffie of S. C., Miller of N. J., Niles of Conn., Porter of Mich., Semple of Miss., Sturgeon of Pa., Tappan of O., Upham of Vt., Walker of Miss., White of Ind., Woodbridge of Mich., Woodbury of N. H.—33.

The amendment of Mr. Walker was then agreed to by a vote of yeas 27, nays 25; and the resolutions of the House, as amended, were passed. The yeas and nays, on the third reading, were as follows:—

YEAS.—Messrs. Allen of O., Ashley of Ark., Atchison of Mo., Atherton of N. H., Bagby of Ala., Benton of Mo., Breese of Ill., Buchanan of Pa., Colquitt of Ga., Dickinson of N. Y., Dix of N. Y., Fairfield of Me., Hannegan of Ind., Haywood of N. C., Henderson of Miss., Huger of S. C., Johnson of Md., Lewis of Ala., McDuffie of S. C., Merrick of Md., Niles of Conn., Semple of Miss., Sevier of Ark., Sturgeon of Pa., Tappan of O., Walker of Miss., Woodbury of N. H.—27.

NAYS.—Messrs. Archer of Va., Barrow of La., Bates of Mass., Bayard of Del., Berrien of Ga., Choate of Mass., Clayton of Del., Crittenden of Kentucky, Dayton of N. J., Evans of Me., Foster of Tenn., Francis of R. I., Huntington of Conn., Jarnagin of Tenn., Mangum of N. C., Miller of N. J., Morehead of Ky., Pearce of Md., Phelps of Vt., Porter of Mich., Rives of Va., Simmons of R. I., Upham of Vt., White of Ind., Woodbridge of Mich.—25.

The amendment of the Senate was concurred in by the House the 28th of Feb. 1845, by a vote of yeas 132, nays 76, and the resolutions became a law in the following shape:—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within and rightfully belonging to the republic of Texas, may be erected into a new state, to be called the state of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the states of this Union.

2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: *First.* Said state to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. *Second.* Said state, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said state may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. *Third.* New states, of convenient size, not exceeding four in number, in addition to said state of Texas, and having sufficient population, may hereafter, by the consent of said state, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such states as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each state asking admission may desire. And in such state or states as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude (except for crime), shall be prohibited.

3. *And be it further resolved, That if the President of the United States shall in his judgment and discretion deem it most advisable, instead of proceeding to submit the foregoing resolution to the republic of Texas, as an overture on the part of the United States for admission, to negotiate with that republic; then,*

Be it resolved, That a state to be formed out of the present republic of Texas with suitable extent and boundaries, and with two representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing states, as soon as the terms and conditions of such admission, and the cession of the remaining Texan territory to the United States shall be agreed upon by the governments of Texas and the United States: And that the sum of one hundred thousand dollars be and the same is hereby appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate, or by articles to be submitted to the two

Houses of Congress, as the President may direct.

Approved March 1, 1845.

JOHN TYLER,
President.

President Tyler, in pursuance of the discretion vested in him by the resolutions, adopted the legislative clause thereof and sent a special messenger to Texas to procure its sanction by that republic.

Texas having assented to and accepted the proposals, conditions, and guarantees contained in the resolutions providing for her annexation, Mr. Douglas of Illinois introduced and reported a joint resolution in the House of Representatives on the 10th of December, 1845, from the Committee on Territories, providing for her admission into the Union.

The joint resolution of Mr. Douglas admitting Texas was passed in the House on the 16th of December, 1845, by yeas and nays as follows:—

YEAS.—Messrs. Adams of Miss., Anderson of N. Y., Atkinson of Va., Baker of Ill., Barringer of N. C., Bayly and Bedinger of Va., Biggs of N. C., Black of Pa., Black of S. C., Bowlin of Mo., Boyd of Ky., Brinkerhoff of O., Brodhead of Pa., Milton Brown of Tenn., Brown of Va., Burt of S. C., Cabell of Fla., Campbell of Pa., Cathcart of Ind., Chapman of Va., Chapman of Ala., Chase of Tenn., Chipman of Mich., Clarke of N. C., Cobb of Ga., Cocke of Tenn., Colin of N. Y., Constable of Md., Crozier of Tenn., Cullom of Tenn., Cummins of O., Cunningham of O., Daniel of N. C., Davis of Miss., De Mott of N. Y., Dillingham of Vt., Dobbin and Dockery of N. C., Douglas of Ill., Dromgoole of Va., Dunlap of Me., Ellsworth of Ind., Erdman of Pa., Farau of O., Ficklin of Ill., Foster of Pa., Fries of O., Garvin of Pa., Gentry of Tenn., Giles of Md., Goodyear of N. Y., Gordon of N. Y., Graham of N. C., Grider of Ky., Grover of N. Y., Hamlin of Me., Haralson of Ga., Henley of Ind., Hilliard of Ala., Hoge of Ill., Hopkins of Va., Hough of N. Y., Houston of Ala., Hubard of Va., Hungerford of N. Y., Hunt of Mich., Hunter of Va., Ingersoll of Pa., Jenkins of N. Y., Johnson of N. H., Johnson of Va., Johnson of Tenn., Jones of Tenn., Jones of Ga., King of Ga., Lawrence of N. Y., Leake of Va., Leib of Pa., Ligon of Md., Lumpkin of Ga., Maclay of N. Y., McLean of Pa., McClelland of Mich., McCleonand of Ill., McConnell of Ala., McCrate of Me., McDowell of Va., McHenry of Ky., McKay of N. C., Martin of Ky., Martin of Tenn., Morris of O., Morse of La., Moulton of N. H., Niven of N. Y., Norris of N. H., Owen of Ind., Parish of O., Payne of Ala., Pendleton of Va., Perrill of O., Perry of Md., Pettit of Ind., Price of Mo., Rathbun of N. Y., Reid of N. C., Relfe of Mo., Ritter of Pa., Roberts of Miss., Russell of N. Y., Sawtelle of Me., Seddon of Va., Sims of S. C., Simms of Mo., Simpson of S. C., Smith of Ind., Smith of Ill., Stanton of Tenn., Stephens of Ga., St. John of O., Stroug of N. Y., Sykes of N. J., Thibodeaux of La., Thomasson of Ky., Thompson of Pa., Thompson of Miss., Thurman of O., Tibbatts of Ky., Toombs of Ga., Treadway of Va., Trumbo of Ky., Wentworth of Ill., Williams of Me., Wick of Ind., Wilmot of Pa., Woodward of S. C., Woodworth of N. Y., Yancey of Ala., Yell of Ark., Young of Ky. —141.

NAYS.—Messrs. Abbott of Mass., Ashmun of Mass., Adams of Mass., Arnold of R. I., Blanchard of Pa., Buffington of Pa., Campbell of N. Y., Chapman of Md., Collamer of Vt., Cranston of R. I., Culver of N. Y., Darragh of Pa., Delano of O., Dixon of Conn., Ewing of Pa., Foot of Vt., Giddings of O., Grinnell of Mass., Hampton of N. J., Harper of O., Herrick of N. Y., Holmes of N. Y., Houston of Del., Hubbard of Conn., Hudson of Mass., Hunt of N. Y., J. R. Ingersoll of Pa., King of Mass., King of N. Y., Lewis of N. Y., Levin of Pa., McGanghey of Ind., McIlvaine of Pa., Marsh of Vt., Miller of N. Y., Pollock of Pa., Ramsey of Pa., Rockwell of Conn., Rockwell of Mass., Root of O., Runk of N. J., Schenck of O., Seaman of N. Y., Severance of Me., Smith of Conn., Smith of N. Y., Smith of Ind., Stewart of Pa., Strohm of Pa., Thompsou of Pa., Tilden of O., Vance of O., Vinton of O., Wheaton of N. Y., White of N. Y., Winthrop of Mass., Wood of N. Y., Woodruff of N. Y.—57.

The resolution of the House was passed in the Senate on the 22d of December, 1845, by yeas and nays as follows:—

YEAS.—Messrs. Allen of O., Archer of Va., Ashley of Ark., Atchison of Mo., Atherton of N. H., Bagby of Ala., Barrow of La., Benton of Mo., Berrien of Ga., Breese of Ill., Calhoun of S. C., Cass of Mich., Chalmers of Miss., Colquitt of Ga., Dickinson and Dix of N. Y., Fairfield of Me., Hannegan of Ind., Haywood of N. C., Jenness of N. H., Johnson of La., Levy of Fla., Lewis of Ala., Mangum of N. C., Niles of Conn., Pennybacker of Va., Sevier of Ark., Speight of Miss., Sturgeon of Pa., Turney of Tenn., Westcott of Fla.—31.

NAYS.—Messrs. T. Clayton of Del., J. M. Clayton of Del., Corwin of O., Davis of Mass., Dayton of N. J., Evans of Me., Greene of R. I., Huntington of Conn., Miller of N. J., Phelps of Vt., Simmons of R. I., Upham of Vt., Webster of Mass., Woodbridge of Mich.—14.

So Texas was admitted into the Union.

On the 26th of March, 1846, the Hon. Thomas J. Rusk took his seat in the Senate as a Senator from Texas, and on the 30th of March his colleague, the Hon. Samuel Houston, took his seat.

On the 1st of June Mr. David S. Kaufman, member elect from the state of Texas, took his seat in the House, and on the 10th of June his colleague, Mr. Timothy Pillsbury, also took his seat.

Thompson's Claim.

OPINION OF ATTORNEY-GENERAL BLACK THEREON.

Att. Gen. Office, March 24, 1857.

Sir: I have received your letter relative to the claim of R. W. Thompson, together with Mr. Guthrie's letter calling your attention to it, and several other papers pertaining to the same matter.

By the 27th section of the Civil and Diplomatic Appropriation Bill, passed and approved on the 3d of March, 1855, it is enacted that the Secretary of the Treasury shall pay to R. W. Thompson, out of any money in the Treasury not otherwise appropriated, one-half of the amount stipulated for between him and the Menomonee Indians, in a memorial and an agreement, which are specified and described in the act.

I have given, not the words, but the substance of the act. It is so unambiguous, simple, and plain, that no man can misunderstand it. I am not aware that any question has ever been raised about its meaning, or that any two persons in or out of the government have understood its mandate in different senses. Nor can there be any intrinsic difficulty in the way of rendering obedience to it. What it commands to be done may easily be done, if the Secretary of the Treasury see proper to do it. It is but looking at the memorial and agreement referred to in the law, and dividing the amount there stipulated for into halves, and one of the halves is the sum which you are commanded to pay out of any unappropriated funds in the Treasury. I repeat, therefore, that on the face of the law there can be neither doubt of Mr. Thompson's right, nor difficulty about the performance of your duty.

But it seems from the letter of Mr. Guthrie and the opinion of Mr. Cushing that soon after the passage of the act an allegation was made by some one that a proviso materially changing its effect had been agreed to by both

Houses, but left out of the enrolled bill. What evidence this assertion was supported by I know not. I take it for granted that it must have been strong, since it was sufficient to convince the judgment of your predecessor and mine. You have not made the evidence on that point a part of the present case, and, for reasons which will be apparent hereafter, I have not sought it out. We cannot go behind the written law itself for the purpose of ascertaining what the law is. An act of Congress examined and compared by the proper officers, approved by the President, and enrolled in the Department of State, cannot afterward be impugned by evidence to alter and contradict it. It imparts the absolute verity of a record, at least in so far that no intrinsic proof can be received to erase one thing from it, or to interpolate another into it. If there be an apparent conflict between the journals and the law as finally approved and enrolled, the journals have no claim to superior authenticity. It certainly has happened very often, and may happen any day, that a clerk neglects to note down the result of a vote which strikes out a clause or section from a bill on its passage. On the strength of such a hiatus in the journal, who would say that the section stricken out should be considered part of the law after it is passed and enrolled?

If the law is to be looked for in the journals, the President ought to examine all the journals of both Houses before he approves a bill, for they may contain evidence of provisions which are not in the bill, and which he would not approve of. But this mode of finding laws in the journals would make enactments neither approved by the executive nor passed by the constitutional majority of two-thirds. This is not all. If the law may be changed by reference to the journals, any other evidence, written or parol, may be received for the same purpose. An act of Congress which has gone through all the forms of the Constitution, and is authenticated according to law, may afterward be mended or marred by the testimony of any spectator who happened to be present when it passed. What is in, or what is not in a statute, must then be a question as open to contradictory proof on both sides as the terms of a horse trade. And who shall decide such disputes when they arise? The judiciary? It would be a new service to the judges; but perhaps with the aid of juries and some enlargement of equity powers, to perpetuate testimony, a sort of justice might be accomplished in some cases with a great deal of trouble. But an executive or ministerial officer wanting those aids for the investigation of truth would often be obliged to decide at random. We must take the acts of Congress as we find them, without addition or diminution. This rule is so obviously necessary that no other has ever been seriously proposed.

The clause which it is said Congress intended to insert, but did not, in the bill authorizing the payment to Mr. Thompson, is as follows: "Provided, That the same be paid with the consent of the Menomonees." If this had actually been part of the law it would have made his right to the money conditional. He would in that case have been obliged to get from the Indians a new assent in addition to that which they had previously given in their memorial and agreement. But this proviso being omitted, his right to the money was absolute. I need not say that such an omission cannot be supplied by construction, nor do I see how the omitted proviso can upon any ground whatever be treated as part of the law.

On account of the supposed accident or design by which the proviso was omitted, the late Secretary of the Treasury, acting under advice of the Attorney-General, refused to pay Mr. Thompson the money which, by the terms of the act, he was entitled to, and the execution of the law as it stood was suspended by the President until Congress could be consulted on it. I do not presume to discuss the propriety of this measure. That it was well meant, I am sure; but, at all events, it is past and done. If it was right, the country has the benefit of a good example; and if it was wrong it cannot now be recalled. But the object and purpose for which the Attorney-General advised the suppression of the law, has been fully carried out. Congress was consulted, and the facts communicated in a message of the President. There have been three sessions since that time, and the law stands yet unchanged in every letter. The lower House seems to have taken no notice of the subject. But the Senate, on the 8th of August, 1856, passed a resolution solemnly expressing its opinion that Richard W. Thompson was entitled to be paid the sum appropriated by the 27th section of the civil and diplomatic appropriation bills of March 3, 1855. After such a response from the Senate, and the silent acquiescence of the House for three whole sessions, any postponement can hardly be thought necessary for the purpose of consulting Congress. The question must now be between obedience and disobedience to the admitted wills of the national legislature.

After payment to Mr. Thompson had been refused at the Treasury, an agent was appointed to take the sense of the Menomonees, and ascertain whether they would assent or not to the payment of his claim under the law. The agent reported their refusal to assent, and Mr. Thompson complained that they were prevented from giving their assent by the improper interference of the agent himself. Should these facts have any influence on the decision now to be made? Congress declared that Mr. Thompson should be paid a certain sum out of funds in their own treasury, which they had a right to appropriate to that object. From this determination of Congress no appeal lay to the Menomonee Indians. The payment of the money was not made dependent on any future expression of their will.

Their refusal to sanction the law could not repeal it, or in anywise diminish the obligation the executive to carry it out. When Congress commands a thing to be done, and the Menomonee Indians forbid it to be done, it is not very difficult to decide where obedience is due by an officer of the United States government. To follow the act of Congress, and not the decision of the Indians, would be a tolerably plain duty in any case, but here it is rendered plainer still by the consideration that it is a disputed and doubtful question of fact whether the unbiassed opinion of the Indians is opposed to the law or not?

But Mr. Thompson agreed to take the sense of the Indians, and to that end assented that an agent should be appointed. Did this bind him to stand or fall by the agent's report? If he had an absolute right under the law to be paid, I cannot say that I think he forfeited that right by an abortive attempt to comply with a condition which the law did not impose on him. He made a voluntary effort to strengthen himself with the Treasury Department by doing what he could not legally have been required to do. This does not prevent him from falling back on the naked law, and standing there in defence of the rights which it gives him.

These, I presume, are all the facts and circumstances to which you refer as having transpired since the passage of the acts. There is but one point more to be noticed. That is raised by your inquiry "Whether the provision authorizing the payment of Mr. Thompson is rendered nugatory by the subsequent provision requiring that amount to be deducted from the future payments to the Menomonee Indians?"

Congress has no authority to abrogate a treaty made by the executive, any more than the executive has to abrogate a law passed by Congress. But it is not to be presumed that such was the intent of the act under consideration; Congress took the responsibility of paying a debt due from the Indians to Mr. Thompson out of the United States Treasury. Their power to do this cannot be denied, and Mr. Thompson has no interest in any other part of the law. The other provision for deducting the amount from the future annuities to become due under the treaty was inserted, no doubt, upon satisfactory evidence that the Indians were agreed to it. We cannot act now upon the assumption that they will resist the deduction when the proper time comes for making it. But if we know that such would certainly be the fact, Mr. Thompson's rights could not be affected by it. Congress has chosen to say that he shall be paid at all events, and has taken upon the government all the risk (if there be any) of getting a deduction from the Indians.

The United States have bound themselves by treaty with the Menomonees to pay them certain sums of money. At the stipulated times we must meet this responsibility either by payment of the money to the Indians, or else by proof that it is already paid, with their consent, to an individual who is their just creditor. The act of Congress awarding payment to Mr. Thompson, and ordering the deduction from the Indians, will not conclude them on the question of fact whether they did assent or not. But that is no reason why Mr. Thompson, who has the act of Congress in his favor, should not receive what it gives him.

Not seeing any reason for resisting the will of Congress, as expressed in this law, I can only conclude by advising your literal obedience to its provisions. That course is always the safest.

I am, most respectfully, yours, &c.,

J. S. Black.

The Hon. Howell Cobb,
Secretary of the Treasury.

Tonnage Duties to make River and Harbor Improvements.

Letter of Senator Douglas thereon.

Washington, January 2, 1854.

Sir: I learn from the public press that you have under consideration the proposition to convene the legislature in special session. In the event such a step shall be demanded by the public voice and necessities, I desire to invite your attention to a subject of great interest to our people, which may require legislative action. I refer to the establishment of some efficient and permanent system for river and harbor improvements. Those portions of the Union most deeply interested in internal navigation naturally feel that their interests have been neglected, if not paralyzed, by an uncertain, vacillating, and partial policy. Those who reside upon the banks of the Mississippi, or on the shores of the great northern lakes, and whose lives and property are frequently exposed to the mercy of the elements for want of harbors of refuge and means of safety, have never been able to comprehend the force of that distinction between fresh and salt water, which affirms the power and duty of Congress, under the Constitution, to provide security to navigation so far as the tide ebbs and flows, and denies the existence of the right beyond the tidal mark. Our lawyers may have read in English books that, by the common law, all waters were deemed navigable so far as the tide extended and no further; but they should also have learned from the same authority that the law was founded upon reason, and where the reason failed the rule ceased to exist. In England, where they have neither lake nor river, nor other water which is, in fact, navigable, except where the tide rolls its briny wave, it was natural that the law should conform to the fact, and establish that as a rule which the experience of all men proved to be founded in truth and reason. But it may well be questioned whether, if the common law had originated on the shores of Lake Michigan—a vast inland sea with an average depth of six hundred feet—it would have been deemed "not navigable," merely because the

tide did not flow, and the water was fresh and well adapted to the uses and necessities of man. We therefore feel authorized to repudiate, as unreasonable and unjust, all injurious discriminations, predicated upon salt water and tidal arguments, and to insist that if the power of Congress to protect navigation has any existence in the Constitution, it reaches every portion of this Union where the water is in fact navigable, and only ceases where the fact fails to exist. This power has been affirmed in some form and exercised to a greater or less extent by each successive Congress, and every administration since the adoption of the Federal Constitution. All acts of Congress providing for the erection of light-houses, the planting of buoys, the construction of piers, the removal of snags, the dredging of channels, the inspection of steamboat boilers, the carrying of life boats, in short, all enactments for the security of navigation and the safety of life and property within our navigable waters, assert the existence of this power and the propriety of its exercise in some form.

The great and growing interest of navigation is too important to be overlooked or disregarded. Mere negative action will not answer. The irregular and vacillating policy, which has marked our legislation upon this subject, is ruinous. Whenever appropriations have been proposed for river and harbor improvements, and especially on the northern lakes and the western rivers, there has usually been a death struggle, and a doubtful issue. We have generally succeeded with an appropriation once in four or five years; in other words, we have, upon an average, been beaten about four times out of five in one House of Congress or the other, or both, or by the presidential veto. When we did succeed, a large portion of the appropriation was expended in providing dredging machines and snag boats and other necessary machinery and implements; and by the time the work was fairly begun, the appropriation was exhausted, and further operations suspended. Failing to procure an additional appropriation at the next session, and perhaps for two, three, or four successive sessions, the administration has construed the refusal of Congress to provide the funds for the prosecution of the works into an abandonment of the system, and has accordingly deemed it a duty to sell, at public auction, the dredging machines and snag boats, implements and materials on hand for whatever they would bring. Soon the country was again startled by the frightful accounts of wrecks and explosions, fires and snags upon the rivers, the lakes, and the sea coast. The responsibility of these appalling sacrifices of life and property were charged upon those who defeated the appropriations for the prosecution of the works. Sympathy was excited, and a concerted plan of agitation and organization formed by the interested sections and parties to bring their combined influence to bear upon Congress in favor of the re-establishment of the system on an enlarged scale, sufficiently comprehensive to embrace the local interests and influences in a majority of the Congressional districts of the Union. A legislative omnibus was formed, in which all sorts of works were crowded together, good and bad, wise and foolish, national and local, all crammed into one bill, and forced through Congress by the power of an organized majority, after the fearful and exhausting struggle of a night session. The bill would receive the votes of a majority in each house, not because any one Senator or Representative approved all the items contained in it, but for the reason that humanity, as well as the stern demands of an injured and suffering constituency, required that they should make every needful sacrifice of money to diminish the terrible loss of human life by the perils of navigation. The result was a simple re-enactment of the former scenes. Machinery, implements, and materials purchased, the works recommenced—the money exhausted—subsequent appropriations withheld—and the operations suspended, without completing the improvements, or contributing materially to the safety of navigation. Indeed, it may be well questioned whether, as a general rule, the money has been wisely and economically applied, and in many cases whether the expenditure has been productive of any useful results, beyond the mere distribution of so much money among contractors, laborers, and superintendents in the favored localities; and in others, whether it has not been of positive detriment to the navigating interest.

Far be it from my purpose to call in question the integrity, science, or skill of those whose professional duty it was to devise the plan and superintend the construction of the works. But I do insist that from the nature of their profession and their habits of life they could not be expected to possess that local knowledge—that knowledge of currents and tides—the effects of storms, floods, and ice, always different and ever changing—in each locality of this widely-extended country, which is essential in determining upon the proper site and plan for an improvement to the navigation. Without depreciating the value of science, or disregarding its precepts, I have no hesitation in saying that the opinion of an intelligent captain or pilot, who, for a long series of years, had sailed out of and into a given port in fair weather and foul, and who had carefully and daily watched the changes produced in the channel by the currents and storms, wrecks and other obstructions, would inspire me with more confidence than that of the most eminent professional gentleman, whose knowledge and science in the line of his profession were only equalled by his profound ignorance of all those local and practical questions which ought to determine the site and plan of the proposed improvement. To me, therefore, it is no longer a matter of surprise that errors and blunders occur in the mode of constructing the works, and that follies and extravagance everywhere

appear in the expenditure of the money. These evils seem to be inherent in the system; at least, they have thus far proven unavoidable, and have become so palpable and notorious that it is worse than folly to close our eyes to their existence.

In addition to these facts it should be borne in mind that a large and intelligent portion of the American people, comprising, perhaps, a majority of the Democratic party, are in the habit of considering these works as constituting a general system of internal improvements by the federal government, and therefore in violation of the creed of the Democratic party and of the Constitution of the United States. These two-fold objections—the one denying the constitutional power and the other the expediency of appropriations from the national treasury—seem to acquire additional strength and force in proportion as the importance of the subject is enhanced, and the necessity for more numerous and extensive improvements is created by the extension of our territory, the expansion of our settlements, and the development of the resources of the country. As a friend to the navigating interest, and especially identified by all the ties of affection, gratitude, and interest with that section of the republic which is the most deeply interested in internal navigation, I see no hope for any more favorable results from national appropriations than we have heretofore realized. If then we are to judge the system by its results, taking the past as a fair indication of what might reasonably be expected in the future, those of us who have struggled hardest to render it efficient and useful, are compelled to confess that it has proven a miserable failure. It is even worse than a failure, because, while it has failed to accomplish the desired objects, it has had the effect to prevent local and private enterprise from making the improvements under state authority, by holding out the expectation that the federal government was about to make them.

By way of illustration, let us suppose that twenty-five years ago, when we first began to talk about the construction of railroads in this country, the federal government had assumed to itself jurisdiction of all works of that description to the exclusion of state authority and individual enterprise. In that event, does any one believe we would now have in the United States fourteen thousand miles of railroad completed, and fifteen thousand miles in addition under contract? It is to be presumed, that if our own state had prostrated itself in humble supplication at the feet of the federal government, and, with folded arms, had waited for appropriations from the national treasury, instead of exerting state authority, and stimulating and combining individual enterprise, we should now have in Illinois three thousand miles of railroad in process of construction? Let the history of internal improvements by the federal government be fairly written, and it will furnish conclusive answers to these interrogatories. For more than a quarter of a century the energies of the national government, together with all the spare funds in the treasury, were directed to the construction of a macadamized road from Cumberland, in the state of Maryland, to Jefferson City, in the state of Missouri, without being able to complete one-third of the work. If the government were unable to make three hundred miles of turnpike-road in twenty-five years, how long would it take to construct a railroad to the Pacific Ocean, and to make all the harbor and river improvements necessary to protect our widely extended and rapidly increasing commerce on a seacoast so extensive, that in forty years we have not been able to complete even the survey of one-half of it, and on a lake and river navigation more than four times as extensive as that seacoast? These questions are worthy of the serious consideration of those who think that improvements should be made for the benefit of the present generation as well as for our remote posterity; for I am not aware that the federal government ever completed any work of internal improvement commenced under its auspices.

The operations of the government have not been sufficiently rapid to keep pace with the spirit of the age. The Cumberland Road, when commenced, may have been well adapted to the purposes for which it was designed; but after the lapse of a quarter of a century, and before any considerable portion of it could be finished, the whole was superseded and rendered useless by the introduction of the railroad system. One reason, and perhaps the principal cause, of the slow progress of all government improvements, consists in the fact that the appropriation for any one object is usually too small to be of material service. It may be sufficient for the commencement of the work, but before it can be completed, or even so far advanced as to withstand the effects of storms, and floods, and the elements, the appropriation is exhausted, and a large portion of the work swept away before funds can be obtained for finishing it or even protecting that which has been done. The ruinous consequences of these small appropriations are well understood and seriously deprecated, but they arise from the necessity of the case, and constitute some of the evils inseparable from the policy. All experience proves that the numberless items of a river and harbor or internal improvement bill cannot pass, each by itself, and upon its own merits, and that the friends of particular works will not allow appropriations to be made for the completion of others which are supposed to be of paramount importance, unless theirs are embraced in the same bill. Each member seems to think the work in his own district to be of the sternest necessity and highest importance, and hence feels constrained to give his own the preference, or to defeat any bill which does not include it. The result is a legislative omnibus, in which all manner of objects are crowded together indiscriminately; and,

as there never is and never can be money enough in the treasury to make adequate appropriations for the whole, and as the bill cannot pass unless each has something, of course the amount for each item must be reduced so low as to make it of little or no service, and thus render the whole bill almost a total loss. In this manner a large portion of our people have been kept in a state of suspense and anxiety for more than half a century, with their hopes always excited and their expectations never realized.

I repeat that the policy heretofore pursued has proven worse than a failure. If we expect to provide facilities and securities for our navigating interests, we must adopt a system commensurate with our wants—one which will be just and equal in its operations upon lake, river, and ocean wherever the water is navigable, fresh or salt, tide or no tide—a system which will not depend for its success upon the dubious and fluctuating issues of political campaigns and Congressional combinations—one which will be certain, uniform, and unvarying in its results. I know of no system better calculated to accomplish these objects than that which commanded the approbation of the founders of the republic, was successively adopted on various occasions since that period, and directly referred to in the message of the President. It is evidently the system contemplated by the framers of the Constitution when they incorporated into that instrument the clause in relation to tonnage duties by the states with the assent of Congress. The debates show that this provision was inserted for the express purpose of enabling the states to levy duties of tonnage to make harbor and other improvements for the benefit of navigation. It was objected that the power to regulate commerce having already been vested exclusively in Congress, the jurisdiction of the states over harbor and river improvements, without the consent or supervision of the federal government, might be so exercised as to conflict with the Congressional regulations in respect to commerce. In order to avoid this objection, and at the same time reserve to the states the power of making the necessary improvements, consistent with such rules as should be prescribed by Congress for the regulation of commerce, the provision was modified and adopted in the form in which we now find it in the Constitution, to wit: "*no state shall lay duties of tonnage except by the consent of Congress.*" It is evident from the debates that the framers of the Constitution looked to tonnage duties as the source from which funds were to be derived for improvements in navigation. The only diversity of opinion among them arose upon the point, whether those duties should be levied and the works constructed by the federal government or under state authority. These doubts were solved by the clause quoted, providing, in effect, that while the power was reserved to the states, it should not be exercised, except by the consent of Congress, in order that the local legislation for the improvement of navigation might not conflict with the general enactments for the regulation of commerce. Yet the first Congress, which assembled under the Constitution, commenced that series of contradictory and partial enactments which has continued to the present time, and proven the fruitful source of conflict and dissension.

The first of these acts provided that all expenses for the support of lighthouses, beacons, buoys, and public piers, should be paid out of the national treasury, on the condition that the states in which the same should be situated respectively, should cede to the United States the said works, "together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same." A few months afterwards the same Congress passed an act consenting that the states of Rhode Island, Maryland, and Georgia, might levy tonnage duties for the purpose of improving certain harbors and rivers within their respective limits. This contradictory legislation upon a subject of great national importance, although commenced by the first Congress, and frequently suspended and renewed at uncertain and irregular periods, seems never to have been entirely abandoned. While appropriations from the national treasury have been partial and irregular—sometimes granted and at others withheld—stimulating hopes only to be succeeded by disappointments, tonnage duties have also been collected by the consent of Congress, at various times and for limited periods, in Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Massachusetts, Rhode Island, and perhaps other states. Indeed there has never been a time, since the Declaration of Independence, when tonnage duties have not been collected under state authority for the improvement of rivers or harbors, or both. The last act giving the consent of Congress to the collection of these duties, was passed for the benefit of the port of Baltimore in 1850, and will not expire until 1861.

Thus it will be seen that the proposition to pass a general law giving the consent of Congress to the imposition of tonnage duties according to a uniform rule, and upon equal terms in all the states and territories of the Union, does not contemplate the introduction of a new principle into our legislation upon this subject. It only proposes to convert a partial and fluctuating policy into a permanent and efficient system.

If this proposition should receive the sanction of Congress, and be carried into successful operation by the states, it would withdraw river and harbor improvements from the perils of the political arena, and commit them to the fostering care of the local authorities, with a steady and unceasing source of revenue for their prosecution. The system would be plain, direct, and simple, in respect to harbor improvements. Each town and city would have charge of the improvement of its own harbor, and would be authorized to tax its own com-

merce to the extent necessary for its construction. The money could be applied to no other object than the improvement of the harbor; and no higher duties could be levied than were necessary for that purpose. There would seem to be no danger of the power being abused, for in addition to the restrictions, limitations, and conditions, which should be embraced in the laws conferring the consent of Congress, self-interest will furnish adequate and ample assurances and motives for the faithful execution of the trusts. If any town, whose harbor needs improvement, should fail to impose the duties and make the necessary works, such neglect would inevitably tend to drive the commerce to some rival port, which would use all the means in its power to render its harbor safe and commodious, and afford all necessary protection and facilities to navigation and trade. If, on the other hand, any place should attempt to impose higher duties than will be absolutely necessary for the construction of the requisite improvements, this line of policy, to the extent of the excess, would have the same deleterious effects upon its prosperity. The same injurious influences would result from errors and blunders in the plan of the work, or from extravagance and corruption in the expenditure of the money. Hence each locality, and every citizen and person interested therein, would have a direct and personal interest in the adoption of a wise plan, and in securing strict economy and entire fidelity in the expenditure of the money. While upon the rivers the plan of operations would not be so direct and simple as in the improvement of harbors, yet even there it is not perceived that any serious inconvenience or obstacle would arise to the success of the system. It would be necessary that the law, which shall grant the consent of Congress to the imposition of the duties, shall also give a like consent in conformity with the same provision of the Constitution, that where the river to be improved shall form the boundary of, or be situated in, two or more states, such states may enter into compacts with each other, by which they may, under their joint authority, levy the duties and improve the navigation.

In this manner Pennsylvania, Delaware, and New Jersey, could enter into a compact for the improvement of the Delaware river, by which each would appoint one commissioner, and the three commissioners constitute a board, which would levy the duties, prescribe the mode of their collection, devise the plan of the improvement, and superintend the expenditure of the money. The six states bordering on the Ohio river, in like manner, could each appoint a commissioner, and the six constitute a board for the improvement of the navigation of that river from Pittsburgh to the Mississippi. The same plan could be applied to the Mississippi, by which the nine states bordering upon that stream could each appoint one commissioner, and the nine form a board for the removal of snags and other obstructions in the channel from the Falls of St. Anthony to the Gulf of Mexico. There seems to be no difficulty, therefore, in the execution of the plan where the watercourse lies in two or more states, or forms the boundary thereof in whole or in part; and where the river is entirely within the limits of any one state, like the Illinois or Alabama, it may be improved in such manner as the legislature may prescribe, subject only to such conditions and limitations as may be contained in the act of Congress giving its consent. All the necessities and difficulties upon this subject seem to have been foreseen and provided for in the same clause of the Constitution, wherein it is declared, in effect, that, with the consent of Congress, tonnage duties may be levied for the improvement of rivers and harbors, and that the several states may enter into compacts with each other for that purpose whenever it shall become necessary, subject only to such rules as Congress shall prescribe for the regulation of commerce.

It only remains for me to notice some of the objections which have been urged to this system. It has been said that tonnage duties are taxes upon the commerce of the country, which must be paid in the end by the consumers of the articles bearing the burden. I do not feel disposed to question the soundness of this proposition. I presume the same is true of all the duties, tolls, and charges upon all public works—whether constructed by government or individuals. The state of New York derives a revenue of more than two millions of dollars a year from her canals. Of course this is a tax upon the commerce of the country, and is borne by those who are interested in and benefited by it. This tax is a blessing or a burden, dependent upon the fact whether it has the effect to diminish or increase the cost of transportation. If we could not have enjoyed the benefit of the canal without the payment of the tolls, and if, by its construction and the payment, the cost of transportation has been reduced to one-tenth the sum which we would have been compelled to have paid without it, who would not be willing to make a still further contribution to the security and facilities of navigation, if thereby the price of freights are to be reduced in a still greater ratio? The tolls upon our own canal are a tax upon commerce, yet we cheerfully submit to the payment for the reason that they were indispensable to the construction of a great work, which has had the effect to reduce the cost of transportation between the lakes and the Mississippi, far below what it would have been if the canal had not been made. All the charges on the fourteen thousand miles of railroad now in operation in the different states of this Union, are just so many taxes upon commerce and travel, yet we do not repudiate the whole railroad system on that account, nor object to the payment of such reasonable charges as are necessary to defray the expenses of constructing and operating them. But it may be said

that if all the railroads and canals were built with funds from the national treasury, and were then thrown open to the uses of commerce and travel free of charge, the rates of transportation would be less than they now are. It may be that the rates of transportation would be less, but would our taxes be reduced thereby? No matter who is intrusted with the construction of works, somebody must foot the bill. If the federal government undertake to make railroads and canals, and river and harbor improvements, somebody must pay the expenses. In order to meet this enlarged expenditure, it would be necessary to augment the revenue by increased taxes upon the commerce of the country. The whole volume of revenue which now fills and overflows the national treasury, with the exception of the small item resulting from the sales of public lands, is derived from a system of taxes imposed upon commerce and collected through the machinery of the custom houses. No matter, therefore, whether these works are made by the federal government, or by stimulating and combining local and individual enterprise under state authority: in any event they remain a tax upon commerce to the extent of the expenditure.

That system which will insure the construction of the improvements upon the best plan and at the smallest cost will prove the least oppressive to the tax-payer and the most useful to commerce. It requires no argument to prove—for every day's experience teaches us—that public works of every description can be made at a much smaller cost by private enterprise, or by the local authorities directly interested in the improvement, than when constructed by the federal government. Hence, inasmuch as the expenses of constructing river and harbor improvements must, under either plan, be defrayed by a tax upon commerce in the first instance, and finally upon the whole people interested in that commerce, I am of the opinion that the burdens would be less under the system referred to in the message than by appropriations from the federal treasury. Those who seem not to have understood the difference have attempted to excite prejudice against this plan for the improvement of navigations by comparing it to the burdens imposed upon the navigation of the Rhine, the Elbe, the Oder, and other rivers running through the German states. The people residing upon those rivers did not complain that they were required to pay duties for the improvement of their navigation. Such was not the fact. No duties were imposed for any such purpose. No improvements in the navigation were ever made or contemplated by those who exacted the tolls. Taxes were extorted from the navigating interest by the petty sovereigns through whose dominions the rivers run, for the purpose of defraying the expenses of the pomp, and ceremonies, and follies of vicious and corrupt courts. The complaint was, that grievous and unnecessary burdens were imposed on navigation without expending any portion of the money for its protection and improvement. Their complaints were just. They should have protested, if they had lived under a government where the voice of the people could be heard, against the payment of any more or higher tolls than were necessary for the improvement of the navigation, and have insisted that the funds collected should be applied to that purpose and none other. In short, a plan similar to the one now proposed would have been a full and complete redress of all their grievances upon this subject.

In conclusion, I will state that my object in addressing you this communication is to invite your especial attention to so much of the President's message as relates to river and harbor improvements, with the view that when the legislature shall assemble, either in special or general session, the subject may be distinctly submitted to their consideration for such action as the great interests of commerce may demand.

I have the honor to be, very respectfully, your friend and fellow-citizen,

S. A. Douglas.

Joel A. Matteson,
Governor of the State of Illinois.

Utah.

Letter of Justice Drummond on Affairs therein.

To the Hon. Jeremiah S. Black, Attorney-General of the United States, Washington City, D. C.

My Dear Sir: As I have concluded to resign the office of justice of the Supreme Court of the Territory of Utah, which position I accepted in 1854, under the administration of President Pierce, I deem it due to the public to give some of the reasons why I do so. In the first place, Brigham Young, the governor of Utah territory, is the acknowledged head of the "Church of Jesus Christ of Latter-Day Saints," commonly called "Mormons," and as such head the Mormons look to him, and to him alone, for the law by which they are to be governed; therefore no law of Congress is by them considered binding in any manner.

Secondly, I know that there is a secret oath-bound organization among all the male members of the church to resist the laws of the country, and to acknowledge no law save the law of the "Holy Priesthood," which comes to the people through Brigham Young, direct from God, he, Young, being the vicegerent of God and prophetic successor of Joseph Smith, who was the founder of this blind and treasonable organization.

Thirdly, I am fully aware that there is a set of men, set apart by special order of the church, to take both lives and property of persons who may question the authority of the church (the names of whom I will promptly make known at a future time).

Fourthly, That the records, papers, &c., of

the Supreme Court have been destroyed by order of the church, with direct knowledge and approbation of Governor B. Young, and the federal officers grossly insulted for presuming to raise a single question about the treasonable act.

Fifthly, That the federal officers of the territory are constantly insulted, harassed, and annoyed by the Mormons, and for those insults there is no redress.

Sixthly, That the federal officers are daily compelled to hear the form of the American government traduced, the chief executives of the nation, both living and dead, slandered and abused from the masses as well as from all the leading members of the church, in the most vulgar, loathsome, and wicked manner that the evil passions of man can possibly conceive.

Again, That, after Moroni Green had been convicted in the District Court before my colleague, Judge Kinney, of an assault with intent to commit murder; and afterwards, on appeal to the Supreme Court, the judgment being affirmed, and the said Green sentenced to the penitentiary, Brigham Young gave a full pardon to the said Green before he reached the penitentiary; also, that the said Governor Young pardoned a man by the name of Baker, who had been tried and sentenced to ten years' imprisonment in the penitentiary for the murder of a dumb boy by the name of White House, the proof showing one of the most aggravated cases of murder that I ever knew being tried; and to insult the court and government officers, this man Young took his pardoned criminal with him, in proper person, to church on next Sabbath after his conviction, Baker in the mean time having received a full pardon from Governor Brigham Young. These two men were Mormons. On the other hand, I charge the Mormons, and Governor Young in particular, with imprisoning five or six young men from Missouri and Iowa, who are now in the penitentiary in Utah, without those men having violated any criminal law in America, but they were anti-Mormons, poor uneducated young men *en route* for California; but because they emigrated from Illinois, Iowa, or Missouri, and passed by Great Salt Lake City, they were indicted by a probate court, and most brutally and inhumanly dealt with, in addition to being summarily incarcerated in the Saintly Prison of the territory of Utah. I also charge Governor Young with constantly interfering with the federal courts, directing the grand jury whom to indict and whom not; and after the judges charge the grand juries as to their duties, that this man Young invariably has some member of the grand jury advised in advance as to his will in relation to their labors, and that his charge thus given is the only charge known, obeyed, or received, by all the grand juries of the federal courts of Utah territory.

Again, sir, after a careful and mature investigation, I have been compelled to come to the conclusion, heart-rending and sickening as it may be, that Capt. John W. Gunnison and his party of eight others were murdered by the Indians in 1853, under the order, advice, and directions of the Mormons; my illustrious and distinguished predecessor, Hon. Leonidas Shaver, came to his death by drinking poisonous liquors given to him under the order of the leading men of the Mormon Church in the Great Salt Lake City; that the late Secretary of the Territory, A. W. Babbit, was murdered on the plains by a band of Mormon marauders under the particular and special order of Brigham Young, Heber C. Kimball and J. M. Grant, and not by the Indians as reported by the Mormons themselves, and that they were sent from Salt Lake City for that purpose and that only, and as members of the Danite Band they were bound to do the will of Brigham Young as the head of the church, or forfeit their own lives. These reasons, with many others that I might give, which would be too heart-rending to insert in this communication, have induced me to resign the office of Justice of the Territory of Utah, and again return to my adopted state of Illinois. My reason, sir, for making this communication thus public, is, that the Democratic party, with which I have always strictly acted, is the party now in power, and therefore is the party that should now be held responsible for the treasonable and disgraceful state of affairs that now exists in Utah territory. I could, sir, if necessary, refer to a cloud of witnesses to attest the reasons I have given; and the charges, bold as they are, against those despots who rule with an iron hand their hundred thousand souls in Utah, and their two hundred thousand souls out of that notable territory, but shall not do so for the reason that the lives of such gentlemen as I should designate in Utah and California, would not be safe for a single day. In conclusion, sir, I have to say, that in my career as Justice of the Supreme Court of Utah territory, I have the consolation of knowing that I did my duty; that neither threats nor intimidation drove me from the path; upon the other hand, I am pained to say, that I accomplished little good while there—that the judiciary is only treated as a farce. The only rule of law by which the infatuated followers of this curious people will be governed is the law of the church, and that emanates from Governor Brigham Young, and him alone.

I do believe that if there were a man put in office as governor of the territory who is not a member of the church (Mormon), and be supported with a sufficient military aid, that much good would result from such a course; but, as the territory is now governed, and has been since the administration of Mr. Fillmore, at which time Young received his appointment as governor, it is noon-day madness and folly to attempt to administer the law in that territory. The officers are insulted, harassed, and murdered for doing their duty, and not recognising Brigham Young as the only law-giver or law-maker on earth. Of this

every man can bear incontestible evidence who has been willing to accept an appointment in Utah, and I assure you, sir, that no man would be willing to risk his life and property in that territory after once trying the sad experiment.

With an ardent desire that the present administration will give due and timely aid to the officers that may be so unfortunate as to accept situations in that territory, and that the withering curse which rests upon this nation by virtue of the peculiar and heart-rending institutions of the territory of Utah, may be speedily removed to the honor and credit of our happy country, I now remain your obedient servant,

W. W. Drummond,
Justice of Utah Territory.

March 30, 1857.

Vermont.

On the 9th of February, 1791, a message was received by Congress from the President of the United States, informing the House that he had received documents expressing the consent of the legislature of New York and the territory of Vermont that the said territory be admitted into the Union as a distinct member thereof.

A bill immediately passed both Houses and became a law by the approval of the President on the 18th of February, 1791, admitting Vermont as a state into the Union.

Another law was passed and approved February 25, 1791, giving her two representatives in Congress.

Act approved March 2, 1791, gave effect to all the laws of the United States over said state which were not locally inapplicable.

Virginia Resolutions of 1798.

Pronouncing the Alien and Sedition Laws to be unconstitutional, and defining the Rights of the States.—Drawn by Mr. Madison.

In the Virginia House of Delegates,
Friday, Dec. 21, 1798.

Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the constitution of this state, against every aggression either foreign or domestic; and that they will support the government of the United States in all measures warranted by the former.

That this Assembly most solemnly declares a warm attachment to the Union of the states, to maintain which it pledges its powers; and, that for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

That the General Assembly doth also express its deep regret, that a spirit has, in sundry instances, been manifested by the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and, that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains, and limits the general phrases, and so as to consolidate the states by degrees into one sovereignty, the obvious tendency and inevitable result of which would be, to transform the present republican system of the United States into an absolute, or at best, a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the federal government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

That this state having by its Convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "the liberty of conscience and the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with other states recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution, it would mark a

reproachful inconsistency, and criminal degeneracy, if an indifference were now shown to the most palpable violation of one of the rights, thus declared and secured; and to the establishment of a precedent which may be fatal to the other.

That the good people of this commonwealth, having ever felt, and continuing to feel the most sincere affection for their brethren of the other states; the truest anxiety for establishing and perpetuating the Union of all; and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other states, in confidence that they will concur with this commonwealth, in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and, that the necessary and proper measures will be taken by each for co-operating with this state, in maintaining unimpaired the authorities, rights, and liberties, reserved to the states, respectively, or to the people.

That the governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other states, with a request that the same may be communicated to the legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this state in the Congress of the United States.

Attest, JOHN STEWART.

1798, December 24th. Agreed to by the Senate. H. BROOKE.

A true copy from the original deposited in the office of the General Assembly.

JOHN STEWART, Keeper of Rolls.

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Extracts from the Address to the People, which accompanied the foregoing resolutions:—

Fellow-Citizens: Unwilling to shrink from our representative responsibility, conscious of the purity of our motives, but acknowledging your right to supervise our conduct, we invite your serious attention to the emergency which dictated the subjoined resolutions. Whilst we disdain to alarm you by ill-founded jealousies, we recommend an investigation, guided by the coolness of wisdom, and a decision bottomed on firmness but tempered with moderation.

It would be perfidious in those intrusted with the guardianship of the state sovereignty, and acting under the solemn obligation of the following oath: "I do swear, that I will support the Constitution of the United States," not to warn you of encroachments, which, though clothed with the pretext of necessity, or disguised by arguments of expediency, may yet establish precedents, which may ultimately devote a generous and unsuspicious people to all the consequences of usurped power.

Encroachments springing from a government whose organization cannot be maintained without the co-operation of the states, furnish the strongest incitements upon the state legislatures to watchfulness, and impose upon them the strongest obligation to preserve unimpaired the line of partition.

The acquiescence of the states under infractions of the federal compact, would either beget a speedy consolidation, by precipitating the state governments into impotency and contempt; or prepare the way for a revolution, by a repetition of these infractions, until the people are aroused to appear in the majesty of their strength. It is to avoid these calamities, that we exhibit to the people the momentous question, whether the Constitution of the United States shall yield to a construction which defies every restraint, and overwhelms the best hopes of republicanism.

Exhortations to disregard domestic usurpations until foreign danger shall have passed, is an artifice which may be for ever used; because the possessors of power, who are the advocates for its extension, can ever create national embarrassments, to be successively employed to soothe the people into sleep, whilst that power is swelling silently, secretly, and fatally. Of the same character are insinuations of a foreign influence, which seize upon a laudable enthusiasm against danger from abroad, and distort it by an unnatural application, so as to blind your eyes against danger at home.

The sedition act presents a scene which was never expected by the early friends of the Constitution. It was then admitted that the state sovereignties were only diminished by powers specifically enumerated, or necessary to carry the specified powers into effect. Now federal authority is deduced from implication, and from the existence of state law it is inferred that Congress possesses a similar power of legislation; whence Congress will be endowed with a power of legislation in all cases whatsoever, and the states will be stript of every right reserved by the concurrent claims of a paramount legislature.

The sedition act is the offspring of these tremendous pretensions, which inflict a death wound on the sovereignty of the states.

For the honor of American understanding, we will not believe that the people have been allured into the adoption of the Constitution by an affectation of defining powers, whilst the preamble would admit a construction which world erect the will of Congress into a power paramount in all cases, and therefore limited in none. On the contrary, it is evident that the objects for which the Constitution was formed were deemed attainable only by a particular enumeration and specification of each power granted to the federal government; reserving all others to the people, or to the states. And yet it is in vain we search for any specified power, embracing the right of legislation against the freedom of the press.

Had the states been despoiled of their sovereignty by the generality of the preamble, and had the federal government been endowed with

whatever they should judge to be instrumental towards union, justice, tranquillity, common defence, general welfare, and the preservation of liberty, nothing could have been more frivolous than an enumeration of powers.

All the preceding arguments rising from a deficiency of constitutional power in Congress, apply to the alien act, and this act is liable to other objections peculiar to itself. If a suspicion that aliens are dangerous constitute the justification of that power exercised over them by Congress, then a similar suspicion will justify the exercise of a similar power over natives. Because there is nothing in the Constitution distinguishing between the power of a state to permit the residence of natives and aliens. It is therefore a right originally possessed, and never surrendered by the respective states, and which is rendered dear and valuable to Virginia, because it is assailed through the bosom of the Constitution, and because her peculiar situation renders the easy admission of artisans and laborers an interest of vast importance.

But this bill contains other features, still more alarming and dangerous. It dispenses with the trial by jury; it violates the judicial system; it confounds legislative, executive, and judicial powers; it punishes without trial; and it bestows upon the President despotic power over a numerous class of men. Are such measures consistent with our constitutional principles? And will an accumulation of power so extensive, in the hands of the executive, over aliens, secure to natives the blessings of republican liberty?

If measures can mould governments, and if an uncontrolled power of construction is surrendered to those who administer them, their progress may be easily foreseen and their end easily foretold. A lover of monarchy, who opens the treasures of corruption, by distributing emolument among devoted partisans, may at the same time be approaching his object, and deluding the people with professions of republicanism. He may confound monarchy and republicanism, by the art of definition. He may varnish over the dexterity which ambition never fails to display, with the pliancy of language, the seduction of expediency, or the prejudices of the times. And he may come at length to avow that so extensive a territory as that of the United States can only be governed by the energies of monarchy; that it cannot be defended, except by standing armies; and that it cannot be united, except by consolidation.

Measures have already been adopted which may lead to these consequences. They consist:

In fiscal systems and arrangements, which keep an host of commercial and wealthy individuals, embodied and obedient to the mandates of the treasury.

In armies and navies, which will, on the one hand, enlist the tendency of man to pay homage to his fellow-creature who can feed or honor him; and on the other, employ the principle of fear, by punishing imaginary insurrections, under the pretext of preventive justice.

In swarms of officers, civil and military, who can inculcate political tenets tending to consolidation and monarchy, both by indulgences and severities; and can act as spies over the free exercise of human reason.

In restraining the freedom of the press, and investing the executive with legislative, executive, and judicial powers, over a numerous body of men.

And, that we may shorten the catalogue, in establishing by successive precedents such a mode of construing the Constitution as will rapidly remove every restraint upon federal power.

Let history be consulted; let the man of experience reflect; nay, let the artificers of monarchy be asked what farther materials they can need for building up their favorite system?

These are solemn, but painful truths; and yet we recommend it to you not to forget the possibility of danger from without, although danger threatens us from within. Usurpation is indeed dreadful, but against foreign invasion, if that should happen, let us rise with hearts and hands united, and repel the attack with the zeal of freemen, who will strengthen their title to examine and correct domestic measures by having defended their country against foreign aggression.

Pledged as we are, fellow-citizens, to these sacred engagements, we yet humbly and fervently implore the Almighty Disposer of events to avert from our land war and usurpation, the scourges of mankind; to permit our fields to be cultivated in peace; to instil into nations the love of friendly intercourse; to suffer our youth to be educated in virtue; and to preserve our morality from the pollution invariably incident to habits of war; to prevent the laborer and husbandman from being harassed by taxes and imposts; to remove from ambition the means of disturbing the commonweath; to annihilate all pretexts for power afforded by war; to maintain the Constitution; and to bless our nation with tranquillity, under whose benign influence we may reach the summit of happiness and glory, to which we are destined by Nature and Nature's God.

Attest, JOHN STEWART, C. H. D.
1799, Jan. 23. Agreed to by the Senate.
H. BROOKE, C. S.

A true copy from the original, deposited in the office of the General Assembly.
JOHN STEWART, Keeper of Rolls.

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ANSWERS OF THE SEVERAL STATE LEGISLATURES.

STATE OF DELAWARE.—In the House of Representatives, Feb. 1, 1799. Resolved, By the Senate and House of Representatives of the state of Delaware, in General Assembly met, that they consider the resolutions from the state of Virginia as a very unjustifiable inter-

ference with the general government and constituted authorities of the United States, and of dangerous tendency, and therefore not fit subject for the further consideration of the General Assembly.

Isaac Davis, Speaker of the Senate.

Stephen Lewis, Speaker of the H. of R's.

Test—John Fisher, C. S.

John Caldwell, C. H. R.

State of Rhode Island and Providence Plantations.—In General Assembly, February, A. D. 1799. Certain resolutions of the legislature of Virginia, passed on 21st of December last, being communicated to this Assembly,

1. Resolved, That in the opinion of this legislature, the second section of third article of the Constitution of the United States in these words, to wit: The judicial power shall extend to all cases arising under the laws of the United States, vests in the federal courts, exclusively, and in the Supreme Court of the United States ultimately, the authority of deciding on the constitutionality of any act or law of the Congress of the United States.

2. Resolved, That for any state legislature to assume that authority, would be,

1st. Blending together legislative and judicial powers.

2d. Hazarding an interruption of the peace of the states by civil discord, in case of a diversity of opinions among the state legislatures; each state having, in that case, no resort for vindicating its own opinions, but to the strength of its own arm.

3d. Submitting most important questions of law to less competent tribunals; and

4th. An infraction of the Constitution of the United States, expressed in plain terms.

3. Resolved, That although for the above reasons, this legislature, in their public capacity, do not feel themselves authorized to consider and decide on the constitutionality of the sedition and alien laws (so called); yet they are called upon by the exigency of this occasion, to declare, that in their private opinions, these laws are within the powers delegated to Congress, and promotive of the welfare of the United States.

4. Resolved, That the governor communicate these resolutions to the supreme executive of the state of Virginia, and at the same time express to him that this legislature cannot contemplate, without extreme concern and regret, the many evil and fatal consequences which may flow from the very unwarrantable resolutions aforesaid, of the legislature of Virginia, passed on the twenty-first day of December last.

A true copy, Samuel Eddy, Sec.

Commonwealth of Massachusetts.—In Senate, Feb. 9, 1799. The legislature of Massachusetts having taken into serious consideration the resolutions of the state of Virginia, passed the 21st day of December last, and communicated by his excellency the governor, relative to certain supposed infractions of the Constitution of the United States, by the government thereof, and being convinced that the Federal Constitution is calculated to promote the happiness, prosperity, and safety of the people of these United States, and to maintain that union of the several states, so essential to the welfare of the whole; and being bound by solemn oath to support and defend that Constitution, feel it unnecessary to make any professions of their attachment to it, or of their firm determination to support it against every aggression, foreign or domestic.

But they deem it their duty solemnly to declare, that while they hold sacred the principle, that consent of the people is the only pure source of just and legitimate power, they cannot admit the right of the state legislatures to denounce the administration of that government to which the people themselves, by a solemn compact, have exclusively committed their national concerns: That, although a liberal and enlightened vigilance among the people is always to be cherished, yet an unreasonable jealousy of the men of their choice, and a recurrence to measures of extremity, upon groundless or trivial pretexts, have a strong tendency to destroy all rational liberty at home, and to deprive the United States of the most essential advantages in their relations abroad: That this legislature are persuaded, that the decision of all cases in law and equity, arising under the Constitution of the United States, and the construction of all laws made in pursuance thereof, are exclusively vested by the people in the judicial courts of the United States.

That the people in that solemn compact, which is declared to be the supreme law of the land, have not constituted the state legislatures the judges of the acts or measures of the federal government, but have confided to them the power of proposing such amendments of the Constitution, as shall appear to them necessary to the interests, or conformable to the wishes of the people whom they represent.

That by this construction of the Constitution, an amicable and dispassionate remedy is pointed out for any evil which experience may prove to exist, and the peace and prosperity of the United States may be preserved without interruption.

But, should the respectable state of Virginia persist in the assumption of the right to declare the acts of the national government unconstitutional, and should she oppose successfully her force and will to those of the nation, the Constitution would be reduced to a mere cipher, to the form and pageantry of authority, without the energy of power. Every act of the federal government which thwarted the views or checked the ambitious projects of a particular state, or of its leading and influential members, would be the object of opposition and of remonstrance; while the people, convulsed and confused by the conflict between two hostile jurisdictions, enjoying the protection of neither, would be wearied into a sub-

mission to some bold leader, who would establish himself on the ruins of both.

The legislature of Massachusetts, although they do not themselves claim the right, nor admit the authority of any of the state governments, to decide upon the constitutionality of the acts of the federal government, still, least their silence should be construed into disapprobation, or at best into a doubt of the constitutionality of the acts referred to by the state of Virginia; and, as the General Assembly of Virginia has called for an expression of their sentiments, do explicitly declare, that they consider the acts of Congress, commonly called "the alien and sedition acts," not only constitutional, but expedient and necessary: That the former act respects a description of persons whose rights were not particularly contemplated in the Constitution of the United States, who are entitled only to a temporary protection, while they yield a temporary allegiance; a protection which ought to be withdrawn whenever they become "dangerous to the public safety," or are found guilty of "treasonable machination" against the government: That Congress having been especially intrusted by the people with the general defence of the nation, had not only the right, but were bound to protect it against internal as well as external foes. That the United States, at the time of passing the *act concerning aliens*, were threatened with actual invasion, had been driven by the unjust and ambitious conduct of the French government into warlike preparations, expensive and burthensome, and had then, within the bosom of the country, thousands of aliens, who, we doubt not, were ready to co-operate in any external attack.

It cannot be seriously believed, that the United States should have waited till the poignard had in fact been plunged. The removal of aliens is the usual preliminary of hostility, and is justified by the invariable usages of nations. Actual hostility had unhappily long been experienced, and a formal declaration of it the government had reason daily to expect. The law, therefore, was just and salutary, and no officer could, with so much propriety, be intrusted with the execution of it, as the one in whom the Constitution has reposed the executive power of the United States.

The *sedition act*, so called, is, in the opinion of this legislature, equally defensible. The General Assembly of Virginia, in their resolve under consideration, observe, that when that state by its convention ratified the Federal Constitution, it expressly declared, "That, among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, with other states, recommend an amendment for that purpose: which amendment was, in due time, annexed to the Constitution; but they did not surely expect that the proceedings of their state convention were to explain the amendment adopted by the Union. The words of that amendment, on this subject, are, "Congress shall make no law abridging the freedom of speech or of the press."

The act complained of is no abridgment of the freedom of either. The genuine liberty of speech and the press, is the liberty to utter and publish the truth; but the constitutional right of the citizen to utter and publish the truth, is not to be confounded with the licentiousness in speaking and writing, that is only employed in propagating falsehood and slander. This freedom of the press has been explicitly secured by most, if not all the state constitutions; and of this provision there has been generally but one construction among enlightened men; that it is a security for the rational use and not the abuse of the press; of which the courts of law, the juries, and people will judge; this right is not infringed, but confirmed and established by the late act of Congress.

By the Constitution, the legislative, executive, and judicial departments of government are ordained and established; and general enumerated powers vested in them respectively, including those which are prohibited to the several states. Certain powers are granted in general terms by the people to their general government, for the purposes of their safety and protection. The government is not only empowered, but it is made their duty to repel invasions and suppress insurrections; to guaranty to the several states a republican form of government; to protect each state against invasion, and, when applied to, against domestic violence; to hear and decide all cases in law and equity, arising under the Constitution, and under any treaty or law made in pursuance thereof; and all cases of admiralty and maritime jurisdiction, and relating to the law of nations. Whenever, therefore, it becomes necessary to effect any of the objects designated, it is perfectly consonant to all just rules of construction, to infer, that the usual means and powers necessary to the attainment of that object, are also granted: But the Constitution has left no occasion to resort to implication for these powers; it has made an express grant of them, in the 8th section of the first article, which ordains, "That Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States or in any department or officer thereof."

This Constitution has established a Supreme Court of the United States, but has made no provision for its protection, even against such improper conduct in its presence, as might disturb its proceedings, unless expressed in the section before recited. But as no statute has been passed on this subject, this protection is, and has been for nine years past, uniformly found in the application of the princi-

ples and usages of the common law. The same protection may unquestionably be afforded by a statute passed in virtue of the beforementioned section, as necessary and proper, for carrying into execution the powers vested in that department. A construction of the different parts of the Constitution, perfectly just and fair, will, on analogous principles, extend protection and security against the offences in question, to the other departments of government, in discharge of their respective trusts.

The President of the United States is bound by his oath "to preserve, protect, and defend the Constitution," and it is expressly made his duty "to take care that the laws be faithfully executed;" but this would be impracticable by any created being, if there could be no legal restraint of those scandalous misrepresentations of his measures and motives, which directly tend to rob him of the public confidence. And equally impotent would be every other public officer, if thus left to the mercy of the seditious.

It is holden to be a truth most clear, that the important trusts before enumerated cannot be discharged by the government to which they are committed, without the power to restrain seditious practices and unlawful combinations against itself, and to protect the officers thereof from abusive misrepresentations. Had the Constitution withheld this power, it would have made the government responsible for the effects without any control over the causes which naturally produce them, and would have essentially failed of answering the great ends for which the people of the United States declare, in the first clause of that instrument, that they establish the same, viz: "To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity."

Seditious practices and unlawful combinations against the federal government, or any officer thereof, in the performance of his duty, as well as licentiousness of speech and of the press, were punishable on the principles of common law in the courts of the United States, before the act in question was passed. This act then is an amelioration of that law in favor of the party accused, as it mitigates the punishment which that authorizes, and admits of any investigation of public men and measures which is regulated by truth. It is not intended to protect men in office, only as they are agents of the people. Its object is to afford legal security to public offices and trusts created for the safety and happiness of the people, and therefore the security derived from it is for the benefit of the people, and is their right.

This construction of the Constitution and of the existing law of the land, as well as the act complained of, the legislature of Massachusetts most deliberately and firmly believe results from a just and full view of the several parts of the Constitution: and they consider that act to be wise and necessary, as an audacious and unprincipled spirit of falsehood and abuse had been too long unremittingly exerted for the purpose of perverting public opinion, and threatened to undermine and destroy the whole fabric of government.

The legislature further declare, that in the foregoing sentiments they have expressed the general opinion of their constituents, who have not only acquiesced without complaint in those particular measures of the federal government, but have given their explicit approbation by re-electing those men who voted for the adoption of them. Nor is it apprehended, that the citizens of this state will be accused of supineness or of an indifference to their constitutional rights; for while, on the one hand, they regard with due vigilance the conduct of the government, on the other, their freedom, safety and happiness require, that they should defend that government and its constitutional measures against the open or insidious attacks of any foe, whether foreign or domestic.

And, lastly, that the legislature of Massachusetts feel a strong conviction, that the several United States are connected by a common interest which ought to render their union indissoluble, and that this state will always co-operate with its confederate states in rendering that union productive of mutual security, freedom, and happiness.

Sent down for concurrence.

SAMUEL PHILIPS, President.

In the House of Representatives, Feb. 13, 1799,

Read and concurred.

EDWARD H. ROBBINS, Speaker.

A true copy. Attest,

JOHN AVERY, Secretary.

STATE OF NEW YORK.—In Senate, March 5, 1799.—Whereas, the people of the United States have established for themselves a free and independent national government: And whereas it is essential to the existence of every government, that it have authority to defend and preserve its constitutional powers inviolate, inasmuch as every infringement thereof tends to its subversion: And whereas the judicial power extends expressly to all cases of law and equity arising under the Constitution and the laws of the United States whereby the interference of the legislatures of the particular states in those cases is manifestly excluded: And whereas our peace, prosperity, and happiness, eminently depend on the preservation of the Union, in order to which, a reasonable confidence in the constituted authorities and chosen representatives of the people is indispensable: And whereas every measure calculated to weaken that confidence has a tendency to destroy the usefulness of our public functionaries, and to excite jealousies equally hostile to rational liberty, and the principles of a good republican government: And whereas the Senate, not perceiving that the rights of the particular states have been violated, nor any unconstitutional

powers assumed by the general government, cannot forbear to express the anxiety and regret with which they observe the inflammatory and pernicious sentiments and doctrines which are contained in the resolutions of the legislatures of Virginia and Kentucky—sentiments and doctrines, no less repugnant to the Constitution of the United States, and the principles of their union, than destructive to the federal government, and unjust to those whom the people have elected to administer it: wherefore, Resolved, That while the Senate feel themselves constrained to bear unequivocal testimony against such sentiments and doctrines, they deem it a duty no less indispensable, explicitly to declare their incompetency, as a branch of the legislature of this state, to supervise the acts of the general government.

Resolved, That his Excellency, the Governor, be, and he is hereby requested to transmit a copy of the foregoing resolution to the executives of the states of Virginia and Kentucky, to the end that the same may be communicated to the legislatures thereof.

A true copy.

ABM. B. BAUCKER, Clerk.

STATE OF CONNECTICUT.—At a General Assembly of the state of Connecticut, holden at Hartford, in the said state, on the second Thursday of May, Anno Domini 1799, his excelleney the governor having communicated to this assembly sundry resolutions of the legislature of Virginia, adopted in December, 1798, which relate to the measures of the general government; and the said resolutions having been considered, it is

Resolved, That this Assembly views with deep regret, and explicitly disavows, the principles contained in the aforesaid resolutions; and particularly the opposition to the "Alien and Sedition Acts"—acts which the Constitution authorized; which the exigency of the country rendered necessary; which the constituted authorities have enacted, and which merit the entire approbation of this Assembly. They, therefore, decidedly refuse to concur with the legislature of Virginia, in promoting any of the objects attempted in the aforesaid resolutions.

And it is further resolved, That his excellency the governor be requested to transmit a copy of the foregoing resolution to the governor of Virginia, that it may be communicated to the legislature of that state.

Passed in the House of Representatives unanimously.

Attest, JOHN C. SMITH, Clerk.

Concurred, unanimously, in the upper House.

Teste, SAM. WYLLYS, Sec'ry.

STATE OF NEW HAMPSHIRE.—In the House of Representatives, June 14, 1799.—The committee to take into consideration the resolutions of the General Assembly of Virginia, dated December 21, 1798; also certain resolutions of the legislature of Kentucky, of the 10th of November, 1798; report as follows:—

The legislature of New Hampshire, having taken into consideration certain resolutions of the General Assembly of Virginia, dated December 21, 1798; also certain resolutions of the legislature of Kentucky, of the 10th of November, 1798,—

Resolved, That the legislature of New Hampshire unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the constitution of this state, against every aggression, either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former.

That the state legislatures are not the proper tribunals to determine the constitutionality of the laws of the general government; that the duty of such decision is properly and exclusively confided to the judicial department.

That if the legislature of New Hampshire, for mere speculative purposes, were to express an opinion on the acts of the general government, commonly called "the Alien and Sedition Bills," that opinion would unreservedly be, that those acts are constitutional and, in the present critical situation of our country, highly expedient.

That the constitutionality and expediency of the acts aforesaid have been very ably advocated and clearly demonstrated by many citizens of the United States, more especially by the minority of the General Assembly of Virginia. The legislature of New Hampshire, therefore, deem it unnecessary, by any train of arguments, to attempt further illustration of the propositions, the truth of which, it is confidently believed, at this day, is very generally seen and acknowledged.

Which report, being read and considered, was unanimously received and accepted, one hundred and thirty-seven members being present.

Sent up for concurrence.

JOHN PRENTICE, Speaker.

In Senate, same day, read and concurred in unanimously.

AMOS SHEPARD, President.

Approved June 15, 1799.

J. T. GILMAN, Governor.

A true copy.

Attest, JOSEPH PEARSON, Sec'ry.

STATE OF VERMONT.—In the House of Representatives, October 30, A. D. 1799.—The House proceeded to take under their consideration the resolutions of the General Assembly of Virginia, relative to certain measures of the general government, transmitted to the legislature of this state for their consideration; whereupon,

Resolved, That the General Assembly of the state of Vermont do highly disapprove of the resolutions of the General Assembly of the state of Virginia, as being unconstitutional

in their nature and dangerous in their tendency. It belongs not to state legislatures to decide on the constitutionality of laws made by the general government; this power being exclusively vested in the judiciary courts of the Union.

That his excellency the governor be requested to transmit a copy of this resolution to the executive of Virginia, to be communicated to the General Assembly of that state; and that the same be sent to the Governor and Council for their concurrence.

SAMUEL C. CRAFTS, Clerk.

In Council, October 30, 1799.—Read and concurred in unanimously.

RICHARD WHITNEY, See'ry.

Walker Amendment.

ON the 26th of February, 1849, the Civil and Diplomatic bill being under consideration, Mr. Isaac P. Walker, a Senator from Wisconsin, having moved to that portion of the bill proposing to provide governments for the new territories, the following amendment:—

"That the Constitution of the United States, in so far as the provisions of the same may be applicable to the condition of a territory of the United States, and all and singular the several acts of Congress respecting the registering, recording, enrolling, or licensing ships or vessels, and the entry and clearance thereof, and the foreign and coasting trade and fisheries, and all the acts respecting the imposing and collecting of duties on imports, and all acts respecting trade and intercourse with the Indian tribes, and all acts respecting the public lands or the survey or sale thereof, and all and singular the other acts of Congress of a public and general character, and the provisions whereof are suitable and proper to be applied to the territory west of the Rio del Norte, acquired from Mexico by the treaty of the 2d of February, 1848, be, and the same are hereby, extended over and given full force and efficacy in all said territory; and the President of the United States be, and he is hereby, authorized to prescribe and establish all proper and needful rules and regulations, in conformity with the Constitution of the United States, for the enforcement of the provisions of the Constitution herein before referred to, and of said laws in said territory, and for the preservation of order and tranquillity, and to the establishment of justice therein, and from time to time to modify or change the said rules and regulations in such a manner as may seem to him discreet and proper, and to establish temporarily such divisions, districts, ports, offices, and all arrangements for the execution of said laws, and appoint and commission such officers as may be necessary to administer such laws in said territory for such term or terms as he may prescribe, whose authority shall continue until otherwise provided by Congress; said officers to receive such compensation as the President may prescribe, not exceeding double the compensation heretofore paid to similar officers of the United States or its territories for like services; and to enable the same to be done, the sum of $200,000 be appropriated out of any money in the treasury not otherwise appropriated."

It was adopted by yeas and nays as follows:—

YEAS.—Messrs. Atchison of Mo., Bell of Tenn., Berrien of Ga., Borland of Ark., Butler of S. C., Davis of Miss., Dickinson of N. Y., Dodge of Iowa, Douglas of Ill., Downs of La., Fitzgerald of Mich., Fitzpatrick of Ala., Foote of Miss., Hannegan of Ind., Houston of Texas, Hunter of Va., Johnson of La., Johnson of Ga., King of Ala., Mangum of N. C., Mason of Va., Rusk of Texas, Sebastian of Ark., Sturgeon of Pa., Turney of Tenn., Underwood of Ky., Walker of Wis., Westcott of Fla., Yulee of Fla.—29.

NAYS.—Messrs. Allen of O., Atherton of N. H., Badger of N. C., Baldwin of Conn., Bradbury of Me., Bright of Ind., Cameron of Pa., Clarke of R. I., Corwin of O., Davis of Mass., Dayton of N. Y., Dix of N. Y., Dodge of Wis., Felch of Mich., Greene of R. I., Hale of N. H., Hamlin of Me., Johnson of Md., Jones of Ia., Miller of N. J., Niles of Conn., Pearce of Md., Phelps of Vt., Spruance of Del., Upham of Vt., Wales of Del., Webster of Mass.—27.

The bill having passed as amended, and being before the House, the amendment of Mr. Walker was disagreed to by yeas and nays, as follows:—

YEAS.—Messrs. Adams of Ky., Atkinson of Va., Barringer of N. C., Barrow of Tenn., Bayly of Va., Beale of Va., Bedinger of Va., Birdsall of N. Y., Bocock of Va., Botts of Va., Bowdon of Ala., Bowlin of Mo., Boyd of Ky., Boyden of N. C., Bridges of Pa., Brodhead of Pa., Chas. Brown of Pa., Albert G. Brown of Miss., Buckner of Ky., Burt of S. C., Cabell of Fla., Chapman of Md., B. L. Clarke of Ky., Clingman of N. C., Howell Cobb of Ga., Cobb of Ala., Cocke of Tenn., Crisfield of Md., Crozier of Tenn., Daniel of N. C., Donnell of N. C., Garnett Duncan of Ky., Alex. Evans of Md., Featherston of Miss., Ficklin of Ill., Flournoy of Va., French of Ky., Fulton of Va., Gaines of Ky., Gayles of Ala., Gentry of Tenn., Goggin of Va., Green of Mo., Willard P. Hall of Mo., Haralson of Ga., Harmanson of La., Harris of Ala., Haskell of Tenn., Hill of Tenn., Hillard of Ala., Isaac E. Holmes of S. C., Geo. S. Houston of Ala., Jno. W. Houston of Del., Inge of Ala., C. J. Ingersoll of Pa., Iverson of Ga., Jameson of Mo., Andrew Johnson of Tenn., R. W. Johnson of Ark., Geo. W. Jones of Tenn., Jno. W. Jones of Ga., Kaufman of Texas, Kennon of O., Thos. B. King of Ga., La Sere of La., Leffler of Ia., Levin of Pa., Ligon of Md., Lumpkin of Ga., McClernand of Mich., McDowell of Va., McKay of N. C., McLane of Md., McQueen of S. C., Meade of Va., Morehead of Ky., Morse of La., Outlaw of N. C., Pendleton of Va., Peyton of Ky., Phelps of Mo., Pilsbury of Texas, Preston of Va., Rhett of S. C., Richardson of Ill., Roman of Md., Sawyer of O., Shepperd of N. C., Simpson of S. C., Stanton of Tenn., Stephens of Ga., Thibodeaux of La., Thomas of Tenn., Jacob Thompson of Miss., Jno. B. Thompson of Ky., Robt. A. Thompson of Va., Tompkins of Miss., Toombs of Ga., Venable of N. C., Williams of Me., Woodward of S. C.—100.

NAYS.—Messrs. Abbott of Mass., Ashmun of Mass., Belcher of Me., Bingham of Mich., Blackmar of N. Y., Brady of Pa., Butler of Pa., Canby of O., Cathcart of Ind., Collamer of Vt., Collins of N. Y., Conger of N. Y., Cranston of R. I., Crowell of O., Cummins of O., Darling of Wis., Dickey of Pa., Dixon of Conn., Duer of N. Y., Dunn of Ind., Eckert of Pa., Edsall of N. J., Edwards of O., Embree of Ind., Nathan Evans of O., Faran of O., Farrelly of Pa., Fisher of O., Freedley of Pa., Fries of O., Giddings of O., Gott of N. Y., Greeley of N. Y., Gregory of N. J., Grinnell of Mass., Hale of Mass., N. K. Hall of N. Y., Hammons of Me., James G. Hampton of N. J., Henley of Ind., Henry of Vt., Elias B. Holmes of N. Y., Hubbard of Conn., Hudson of Mass., Hunt of N. Y., Jenkins of N. Y., James H. Johnson of N. H., Kellogg of N. Y., Daniel P. King of Mass., Lahm of O., Wm. T. Lawrence of N. Y., Sidney Lawrence of N. Y., Lincoln of Ill., Lord of N. Y., Lynde of Wis., McClelland of Mich., McIlvain of Pa., Job Mann of Pa., Horace Mann of Mass., Marsh of Vt., Marvin of N. Y., Miller of O., Morris of O., Mullin, Murphy of N. Y., Nelson of N. Y., Nes of Pa., Newell of N. J., Nicoll of N. Y., Palfrey of Mass., Peaslee of N. H., Peck of Vt., Petrie of N. Y., Pettit of Ind., Pollock of Pa., Putnam of N. Y., Reynolds of N. Y., Richey of O., Robinson of Ind., Julius Rockwell of Mass., John A. Rockwell of Conn., Rose of N. Y., Root of O., Rumsey of N. Y., St. John of N. Y., Schenck of O., Sherrill of N. Y., Silvester of N. Y., Slingerland of N. Y., Smart of Me., Caleb B. Smith of Ind., Robert Smith of Ill., Truman Smith of Conn., Starkweather of N. Y., Andrew Stewart of Pa., Charles E. Stew-

art of Mich., Strohm of Pa., Strong of Pa., Tallmadge of N. Y., Taylor of O., James Thompson of Pa., Richard W. Thompson of Ind., William Thompson of Ia., Thurston of R. I., Tuck of N. H., Turner of Ill., Van Dyke of N. J., Vinton of O., Warren of N. Y., Wentworth of Ill., White of N. Y., Wick of Ind., Wiley of Me., Wilmot of Pa., Wilson of N. H.—114.

The Senate receded from their amendment, and the bill became a law without it.

Washington, George.

Farewell Address of, to the People of the United States, Sept. 17, 1796.

Friends and Fellow-citizens:—

The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed to decline being considered among the number of those out of whom a choice is to be made. I beg you, at the same time, to do me the justice to be assured that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service, which silence, in my situation, might imply, I am influenced by no diminution of zeal for your future interests; no deficiency of grateful respect of your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that, in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say, that I have with good intentions contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes—perhaps still more in the eyes of others—has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me, more and more, that the abode of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that, under circumstances in which the passions, agitated in every direction, were liable to mislead; amidst appearances sometimes dubious, vicissitudes of fortune often discouraging; in situations in which, not unfrequently, want of success has countenanced the spirit of criticism,—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing vows, that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free Constitution, which is the work of your hands, may be sacredly maintained; that its administration, in every department, may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and the adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop; but a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments, which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as

a people. These will be afforded to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel; nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed,—it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens, by birth or choice, of a common country, that country has a right to concentrate your affections. The name of *American*, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than appellations derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes. But these considerations, however powerfully they address themselves to your sensibility, are generally outweighed by those which apply more immediately to your interest; here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds, in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the agency of the North, sees its agriculture grow, and its commerce expanded. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in like intercourse with the West, already finds, and in the progressive improvement of interior communication, by land and water, will more and more find, a valuable vent for the commodities which each brings from abroad, or manufactures at home. The West derives from the East supplies requisite to its growth or comfort, and what is perhaps of still greater consequence, it must, of necessity, owe the secure enjoyment of indispensable outlets for its own productions, to the weight, influence, and the maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interests as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connexion with any foreign power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find, in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries, not tied together by the same government; which their own rivalship alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments, which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty; in this sense it is that your union ought to be considered as a main prop of your liberty, and that the love of one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt, whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation, in such a case, were criminal. We are authorized to hope, that a proper organization of the whole, with the auxiliary agency of

governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to Union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—Northern and Southern—Atlantic and Western: whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by paternal affection. The inhabitants of our Western country have lately had a useful lesson on this head; they have seen in the negotiation by the executive, and in the unanimous ratification by the Senate, of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them, of a policy in the general government, and in the Atlantic States, unfriendly to their interests in regard to the Mississippi—that with Great Britain, and that with Spain, which secure to them everything they could desire in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren, and connect them with aliens?

To the efficacy and permanency of your Union a government of the whole is indispensable. No alliance, however strict between the parties, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances, in all time, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of government, better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed—adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers—uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their Constitutions of government; but the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive to this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of fashion, rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying, afterwards, the very engines which had lifted them to unjust dominion.

Towards the preservation of your government, and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indis-

pensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprise of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissensions, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads, at length, to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which, nevertheless, ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments, occasionally, riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself, through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties, in free countries, are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important, likewise, that the habits of thinking, in a free country, should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position.

The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal, against invasions by the others, has been evinced by experiments, ancient and modern; some of them in our own country, and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be, in any particular, wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles. It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who, that is a sincere friend to

it, can look with indifference upon attempts to shake the foundation of the fabric?

Promote then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding, likewise, the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned; not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payments of debts there must be revenues; that to have revenue there must be taxes; that no taxes can be devised, which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive moment for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measure for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct: and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent, inveterate antipathies against particular nations, and passionate attachments for others, should be excluded: and that in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is, in some degree, a slave. It is a slave to its animosity or to its affection; either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and untractable, when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill-will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts, through passion, what reason would reject; at other times it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

So likewise a passionate attachment of one nation to another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill-will, and a disposition to retaliate, in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray, or sacrifice the interest of their own country, without odium; sometimes even with popularity; gilding with the appearance of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practise the art of seduction, to mislead public opinion, to influence or awe the public councils? Such an attachment of a small or weak, towards a great and powerful nations, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens), the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for

one foreign nation, and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil, and even second, the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its toils and dupes usurp the applause and confidence of the people, to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. There let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural cause of things; diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing; establishing, with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinions will permit, but temporary, and liable to be, from time to time, abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay, with a portion of its independence, for whatever it may accept under that character; that by such acceptance it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon, real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations; but if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigues, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far, in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records, and other evidences of my conduct, must witness to you and the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 23d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both Houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that, according to my understanding of the matter,

that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and unity towards other nations.

The inducements of interests, for observing that conduct, will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though, in reviewing the incidents of my administration, I am unconscious of intentional error; I am, nevertheless, too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope, that my country will never come to view them with indulgence; and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this, as in other things, and actuated by that fervent love towards it which is so natural to a man who views it in the native soil of himself and his progenitors for several generations, I anticipate, with pleasing expectation, that retreat in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws under a free government—the ever favorite object of my heart—and the happy reward, as I trust, of our mutual cares, labors, and dangers.

GEORGE WASHINGTON.

United States, 17th of Sept., 1796.

Webster, Daniel.

MEMORIAL TO CONGRESS ON THE INCREASE OF SLAVERY, PREPARED BY.

THE following memorial, from the pen of Mr. Webster, on the subject of restraining the increase of slavery in new states to be admitted into the Union, was prepared in pursuance of a vote of the inhabitants of Boston and its vicinity, assembled at the State House, on the 3d of December, 1819. It is signed by Daniel Webster, George Blake, Josiah Quincy, James S. Austin, and John Gallison.

Memorial to the Senate and House of Representatives of the United States, in Congress assembled:—

The undersigned, inhabitants of Boston and its vicinity, beg leave most respectfully and humbly to represent: That the question of the introduction of slavery into the new states to be formed on the west side of the Mississippi river, appears to them to be a question of the last importance to the future welfare of the United States. If the progress of this great evil is ever to be arrested, it seems to the undersigned that this is the time to arrest it. A false step taken now cannot be retraced; and it appears to us that the happiness of unborn millions rests on the measure which Congress on this occasion may adopt. Considering this as no local question, nor a question to be decided by a temporary expediency, but as involving great interests of the whole United States, and affecting deeply and essentially those objects of common defence, general warfare, and the perpetuation of the blessings of liberty, for which the Constitution itself was formed, we have presumed, in this way, to offer our sentiments and express our wishes to the national legislature. And as various reasons have been suggested against prohibiting slavery in the new states, it may perhaps be permitted to us to state our reasons both for believing that Congress possesses the constitutional power to make such prohibition a condition on the admission of a new state into the Union, and that it is just and proper that they should exercise that power.

And in the first place as to the constitutional authority of Congress. The Constitution of the United States has declared that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice the claims of the United States or of any particular state." It is very well known that the saving in this clause of the claims of any particular state, was designed to apply to claims by the then existing states of territory which was also claimed by the United States as their own property. It has, therefore, no bearing on the present question. The power, then, of Congress over its own territories is, by the very terms of the Constitution, unlimited. It may make all "needful rules and regulations," which of course include all such regulations as its own views of policy or expediency shall from time to time dictate. If, therefore, in its judgment it be needful for the benefit of a territory to enact a prohibition of slavery, it would seem to be as much within its power of legislation as any other act of local policy. Its sovereignty being complete and universal as to the territory, it may exercise over it the most ample jurisdiction in every respect. It possesses in this view all the authority which any state legislature possesses over its own territory; and if any state legislature may, in its discretion, abolish or prohibit slavery within its own limits, in virtue of its general legislative authority, for the same reason Congress also may exercise the like authority over its own territories. And that a state legislature,

unless restrained by some constitutional provision, may so do, is unquestionable, and has been established by general practice. * * *

The creation of a new state is, in effect, a compact between Congress and the inhabitants of the proposed state. Congress would not probably claim the power of compelling the inhabitants of Missouri to form a constitution of their own, and come into the Union as a state. It is as plain that the inhabitants of that territory have no right of admission into the Union as a state without the consent of Congress. Neither party is bound to form this connexion. It can be formed only by the consent of both. What, then, prevents Congress, as one of the stipulating parties, to propose its terms? And if the other party assents to these terms, why do they not effectually bind both parties? Or if the inhabitants of the territory do not choose to accept the proposed terms, but prefer to remain under a territorial government, has Congress deprived them of any right, or subjected them to any restraint, which, in its discretion, it had not authority to do? If the admission of new states be not the discretionary exercise of a constitutional power, but in all cases an imperative duty, how is it to be performed? If the Constitution means that Congress shall admit new states, does it mean that Congress shall do this on every application and under all circumstances? Or if this construction cannot be admitted, and if it must be conceded that Congress must in some respects exercise its discretion on the admission of new states, how is it to be shown that that discretion may not be exercised in regard to this subject as well as in regard to others?

The Constitution declares, "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808." It is most manifest that the Constitution does contemplate, in the very terms of this clause, that Congress possesses the authority to prohibit the migration or importation of slaves; for it limits the exercise of this authority for a specific period of time, leaving it to its full operation ever afterwards. And this power seems necessarily included in the authority which belongs to Congress, "to regulate commerce with foreign nations and among the several states." No person has ever doubted that the prohibition of the foreign slave trade was completely within the authority of Congress since the year 1808. And why? Certainly only because it is embraced in the regulation of foreign commerce; and if so, it may for the like reason be prohibited since that period between the states. Commerce in slaves, since the year 1808, being as much subject to the regulation of Congress as any other commerce, if it should see fit to enact that no slave should ever be sold from one state to another, it is not perceived how its constitutional right to make such provision could be questioned. It would seem to be too plain to be questioned, that Congress did possess the power, before the year 1808, to prohibit the migration or importation of slaves into the territories (and in point of fact it exercied that power) as well as into any new states; and that its authority, after that year, might be as fully exercised to prevent the migration or importation of slaves into any of the old states. And if it may prohibit new states from importing slaves, it may surely, as we humbly submit, make it a condition of the admission of such states into the Union, that they shall never import them. In relation, too, to its own territories, Congress possesses a more extensive authority, and may, in various other ways, effect the object. It might, for example, make it an express condition of its grants of the soil, that its owners shall never hold slaves; and thus prevent the possession of slaves from ever being connected with the ownership of the soil.

As corroborative of the views which have been already suggested, the memorialists would respectfully call the attention of Congress to the history of the national legislation, under the Confederation as well as under the present Constitution, on this interfering subject. Unless the memorialists greatly mistake, it will demonstrate the sense of the nation at every period of its legislation to have been, that the prohibition of slavery was no infringement of any just rights belonging to free states, and was not incompatible with the enjoyments of all the rights and immunities which an admission into the Union was supposed to confer.

The memorialists, after this general survey, would respectfully ask the attention of Congress to the state of the question of the right of Congress to prohibit slavery in that part of the former territory of Louisiana, which now forms the Missouri territory. Louisiana was purchased of France by the treaty of the 30th April, 1803. The third article of that treaty is as follows: "The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the employment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Although the language of this article is not very precise or accurate, the memorialists conceive that its real import and intent cannot be mistaken. The first clause provides for the admission of the ceded territory into the Union, and the succeeding clause shows this must be according to the principles of the Federal Constitution; and this very qualification necessarily excludes the idea that Congress were not to be at liberty to impose any conditions upon such admission which were consistent with the principles of that Constitution, and which had been or might justly be applied to other new states. The language is not by any means so pointed as that of the

Resolve of 1780; and yet it has been seen that that Resolve was never supposed to inhibit the authority of Congress, as to the introduction of slavery. And it is clear, upon the plainest rule of construction, that in the absence of all restrictive language, a clause, merely providing for the admission of a territory into the Union, must be construed to authorize an admission in the manner and upon the terms which the Constitution itself would justify. This construction derives additional support from the next clause. The inhabitants "shall be admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." The rights, advantages, and immunities here spoken of must, from the very force of the terms of the clause, be such as are recognised or communicated by the Constitution of the United States; such as are common to all citizens, and are uniform throughout the United States. The clause cannot be referred to rights, advantages, and immunities derived exclusively from the state government, for these do not depend upon the Federal Constitution. Besides, it would be impossible that all the rights, advantages, and immunities of citizens of the different states could be at the same time enjoyed by the same persons. These rights are different in different states; a right exists in one state which is denied in others, or is repugnant to other rights enjoyed in others. In some of the states a freeholder alone is entitled to vote in elections; in some a qualification of personal property is sufficient; and in others age and freedom are the sole qualifications of electors. In some states, no citizen is permitted to hold slaves: in others he possesses that power absolutely; in others it is limited. The obvious meaning, therefore, of the clause is, that the rights derived under the Federal Constitution shall be enjoyed by the inhabitants of Louisiana in the same manner as by the citizens of other states. The United States, by the Constitution, are bound to guaranty to every state in the Union a republican form of government; and the inhabitants of Louisiana are entitled, when a state, to this guarantee. Each state has a right to two senators, and to representatives according to a certain enumeration of population, pointed out in the Constitution. The inhabitants of Louisiana, upon their admission into the Union, are also entitled to these privileges. The Constitution further declares, "that the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." It would seem as if the meaning of this clause could not well be misinterpreted. It obviously applies to the case of the removal of a citizen of one state to another state; and in such a case it secures to the migrating citizen all the privileges and immunities of citizens in the state to which he removes. It cannot surely be contended, upon any rational interpretation, that it gives to the citizens of each state all the privileges and immunities of the citizens of every other state, at the same time, and under all circumstances. Such a construction would lead to the most extraordinary consequences. It would at once destroy all the fundamental limitations of the state constitutions upon the rights of their own citizens; and leave all those rights to the mercy of the citizens of any other state, which should adopt different limitations. According to this construction, if all the state constitutions, save one, prohibited slavery, it would be in the power of that single state, by the admission of the right of its citizens to hold slaves, to communicate the same right to the citizens of all the other states within their own exclusive limits, in defiance of their own constitutional prohibitions; and to render the absurdity still more apparent, the same construction would communicate the most opposite and irreconcilable rights to the citizens of different states at the same time. It seems, therefore, to be undeniable, upon any rational interpretation, that this clause of the Constitution communicated no rights in any state which its own citizens do not enjoy; and that the citizens of Louisiana, upon their admission into the Union, in receiving the benefit of this clause, would not enjoy higher or more extensive rights than the citizens of Ohio. It would communicate to the former no right of holding slaves except in states where the citizens already possessed the same right under their own state constitutions and laws. * * *

Upon the whole, the memorialists would most respectfully submit that the terms of the Constitution, as well as the practice of the governments under it, must, as they humbly conceive, entirely justify the conclusion that Congress may prohibit the further introduction of slavery into its own territories, and also make such prohibition a condition of the admission of any new state into the Union.

If the constitutional power of Congress to make the proposed prohibition be satisfactorily shown, the justice and policy of such prohibition seem to the undersigned to be supported by plain and strong reasons. The permission of slavery in a new state necessarily draws after it an extension of that inequality of representation, which already exists in regard to the original states. It cannot be expected that those of the original states, which do not hold slaves, can look on such an extension as being politically just. As between the original states the representation rests on compact and plighted faith; and your memorialists have no wish that that compact should be disturbed, or that plighted faith in the slightest degree violated. But the subject assumes an entirely different character, when a new state proposes to be admitted. With her there is no compact, and no faith plighted; and where is the reason that she should come into the Union with more than an equal share of political importance and political power? Already the ratio of representation, established by the

Constitution, has given to the states holding slaves twenty members of the House of Representatives more than they would have been entitled to, except under the particular provision of the Constitution. In all probability this number will be doubled in thirty years. Under these circumstances we deem it not an unreasonable expectation that the inhabitants of Missouri should propose to come into the Union, renouncing the right in question, and establishing a constitution prohibiting it for ever. Without dwelling on this topic we have still thought it our duty to present it to the consideration of Congress. We present it with a deep and earnest feeling of its importance, and we respectfully solicit for it the full consideration of the national legislature.

Your memorialists were not without the hope that the time had at length arrived when the inconvenience and the danger of this description of population had become apparent in all parts of this country, and in all parts of the civilized world. It might have been hoped that the new states themselves would have had such a view of their own permanent interests and prosperity as would have led them to prohibit its extension and increase. The wonderful increase and prosperity of the states north of the Ohio is unquestionably to be ascribed in a great measure to the consequences of the ordinance of 1787; and few, indeed, are the occasions, in the history of nations in which so much can be done, by a single act, for the benefit of future generations, as was done by that ordinance, and as may now be done by the Congress of the United States. We appeal to the justice and to the wisdom of the National Councils to prevent the further progress of a great and serious evil. We appeal to those who look forward to the remote consequences of their measures, and who cannot balance a temporary or trifling convenience, if there were such, against a permanent, growing, and desolating evil. We cannot forbear to remind the two Houses of Congress that the early and decisive measures adopted by the American government for the abolition of the slave trade are among the proudest memorials of our nation's glory. That slavery was ever tolerated in the republic is, as yet, to be attributed to the policy of another government. No imputation, thus far, rests on any portion of the American confederacy. The Missouri territory is a new country. If its extensive and fertile field shall be opened as a market for slaves, the government will seem to become a party to a traffic which, in so many acts through so many years, it has denounced as impolitic, unchristian, inhuman. To enact laws to punish the traffic, and at the same time to tempt cupidity and avarice by the allurements of an insatiable market, is inconsistent and irreconcilable. Government by such a course would only defeat its own purposes, and render nugatory its own measures. Nor can the laws derive support from the manners of the people, if the power of moral sentiment be weakened by enjoying, under the permission of government, great facilities to commit offences. The laws of the United States have denounced heavy penalties against the traffic in slaves, because such traffic is deemed unjust and inhuman. We appeal to the spirit of these laws: We appeal to this justice and humanity: We ask whether they ought not to operate, on the present occasion, with all their force? We have a strong feeling of the injustice of any toleration of slavery. Circumstances have entailed it on a portion of our community, which cannot be immediately relieved from it without consequences more injurious than the suffering of the evil. But to permit it in a new country, where yet no habits are formed which render it indispensable, what is it, but to encourage that rapacity, and fraud, and violence, against which we have so long pointed the denunciations of our penal code? What is it, but to tarnish the proud fame of the country? What is it, but to throw suspicion on its good faith, and to render questionable all its professions of regard for the rights of humanity and the liberties of mankind?

As inhabitants of a free country—as citizens of a great and rising republic—as members of a Christian community—as living in a liberal and enlightened age, and as feeling ourselves called upon by the dictates of religion and humanity, we have presumed to offer our sentiments to Congress on this question, with a solicitude for the event far beyond what a common occasion could inspire.

Whigs, Address to.

The following address, taken from the National Intelligencer of the 27th of Oct., 1840, was issued by the State Whig Central Committee to the Whig party in Maryland, and shows the doctrine of the Whig party, both as to the naturalization and the Catholic question.

To the Whigs of Maryland.

The undersigned, as members of the Whig Central Committee of the state, have deemed it their duty to present this statement of their views. The Whigs of Maryland will, we have no doubt, sustain this proceeding, and acquiesce in its propriety.

General Duff Green, as editor of the Pilot, has discussed in his paper subjects which, in the opinion of the undersigned, have no proper connexion with the Presidential election. Within a few days this gentleman has published a prospectus for a newspaper, in which he expresses his determination to continue, after the election, discussions on questions with which the Whig party has not been, and will not be identified. As an individual, Gen. Green has an undoubted right to take such a course as his own judgment may approve. As an editor of a party paper he has thought proper to persevere in conduct which he knew was disapproved of by the Whig party of

Maryland. He has repeatedly been requested to avoid all discussions in reference to religious sects, but such requests have always been disregarded. He has ever assumed the position that he alone is responsible for what may appear in his editorial columns. This is undoubtedly true; and our object now is to make this manifest beyond all dispute to the people of Maryland. We now emphatically declare that the Whig party is not in any way, or to any extent, responsible for what has heretofore been published in the Pilot on the subject of Catholicism and naturalized voters, and will not be responsible for what Gen. Green may be pleased hereafter to do.

It is our decided conviction that the election contests in this country are already sufficiently exciting and absorbing in their character. If the differences of opinion between the religious denominations are to be appealed to, and to be used as incentives to party action, no man can foresee how terrible may be the result. Heretofore, after the elections have been settled by the ballot box, a calm has succeeded the political storm. With the close of the contest have subsided the excited and often angry feelings which prevailed during its continuance. Those who were alienated one from the other by political discussions have generally returned to their friendly relations after the settlement of the questions which divided them. But if, in addition to the causes of discussion which ordinarily exist, a religious controversy is to take place, who can allay the excitement which these combined causes may produce, and when will such a contest be finally settled?

In this country every man is permitted to worship his Maker in such way as his conscience may approve. Our laws and constitutions were framed to secure to all this glorious privilege. The native and naturalized citizens are equally entitled to the blessings of our government. All are equal; and when a stranger takes up his abode here, and has remained among us during the time prescribed by the naturalization laws, he has a right to become a citizen, and will be entitled to the privileges of citizenship.

Such being the views of the committee and, as they believe, of their constituents, the great Whig party of the state of Maryland, they hereby declare their disavowal of any concurrence in the present or prospective editorial course of General Green, and devolve upon him alone the entire responsibility of his course.

N. F. Williams, Chairman.

Geo. R. Richardson,	John P. Kennedy,
Wm. H. Gatchell	Sam'l McLellan,
James Grieves,	A. G. Cole,
Samuel Harden,	Hugh Birckhead,
Geo. W. Krebs,	Jas. L. Ridgely,
Asa Needham,	Gustav W. Lurman,
Chas. H. Pitts,	Jas. Frazier,
Neilson Poe,	Wm. R. Jones,
Geo. M. Gill,	James Harwood,
Wm. Chesnut,	T. Yates Walsh.

Whigs of Louisville on the same Subject.

At a mass meeting of the Whigs of Louisville, convened at the Whig Pavilion, on the evening of the 27th inst., for the purpose of taking into consideration the propriety of making public expression of their opinions in relation to the course of the Louisville Tribune, recently established in this city, professing to be a Whig newspaper,—on motion of Nathaniel Wolfe, President of the Louisville Clay Club, William J. Graves was called to the chair. Thereupon Mr. Wolfe, after some explanatory remarks, offered the following preamble and resolutions, which were unanimously adopted:—

Whereas, A newspaper called the Louisville Tribune, recently established in this city, professing to be a Whig paper, has published editorials and communications, one of which was signed "A Native American," of a most anti-republican character, reflecting upon the Catholic persuasion, and especially the Catholic priesthood, charging them with hostility to American liberty: Be it, therefore,

Resolved, That the Whigs, as a party, utterly repudiate and denounce the anti-republican and unjust strictures indulged by the Louisville Tribune towards the Catholic Church of this country.

Resolved, That the Whigs of this city regard the continued separation of Church and State as essential to the perpetuity of our free institutions; and we hereby denounce the efforts of the Locofoco party to array against each other the different religious persuasions, and to create a line of political demarkation between the Protestants and the Catholics, as subversive of the best interests of religion and inimical to the perpetuity of civil and religious liberty.

Resolved, That the Louisville Tribune, in the opinion of this meeting, is not a correct exponent of Whig principles; and we hereby rescind a resolution adopted by us upon the establishment of that paper, that we should subscribe for and recommend it to the support of the Whig party.

Wm. J. Graves, Chairman.

Whigs.

Address of certain Whig Representatives in Congress against the Nomination of Gen. Scott in 1852.

Washington, July 3, 1852.

To prevent all mistakes and misapprehension, we, the undersigned, members of Congress, adopt this method of making a joint statement to our constituents, respectively, and to all who may take an interest in the subject, that we cannot and will not support General Scott for the Presidency, as he now stands before the American people, for the following, amongst other reasons:—

He obstinately refused, up to the time of his nomination, to give any public opinion in favor of that series of measures of the last

Congress known as the compromise; the permanent maintenance of which, with us, is a question of paramount importance. Nor has he since his nomination made any declaration of his approval of those measures as a final adjustment of the issues in controversy.

It is true the resolutions of the convention that nominated him are as clear and as explicit upon this question as need be; but General Scott, in his letter of acceptance, which contains all that we have from him on that matter, does not give them the approval of his judgment. This he seems studiously to have avoided. He accepts the nomination, "with the resolutions annexed." This is, he takes the nomination *cum onere*, as an individual takes an estate, with whatever encumbrances it may be loaded with. And the only pledge and guarantee he offers for his "adherence to the principles of the resolutions," are "the known incidents of a long public life," &c.

Amongst these "known incidents" of his life there is not one, so far as we are aware of, in favor of the principles of the compromise. In one, at least, of his public letters, he has expressed sentiments inimical to the institutions of fifteen states of the Union. Since the passage of the compromise he has suffered his name to be held up before the people of several of the states as a candidate for the Presidency by the open and avowed enemies of those measures. And in the convention that conferred this nomination upon him he permitted himself be used by the Free Soilers in that body to defeat Mr. Fillmore and Mr. Webster, because of their advocacy of these measures and their firm adherence to the policy that sustained them.

To join such men, and aid them in completing their triumph over and sacrifice of the true and tried friends of the Constitution, and the faithful discharge of all its obligations, is what we can never do. The dictates of duty and patriotism sternly forbid it.

We consider General Scott as the favorite candidate of the Free Soil wing of the Whig party. That his policy, if he should be elected, would be warped and shaped to conform to their views, and to elevate them to power in the administration of the government, can but be considered as a legitimate and probable result. And believing, as we do, that the views of that faction of mischievous men are dangerous not only to the just and constitutional rights of the southern states (which we represent in part), but to the peace and quiet of the whole country, and to the permanent union of the states, we regard it as the highest duty of the well-wishers of the country everywhere, whatever else they may do, to at least withhold from him their support. This we intend to do.

Alexander H. Stephens of Ga.,
Charles Jas. Faulkner of Va.,
W. Brooke of Miss.,
Alex. White of Ala.,
James Abercrombie of Ala.,
R. Toombs of Ga.,
James Johnson of Ga.

For reasons to some extent indicated in speeches and addresses heretofore made by the undersigned, they deem it to be their duty to withhold their support from General Scott as a candidate for the Presidency. If it should seem to be necessary, we will hereafter, in some form, exhibit more fully to our constituents the facts and reasons which have brought us to this determination.

M. P. Gentry of Tenn.,
C. H. Williams of Tenn.

Whig Convention and Platform of 1856.

President: Hon. Edward Bates of Mo.

Vice Presidents: Col. Jos. Paxton of Pa.; Luther V. Bell of Mass.; Dr. James W. Thompson of Del.; Charles P. Krevals of Conn.; James A. Hamilton of N. Y.; Ex-Gov. Charles Stratton of N. J.; Ezekiel F. Chambers of Md.; Wyndham Robertson of Va.; Gov. Wm. A. Graham of N. C.; Elbert A. Holt of Ala.; A. M. Fonte of Miss.; Dr. Geo. W. Campbell of La.; Gov. Allen Trimble of O.; Henry T. Duncan of Ky.; John Shanklin of Ind.; Walter Coleman of Tenn.; James H. Matheny of Ill.; Gov. Wm. C. Lane of Mo.; John Finney of Fla.; Col. E. A. Holbrook of Ark.; G. T. Dortic of Ga.

Secretaries: Laz. Anderson of O.; James M. Townsend of Conn.; Hon. Thomas Jones York of N. J.; E. V. Machette of Pa.; S. H. Kennedy of La.; James H. Charless of Mo.; Col. Huntingdon of N. Y.

The Convention adopted the following platform:—

Resolved, That the Whigs of the United States now here assembled, hereby declare their reverence for the Constitution of the United States; their unalterable attachment to the National Union; and a fixed determination to do all in their power to preserve them for themselves and their posterity. They have no new principles to announce; no new platform to establish; but are content to broadly rest—where their forefathers rested—upon the Constitution of the United States, wishing no safer guide, no higher law.

Resolved, That we regard with the deepest interest and anxiety the present disordered condition of our national affairs—a portion of the country ravaged by civil war, large sections of our population embittered by mutual recriminations; and we distinctly trace these calamities to the culpable neglect of duty by the present national administration.

Resolved, That the government of the United States was formed by the conjunction in political unity of wide-spread geographical sections, materially differing, not only in climate and products, but in social and domestic institutions; and that any cause which shall permanently array these sections in political hostility and organized parties, founded only on geographical distinctions, must inevitably prove fatal to a continuance of the National Union.

Resolved, That the Whigs of the United

States declare as a fundamental article of political faith, an absolute necessity for avoiding geographical parties. The danger so clearly discerned by the Father of his country, has now become fearfully apparent in the agitation now convulsing the nation, and must be arrested at once if we would preserve our Constitution and our Union from dismemberment, and the name of America from being blotted out from the family of civilized nations.

Resolved, That all who revere the Constitution and the Union must look with alarm at the parties in the field in the present Presidential campaign—one claiming only to represent sixteen northern states, and the other appealing mainly to the passions and prejudices of the southern states; that the success of either faction must add fuel to the flame which now threatens to wrap our dearest interests in a common ruin.

Resolved, That the only remedy for an evil so appalling is to support a candidate pledged to neither of the geographical sections now arrayed in political antagonism, but holding both in a just and equal regard. We congratulate the friends of the Union that such a candidate exists in Millard Fillmore.

Resolved, That, without adopting or referring to the peculiar doctrines of the party which has already selected Mr. Fillmore as a candidate, we look to him as a well-tried and faithful friend of the Constitution and the Union, eminent alike for his wisdom and firmness—for his justice and moderation in our foreign relations—for his calm and pacific temperament so well becoming the head of a great nation—for his devotion to the Constitution in its true spirit—his inflexibility in executing the laws; but, beyond all these attributes, in possessing the one transcendent merit of being a representative of neither of the two sectional parties now struggling for political supremacy.

Resolved, That in the present exigency of political affairs, we are not called upon to discuss the subordinate questions of the administration in the exercising of the constitutional powers of the government. It is enough to know that civil war is raging, and that the Union is in peril; and proclaim the conviction that the restoration of Mr. Fillmore to the Presidency will furnish the best if not the only means of restoring peace.

Resolved, That we cordially approve the nomination of Andrew J. Donelson for the Vice Presidency; regarding him as a national conservative patriot, faithfully devoted to the Constitution and the Union.

Resolved, That a spontaneous rising of the Whigs throughout the country and their prompt rally to the support of the highest national interests, and the spirit here displayed, sufficiently attest the national importance of preserving and reinvigorating their party organization—that a National Whig Committee of one from each of the states, be appointed by the president, with authority to call any future convention, and generally promote any effective organization of their party throughout the United States.

Resolved, That these resolutions be published and respectfully submitted by the Convention as an address to the people of the United States.

Whig Members of Congress.

Proceedings of Meeting of.

An adjourned meeting of the Whig members of Congress was held in the Senate Chamber on Tuesday evening, April 20, 1852.

At a quarter before eight o'clock Mr. Mangum took the chair.

The proceedings of the previous meeting were read.

Mr. Stanly of N. C. offered the following resolution:—

Resolved, That it be recommended that the Whig National Convention be held in the city of Baltimore, in the state of Maryland, on Wednesday, the 16th day of June next, for the purpose of nominating candidates for the Presidency and Vice Presidency of the United States.

Mr. Marshall of Ky. then offered the following as a substitute for that by Mr. Stanly:—

Whereas, the determination of the time and place for holding a National Whig Convention has been referred to the Whigs of Congress, the Whig members of the Senate and House of Representatives, having assembled in convention, with the explicit understanding that they regard the series of acts known as the adjustment measures as forming, in their mutual dependence and connexion, a system of compromise the most conciliatory, and the best for the entire country that could be obtained from conflicting sectional interests and opinions: and that therefore they ought to be adhered to and carried into faithful execution, as a final settlement in principle and substance, of the dangerous and exciting subjects which they embrace, and do unite on this basis, as well as upon the long-established principles of the Whig party, do hereby recommend the —— day of ——, and the city of —— as the time and place for holding the National Whig Convention, for the choice of Whig candidates for the Presidency and Vice Presidency respectively.

The Chair decided that the resolution was out of order, and contrary to the established usage of the party. But as a substantive resolution, it was to be considered and decided by the meeting whether it would be acted on after the transaction of business, upon which alone the meeting had assembled, viz.: that of recommending the time and place of holding the Whig National Convention.

From this decision Mr. Marshall took an appeal, and after considerable debate, in which great latitude was allowed, the motion was put, "Shall the decision of the Chair stand as the judgment of the meeting?" and

the question was decided in the affirmative by ayes 46, nays 21, as follows:—

Ayes and nays on the appeal of Honorable Humphrey Marshall from the decision of the Chair:—

SENATE.—Ayes—Messrs. J. H. Clarke, John Davis, H. Fish, J. W. Miller, Truman Smith, P. Spruance, J. R. Underwood, and B. F. Wade.

Nays—Messrs. Brooke, James Cooper, and Jackson Morton.

HOUSE.—Ayes—Messrs. Allison, Barrere, Bowne, Brenton, Briggs, Campbell, Chandler, Cullom, Fowler, Goodenow, Goodrich, Grey, Hascall, Hebard, Hosford, Howe, T. W. Howe, Hunter, King, Kuhns, Meacham, Moore, Morehead, Parker, Penniman, Porter, Sackett, Schoolcraft, Scudder, Stanly, Stanton, Stevens, Taylor, Walbridge, Ward, Washburn, Wells, White of Ky., Williams.

Noes—Appleton, James Brooks, E. C. Cabell, Clingman, Dockery, Ewing, Gentry, Haws, Haven, Landry, H. Marshall, Martin, Moore, Outlaw, Schermerhorn, Strother, Williams.

Mr. Gentry of Tenn. then offered the following, in addition or amendment to the resolution of Mr. Stanly:—

Resolved, That the Whig members of Congress, in thus recommending a time and place for the National Whig Convention to assemble, are not to be understood as pledging themselves to support the nominees of said convention, except upon the condition that the persons then and there nominated as candidates for the President and Vice President, shall be publicly and unequivocally pledged to regard the series of measures known as the compromise measures, as a final settlement of the dangerous questions which they embraced, and to maintain that settlement inviolate.

The Chair decided the resolution or amendment of Mr. Gentry to be out of order, unless as a substantive proposition. As such the Chair would receive it.

From this decision of the Chair an appeal was taken; and the opinion of the Chair was sustained without division.

The resolution of Mr. Stanly then coming up, Mr. Campbell of Ohio moved to strike out Baltimore and insert Cincinnati, which was negatived. A motion by the same gentleman, to insert Louisville, was also lost.

A motion was then made to strike out Baltimore and insert Pittsburgh, which was negatived.

Mr. Chandler of Pa. moved to strike out Baltimore and insert Philadelphia; which motion was negatived.

Gen. Cullom of Tenn. then gave notice that, after Mr. Stanly's resolution should have been disposed of, he would renew the resolutions offered by the gentleman from Kentucky [Mr. Marshall], and the gentleman from Tennessee [Mr. Gentry], if they would remain.

The question on Mr. Stanly's resolution was then put, and decided in the affirmative without a division.

Gen. Cullom of Tenn. then gave notice that as the particular friends of the resolutions which had been ruled out of order, in connexion with the resolution of Mr. Stanly, were not present, he did not feel called on to present the resolution of which he had given previous notice.

It was resolved that the Chairman of the meeting have authority to re-convene this meeting, should circumstances, in his opinion, render necessary such a step.

It was ordered that the Chairman of the meeting cause the resolutions recommending the time and place for holding the Whig National Convention, to be inserted in the Whig newspapers of this District, signed by himself, and countersigned by the secretaries; and then, at a quarter before twelve, the meeting adjourned.

A true copy of the journal of the meeting,

JOSEPH R. CHANDLER,
ALFRED DOCKERY, } Secretaries.

—

Senate Chamber, May 19, 1852.

To the Editors of the Globe:

In casting my eye cursorily over a part of the debate in the House, in the Daily Globe of this date, in relation to the Congressional caucus, I find many discrepancies and some errors. The journal of the proceedings, republished in the National Intelligencer, is correct and exact upon every material point that was raised. The Chair ruled both Mr. Marshall's and Mr. Gentry's resolutions out of order, as amendments to the resolution offered by Mr. Stanly. The Chair, however, decided to receive Mr. Gentry's resolutions as a substantive proposition, if it should be so offered—not Mr. Marshall's, which could be received only by the assent of the majority of the meeting.

The reason of the discrimination in the mind of the Chairman was, that Mr. Gentry's purported to construct no platform for others, but simply to define the position of those supporting it. Mr. Marshall's went further, and, in the opening of the Chair, was inadmissible, on the ground of assuming to construct, in part, a political platform, which the Chair deemed as in no extent warrantable by the usages of the Whig party, but a naked usurpation of power properly exercisable only by the people, or their representatives in the National Convention.

Mr. Chandler's statement, as sustained by Mr. Stanly and others, is entirely accurate.

Your obedient servant,

WILLIE P. MANGUM.

Whig Platform of 1852.

THE Whigs of the United States, in convention assembled, firmly adhering to the great conservative republican principle by which they are controlled and governed, and now, as ever, relying upon the intelligence of the American people, with an abiding confidence in their capacity for self-government, and

their continued devotion to the Constitution and the Union, do proclaim the following as the political sentiments and determination, for the establishment and maintenance of which their national organization, as a party, is effected:—

1. That the government of the United States is of a limited character, and it is confined to the exercise of powers expressly granted by the Constitution, and such as may be necessary and proper for carrying the granted powers into full execution; and that all powers not thus granted or necessarily implied are expressly reserved to the states respectively, and to the people.

2. That the state governments should be held secure in their reserved rights, and the general government sustained in its constitutional powers, and the Union should be revered and watched over as the palladium of our liberties.

3. That, while struggling freedom everywhere enlists the warmest sympathy of the Whig party, we still adhere to the doctrines of the Father of his Country, as announced in his Farewell Address, of keeping ourselves free from all entangling alliances with foreign countries, and of never quitting our own to stand upon foreign ground; that our mission as a republic is not to propagate our opinions, or impose on other countries our form of government by artifice or force, but to teach by example, and show by our success, moderation and justice, the blessings of self-government, and the advantages of free institutions.

4. That where the people make and control the government they should obey its Constitution, laws, and treaties, as they would retain their self-respect, and the respect which they claim and will enforce from foreign powers.

5. That the government should be conducted upon principles of the strictest economy, and that revenue sufficient for the expenses of its economical administration in time of peace ought to be mainly derived from a duty on imports, and not from direct taxes; and, in levying such duties, sound policy requires a just discrimination, whereby suitable encouragement may be afforded to American industry, equally to classes, and to all portions of the country.

6. That the Constitution vests in Congress the power to open and repair harbors, and remove obstructions from navigable rivers; and it is expedient that Congress should exercise that power whenever such improvements are necessary for the common defence, or for the protection and facility of commerce with foreign nations or among the states—such improvements in every instance being national and general in their character.

7. That the federal and state governments are parts of one system, alike necessary for the common prosperity, peace, and security, and ought to be regarded alike with a cordial, habitual, and immovable attachment. Respect for the authority of each, and the acquiescence in just constitutional measures of each, are duties required by the plainest considerations of national, of state, and of individual welfare.

8. That the series of acts of the thirty-first Congress, the act known as the fugitive slave law included, are received and acquiesced in by the Whig party of the United States as a settlement, in principle and substance, of the dangerous and exciting questions which they embrace, and, so far as they are concerned, we will maintain them, and insist upon their enforcement until time and experience shall demonstrate the necessity of further legislation to guard against the evasion of the laws on the one hand, and the abuse of their powers on the other, not impairing their present efficiency; and we deprecate all further agitation of the questions thus settled as dangerous to our peace, and will discountenance all efforts to continue or renew such agitation, whenever, wherever, or however, the attempt may be made; and we will maintain this system as essential to the nationality of the Whig party, and the integrity of the Union.

Williams, Captain James, of Nashville, Tenn.

EXTRACT FROM THE SPEECH OF, ON THE BARGAIN AND INTRIGUE SLANDER, DELIVERED AT NASHVILLE, AUGUST 18, 1856.

FOR the purpose of presenting at one view to the true friends of Henry Clay the record of the noble and manly course of Mr. Buchanan in reference to the question of "bargain and corruption," I will group together with the evidence furnished by Mr. Buchanan the universal recognition, by all Mr. Clay's biographers and historians, of the importance of that testimony to his defence. Superadded to this positive proof—inviting scrutiny, and defying contradiction—I assert, that from the day this charge was first preferred against Mr. Clay, up to the good hour when the Cincinnati Convention made its nomination for the Presidency, no friend of Henry Clay ever alluded to Mr. Buchanan's connexion with that charge, or his testimony in reference thereto, who did not declare, that he fully and unequivocally established Mr. Clay's innocence! During a period of thirty long years, the friends of Mr. Clay have triumphantly pointed to this testimony, as of itself ample and conclusive, in his vindication, and never was the honorable character of his conduct towards Mr. Clay called in question, until those who claim to be, par excellence, the perpetuators of Mr. Clay's party under a new name, adopted as their candidate for the Vice Presidency, the man of all others most thoroughly identified with this charge in its inception and perpetuation!

And now to the documentary testimony. I read from the Nashville Banner of the 15th of August, 1856:—

General Jackson's Statement.

"In January, 1825, a member of Congress of high respectability [Mr. Buchanan] visited me one morning, and observed—'He had been informed by the friends of Mr.

Clay, that the friends of Mr. Adams had made overtures to them saying if Mr. Clay and his friends would unite in aid of the election of Mr. Adams, Mr. Clay should be Secretary of State; that the friends of Mr. Adams were urging as a reason to induce the friends of Mr. Clay to accede to this proposition, that if I was elected President, Mr. Adams would be continued Secretary of State (innuendo there would be no room for Kentucky)—that the friends of Mr. Clay stated, the West did not wish to separate from the West, and if I would say, or permit any of my confidential friends to say that, in case I was elected President, Mr. Adams should not be continued Secretary of State, by a complete union of Mr. Clay and his friends, they would put an end to the Presidential contest in one hour; and he [Mr. Buchanan] was of opinion it was right to fight such intriguers with their own weapons.'"

"This disclosure was made to me by Mr. Buchanan, a member of Congress of the first respectability and intelligence. The evening before, he had communicated, substantially, the same proposition to Major Eaton, my colleague in the Senate, with a desire warmly manifested, that he should communicate with me and ascertain my views on the subject."

* * * * * * *

"To be thus approached by a gentleman of Mr. Buchanan's high character and standing, with an apology proffered at the time for what he was about to remark to me—one who, as I understood, had always, to that moment, been on familiar and friendly terms with Mr. Clay, assuring me that on certain terms and conditions being assented to on my part, then, 'by an union of Mr. Clay and his friends, they would put an end to the Presidential contest in one hour'—what other conclusion or inference was to be made than, that he spoke by authority either of Mr. Clay himself, or some of his confidential friends? The character of Mr. Buchanan with me, forbids the idea that he was acting on his own responsibility, or that under any circumstances, he could have been induced to propose an arrangement unless possessed of satisfactory assurances that if accepted, it would be carried fully into effect. A weak mind would seldom or ever be thus disposed to act, an intelligent one never.

"Under all the circumstances appearing at the time, I did not resist the impression that Mr. Buchanan had approached me on the cautiously submitted proposition of some authorized person; and therefore, in giving him my answer, did request him to say to Mr. Clay and his friends, what that answer had been."—*See published letter of Gen. Jackson, dated Hermitage, July* 18, 1827.

This statement covers the entire charge made against Mr. Buchanan, in all its length, breadth, and thickness. It is not pretended that at any other time or upon any other occasion, he was in any manner connected, up to that period, with the matter in controversy. Assume for the moment that Mr. Buchanan had never made any response whatever to the subject of this interview with General Jackson, I ask my old Whig friends to analyze it, and sift its true meaning. Can anything more be made of it, than that preceding and pending the election in the House of Representatives for the Presidency, many rumors were very naturally in circulation as to the political combination that might be formed to effect an election? Amongst others it was reported that if General Jackson should be chosen President, he would continue Mr. Adams in his position of Secretary of State. Mr. Buchanan, according to this hypothesis, desired General Jackson to disabuse the public mind upon this point, and to let it be stated authoritatively that no such arrangement had been entered into, and that this simple declaration of neutrality between Adams and Clay would satisfy the friends of the latter.

The only crime which can be discovered against Mr. Buchanan in this whole statement, by the most thorough and rigid analysis, was that, in the event of the election of his friend General Jackson to the Presidency, he preferred that Mr. Clay should receive the appointment of Secretary of State, rather than John Quincy Adams. But I will now read the reply made by Mr. Buchanan to the statement of General Jackson, dated 8th August, 1827, and addressed to the editor of the Lancaster Journal:

[Here Captain Williams read Mr. Buchanan's reply to General Jackson's statement on page 76 of this work.]

Could any language have been fuller, more conclusive, or more explicit? Throughout the length and breadth of the land Mr. Clay's friends hailed its publication as a complete vindication of his innocence. Mr. Clay was everywhere congratulated upon his triumph, and in every quarter his friends gave evidence of their gratitude towards Mr. Buchanan for this noble act of devotion to truth and justice. I trust the old followers of Clay will not forget the time when, and the circumstances under which, Mr. Buchanan was called upon to display this act of moral heroism. The Jackson party was then in the ascendancy all over the country. Mr. Clay, almost crushed by the unpopularity of his connexion with the administration of Mr. Adams, and the torrent of public opinion which seemed everywhere to set against him, nobly breasted the storm, but still all eyes were turned to Mr. Buchanan, who was called upon to testify as to his guilt or innocence. One word from him—one insinuation that he had been authorized by Mr. Clay or his friends to make a corrupt proposition upon the subject of the pending election, and it is admitted, by both friends and foes, that that word would have crushed Mr. Clay, and would, perhaps, with many persons, have left an impression of his guilt, never to be eradicated. But that word was never spoken! True to the instincts of a noble nature, Mr. Buchanan said, "If there is any guilt, it is mine; I spoke only upon my individual responsibility; Mr. Clay is innocent."

All honor to the man who, in the midst of such a conflict, rose superior to the appliances and the blandishments of party, and dared do justice to a political adversary.

But I stand not alone among the friends of Henry Clay in the estimate I have placed upon the honorable conduct of Mr. Buchanan. Every single biographer—every historian—every friend of Mr. Clay, whose opinions have been recorded up to the period of Mr. Buchanan's nomination for the Presidency, embracing a period of thirty years—has expressed the same degree of admiration for his course, and the same opinion as to the importance of his testimony to Mr. Clay's defence. I will read to you an extract from Colton's Life of Clay, vol. 1, pages 138-9:—

"In the form of a reply, dated June 5, 1827, he [Gen. Jackson] directly charged the friends of Mr. Clay with having made the alleged propositions, through a distinguished member of Congress, and accompanied his allegations with insinuations that the offer was made by the authority of Mr. Clay. Mr. Clay immediately demanded the name of the 'distinguished member of Congress' through whom the overtures had been made, and received from General Jackson the name of Mr. Buchanan of Pennsylvania. Thus publicly called upon, Mr. Buchanan, although a personal and political friend of General Jackson, did not hesitate

flatly to contradict the statement. He denied having made any such offer, and said that in the only conversation he ever had with General Jackson on the subject of retaining Mr. Adams as Secretary of State, he had not the most distant idea that the General believed or suspected he came on behalf of Mr. Clay or his friends. Thus the assertion of General Jackson was not only left unsupported, but shown by his own witness to be a naked falsehood. But it was made by a distinguished man, and still carried with it some degree of weight, enforced, as it was, by the whole opposition press in the Union, which circulated the charge, and afterwards purposely suppressed the disproval. It produced in the public mind a deep prejudice against Mr. Clay."

* * * * * * *

"Even those who allowed themselves still to cherish a suspicion against Mr. Clay, were deprived of their only show of evidence by a letter of Mr. Beverly in 1841, explicitly admitting for the tale of a conversation with General Jackson, concerning the alleged overture to which he had first given currency in his letter of 1825, there was not the slightest foundation in truth."

It will be observed that this historian declares Mr. Buchanan's testimony to Mr. Clay's innocence was so conclusive, that the charge against him was "left entirely unsupported." And further adds, that the only show of evidence left was annihilated by the disclaimer of Carter Beverly, in 1841. How is it possible to reconcile these declarations with the idea that Mr. Buchanan ever intimated a solitary doubt of Mr. Clay's innocence? Let us now see what weight was attached by Mr. George D. Prentice, the editor of the Louisville Journal, to the evidence of Mr. Buchanan. A number of years ago he left New England and visited Lexington for the purpose of writing the Life of Henry Clay. He completed it under the eye of Mr. Clay, and in the very shades of Ashland. I read from George D. Prentice's Life of Clay, page 237:—

"Not satisfied with private hints and declarations, Mr. Clay's distinguished accuser [Gen. Jackson] finally stated in a public letter that overtures of bargain had been made to him by the friends of Mr. Clay. With his usual promptitude of character, Mr. Clay demanded through whom these overtures had been made. In reply, Gen. Jackson gave up the name of Mr. James Buchanan, one of his own political and personal friends. Mr. Buchanan, however, was an honorable man, and hesitated not to say publicly, that he had never to Gen. Jackson made the overtures in question, or any that had the least resemblance to them. The principal accuser was now silent; but his partisans stopped their ears and shut their eyes to the proofs of Mr. Clay's innocence, and cried 'away with him, away with him.'"

From the above it will be seen that, with a full knowledge of all the facts, and years after the charge had been first made, Prentice declares that Mr. Buchanan was an honorable man, and fully acquitted Mr. Clay of all wrong. It is true that, since the commencement of the present contest, this unscrupulous man has eaten his own words; and now charges, without a syllable of proof, that Mr. Buchanan was not "an honorable man," and that he did not "exonerate Mr. Clay," but he only proves thereby that he then deliberately, and with full knowledge, falsified history to defend Mr. Clay, or that he is now the slanderer of both the living and the dead.

Another biographer of Mr. Clay, Epes Sargeant, so late as the year 1842, bears full testimony as to the honorable conduct of Mr. Buchanan, and, in common with all the other friends of Mr. Clay, points to his testimony as a triumphant vindication!

I read from Epes Sargeant's Life of Clay, page 114:—

"Mr. Buchanan being thus involved in the controversy, although a personal and political friend of Gen. Jackson, made a statement which entirely exculpated Mr. Clay and his friends from all participation in the alleged propositions."

But there is still another distinguished citizen who has unqualifiedly commended the honorable and noble conduct of Mr. Buchanan in reference to this question. Although now an enemy to the Union, and a deserter from the great conservative principles of Mr. Clay, his testimony, deliberately uttered before his detection, cannot now be repudiated.

From Wm. H. Seward's Life of J. Q. Adams—pp. 167-8.

"Here was a direct collision between General Jackson and Mr. Clay. All now rested with Mr. Buchanan. His testimony would either prostrate Mr. Clay, or place him, in regard to this matter, beyond the reach of the foulest tongue of calumny. In due time, Mr. Buchanan made his statement, in which he denied, in unequivocal language, having made any such proposition to General Jackson. This statement fully and triumphantly exonerated Mr. Clay, Mr. Adams, and their friends, from the charge of 'bargain and corruption,' which had been so boldly and widely disseminated."

This author, it will be observed, declares that Mr. Buchanan's testimony in favor of Mr. Clay was absolutely necessary to his defence; without it he would be crushed. But in due time (says Mr. Seward) "he fully and triumphantly exonerated Mr. Clay, Mr. Adams, and their friends."

We have thus before us the statement of Mr. Buchanan, and the comments and conclusions drawn therefrom by Mr. Clay's friends. Let us now see what Mr. Clay himself thought of the nature and probable effect of Mr. Buchanan's publication.

Mr. Clay to Francis Brooke.

"Washington, August 14, 1827.

"My Dear Sir: Mr. Buchanan has presented his communication to the public; and although he evidently labors throughout the whole of it to spare and cover General Jackson, he fails, in every essential particular, to sustain the General. Indeed, I could not desire a stronger statement from Mr. Buchanan. The tables are completely turned upon the General. I directed a copy to be enclosed yesterday to Mr. Southard.

"It must confirm any good impression produced by my speech."

If, then, Mr. Clay "could not desire a stronger statement from Mr. Buchanan," and all his friends and biographers from that day up to the 2d day of June, 1856, coincided with Mr. Clay in opinion, will it not strike the public mind with some force, that his posthumous admirers of the "old Kitchen Cabinet," together with their followers, ought to be satisfied with the part enacted by Mr. Buchanan? Language could not be stronger than that used by Mr. Clay, and he concludes by declaring that Mr. Buchanan's statement must confirm any favorable impression produced by the speech he had recently delivered.

Upon many other occasions Mr. Clay reiterated the same opinions in regard to Mr. Buchanan's conduct. On his retirement from the office of Secretary of State, his friends in Washington gave him a public dinner, and in a speech upon that occasion he said:—

"That citizen [General Jackson] has done me great injustice. It was inflicted, I must ever believe, for the double purpose of gratifying private resentment and promoting personal ambition. When, during the late canvass, he came forward through the public prints, under his proper name, with his charge against me, and summoned before the pub-

lic tribunal his friend and only witness [Mr. Buchanan] to establish it, the anxious attention of the whole American people was directed to the testimony which that witness might render. He promptly obeyed the call and testified to what he knew. He could say nothing, and he said nothing which cast the slightest shade upon my honor or integrity. What he did say was the reverse of any implication of me."

Again, in December, 1827, Mr. Clay, in his "Address to the Public," which he published in his defence, says:—

"Mr. Buchanan has been heard by the public, and I feel justified in asserting that the first impression of the whole nation was, as it is yet that of every intelligent mind, unbiassed by party prejudice, that his testimony fully exonerated me."

In this connexion, I desire to direct your attention to a historical fact which should not be overlooked. Mark the coincidence between the conduct of the Kitchen Cabinet then and now. A portion of Mr. Clay's personal enemies endeavored to break the force of Mr. Buchanan's testimony, by giving to his language an interpretation different from its plain import. They insisted, just as is now contended by the Louisville Journal, Francis P. Blair, the revived Kitchen Cabinet, and many others who are no doubt acting without a due knowledge of the facts, that Mr. Buchanan did not in fact fully acquit Mr. Clay. All of these, however, were his uncompromising enemies; and in the address from which we have quoted, Mr. Clay alludes with bitterness to this effort to deprive him of the benefit of Mr. Buchanan's conclusive vindication, and says that it is "the most extraordinary interpretation of Mr. Buchanan's statement that ever was given to human language!"

If there are any true friends of this departed patriot and statesman who have unwittingly joined in this clamor against Mr. Buchanan, let them remember that they are now occupying the same ground on which the most reckless and unrelenting of Mr. Clay's enemies stood thirty years ago; and let them likewise remember Mr. Clay's indignant rebuke, when he declared that such an interpretation of Mr. Buchanan's conduct towards him involved the most extraordinary interpretation ever given to human language.

I desire now to direct particular attention to the following letter from the pen of R. P. Letcher. It will be perceived that it fully and entirely refutes the utterly groundless declaration of the Louisville Journal, that if Mr. Letcher was permitted to make public the matter of the private conversation therein referred to, it would place Mr. Buchanan in a very different attitude before the public from that which he now occupies. Can any honorable man who has read the articles referred to in the Louisville Journal avoid, upon reading the closing paragraphs of this letter, an involuntary feeling of contempt and detestation for that species of party warfare which hesitates not to give utterance to any falsehood which may hold out the prospect of deceiving the ignorant or uninformed? The letter, it will be borne in mind, was written upon the occasion of Mr. Buchanan's published statement in reference to the question at issue between Mr. Clay and Gen. Jackson:—

R. P. Letcher to Mr. Clay.

"My Dear Sir: With your letter of the 9th, Mr. Buchanan's response to the hero was received. His answer is well put together. As they say in Connecticut, 'there is a great deal of good reading in Buck's reply.' It is modest and genteel, yet strong and conclusive. I am truly delighted with the manner in which B. has acquitted himself. I am greatly gratified with the result, and must believe it will have a happy effect upon the Presidential election. It is impossible it should turn out otherwise.

"Virginia, after this, will not, can not, support the General. I never have had the least hope of Virginia until now. I presume Buck's reply supersedes the necessity of any reference to the conversation in my room. I am glad of it."

And now, gentlemen, permit me, in connexion with this letter of Mr. Letcher, to call you attention to the scheme set on foot by Calvin Colton, the historian before referred to, and George D. Prentice, to create the false impression upon the public mind that if Mr. Letcher was allowed to relate the substance of a private conversation between Mr. Buchanan and himself, the public would be startled by the horrible atrocity of Mr. Buchanan's conduct. The letter I have just read positively and flatly and unequivocally contradicts any such inference. Colton, in his statement in the Nashville Banner, says:—

"It may also be proper for me to say, that Mr. Clay appended a note to the same document, advising me to apply to Gov. Letcher for further information on the subject. I accordingly called on Gov. Letcher, and found his lips sealed by a pledge of silence given to Mr. Buchanan."

Now, one of two things is absolutely certain: Either Mr. Colton and George D. Prentice are endeavoring to make a false impression upon the public mind, or Mr. Letcher, in the letter I have just read, stated as true what was absolutely and essentially false! Long after the mysterious conversation referred to, Mr. Letcher, in the confidence of private friendship, writes to Mr. Clay that Mr. Buchanan's statement is so "modest and genteel," yet so "strong and conclusive," that it "supersedes the necessity of any reference to the conversation in his room;" that is, it covers the whole ground of that conversation, and there was nothing left to tell.

That subjects of a private character may have been discussed in Mr. Letcher's room, may or may not be true; but that the whole of that conversation, so far as it related to the question of bargain and corruption, was covered by Mr. Buchanan's statement, is incontestibly established by the solemn declaration of Mr. Letcher himself. Until Mr. Letcher announces that his letter contains a deliberate falsehood, no man can put any faith in the declarations thus wantonly made in the North by the Black Republican Colton—reproduced in the South by the Know-Nothing Prentice, with the unworthy purpose of securing a party advantage, and echoed in Nashville by the old organ of the "Kitchen Cabinet."

An event in the history of political parties in the past affords a memorable parallel to the one now under consideration. It will be remembered that Henry Clay, pending the Pre-

sidential election of 1825, addressed a letter to that arch traitor, Francis P. Blair, who has by turns deserted every party or public man who has confided in him. He was at that time regarded by Mr. Clay as his unwavering friend. As Mr. Clay's political fortunes waned, however, so did Mr. Blair's friendship, until at length he sold out bag and baggage to Mr. Clay's enemies. Then it was that dark and mysterious hints began to be disseminated, that Mr. Clay had written a confidential letter to Blair, in which the whole bargain and intrigue was fully admitted. Blair countenanced the rumor, and so the enemies of Mr. Clay assumed the dark hint to be a black reality, and the whole country rang with the charge. At length, after many years, Blair was called upon, and was obliged to publish the letter in full. It turned out, as all will remember, to be utterly insignificant. Blair, however, witnessed the tremendous influence which the hint exercised upon the public mind to the prejudice of Mr. Clay; and hence, no doubt, the pertinacity with which the old Kitchen Cabinet, and its adjunct of the Louisville Journal, cling to the above story of the private conversation between Mr. Letcher and Mr. Buchanan, which we have before shown Mr. Letcher emphatically denies.

I have thus called up from the records of the past the declarations of all Mr. Clay's biographers and friends, together with his own solemn assurances, all agreeing that Mr. Buchanan's conduct was noble, manly, and conclusive of Mr. Clay's innocence. I will now read to you the testimony of his son, James B. Clay, who surely cannot be suspected of doing or saying anything which would be calculated to injure the reputation of his noble father:—

From J. B. Clay's Speech in Mason County, Ky, July 26, 1856.

"I have fully and carefully studied the whole history of the bargain and intrigue slander, with the express purpose of ascertaining the truth or the falsity of the charge against Mr. Buchanan, and the result of my search has been, that as an honest man, I am bound to acquit him of having had any part in the original slander, or of having done my father any wrong, when he was summoned before the public as a witness against him. I am bound to acquit him upon the testimony of the very person whom he is said to have wronged and slandered, and however little partisan editors and partisan orators may esteem the evidence of my father himself, it is abundantly sufficient for me, his son. The charge of bargain and intrigue was first made by Mr. Kremer, in an anonymous letter, subsequently reiterated by Carter Beverly, in his celebrated Fayetteville letter, and finally asserted by Gen. Jackson, who assumed the responsibility of it, and to prove its truth, summoned Mr. Buchanan before the public as his only witness. Mr. Buchanan promptly responded to the call for his testimony. Did he sustain Mr. Kremer, Carter Beverly and Gen. Jackson, the last of whom summoned him? On the contrary, his evidence was clear and distinct, and fully exculpated Mr. Clay from the charges made against him. So Mr. Clay regarded it himself, and he, the person accused, testified, publicly and privately, that he considered Mr. Buchanan had done him no wrong."

I have thus far furnished the recorded testimony of Henry Clay himself, and of every single individual claiming to be his friend who has written upon the subject, from the moment the charge was first heralded to the world, up to the hour when James Buchanan was nominated for the Presidency. I will now direct your attention to the testimony furnished since that time by the recognised "Kitchen Cabinet," in conjunction with their ally of the Louisville Journal, who has recently, in addition to his other onerous duties, taken charge of the reputation of Gen. Andrew Jackson.

A few weeks ago the Nashville Banner, the old home organ of the "Kitchen Cabinet," paraded in its columns an extract of a letter written in 1845, by Gen. Jackson to Wm. B. Lewis, the old member of the Culinary Cabinet before referred to, of which the following is a copy:—

"Your observations with regard to Mr. Buchanan are correct. He showed a want of moral courage in the affair of the intrigue of Adams and Clay—did not do me justice in the expose he then made, and I am sure about that time did believe there was an understanding between Adams and Clay about the Presidency and Secretary of State. This I am sure of. But whether he viewed that there was any corruption in the case or not, I know not, but one thing I know, that he wished me to combat them with their own weapons—that was to let my friends say if I was elected I would make Mr. Clay Secretary of State. This to me appeared gross corruption, and I repelled it with that honest indignation as [which] I thought it deserved."

This much of the letter of Gen. Jackson had been published for months, when it was charged that an important portion had been suppressed. The Banner finally admitted the fact, and on the 15th inst. published the entire letter, from which we discover that the paragraph, instead of being terminated at the word "deserved," is continued in the following words:—

"Mr. Buchanan is a man of fine talents, and if he comes into the Department of State, will execute the duties with ability."

Without pausing to comment upon the injustice of this suppression to Mr. Buchanan, I would ask, what does this letter prove? Why, first, that Gen. Jackson did, in all probility, to the end of his life, entertain his old prejudices against Henry Clay. What next does it establish? Clearly this, that it was the opinion of Gen. Jackson, notwithstanding Mr. Buchanan had at all times, orally and in writing, proclaimed Mr. Clay's innocence, yet that in the depths of his heart, he really and in all sincerity did believe Mr. Clay guilty, as charged. Mark you, Gen. Jackson does not say that Mr. Buchanan ever made the charge; on the contrary, he in effect complains that he did not do so, but he expresses the belief that Mr. Buchanan did nevertheless believe it true.

For one, I do not doubt but that Gen. Jackson did honestly entertain the opinion of Mr. Clay's guilt. For myself, I entertained no doubt of his innocence. No two public men since the days of Washington, have filled so large a space in the public mind, or in the affections of the American people, as Jackson and Clay. For nearly a quarter of a century their great struggle convulsed the nation. Both are, and will be in all time to come, beloved and revered for the services they rendered to their country. Gen. Jackson's honor is not irreconcilable with Mr. Clay's innocence of the charge of bargain, and posterity will confirm the decision to which the unprejudiced public mind is fast arriving, as the passions

engendered by the conflict are subsiding, that Jackson honestly believed Mr. Clay to be guilty of an offence, of which Mr. Clay was altogether innocent.

And now, if there is a single sincere friend to the memory of Henry Clay, who is giving countenance, aid, and comfort, to the Kitchen Cabinet, in circulating this passage from the pen of the dying hero, let me ask him what he expects to accomplish by establishing—First, that almost upon his death-bed Gen. Jackson believed Mr. Clay guilty; and, secondly, that James Buchanan, whose recorded testimony has been in all times past, triumphantly adduced to establish Mr. Clay's innocence, did nevertheless, on his honor and his conscience, and in the secret recesses of his heart, believe Mr. Clay to be guilty as charged! Oh, if this is the token of your love, may heaven protect the memory of Clay from the tender mercies of his friends! No, as the friends of Henry Clay, let us rather say that this ebullition of ill humor was extracted from him after his physical and mental energies had been prostrated by disease, by the insidious wiles of Mr. Clay's oldest, and bitterest, and most unrelenting enemy. That this is true, is fully established by a letter which I will read, addressed by W. B. Lewis, of the old Kitchen Cabinet, to Gen. Jackson, and to which the letter upon which I have been commenting is in reply:—

"Washington, Feb. 17, 1845.

"My Dear General: Your two confidential and very interesting letters of the 4th and 5th inst., have been received and disposed of as requested. I am happy to say that I am entirely satisfied, and so is Mr. Blair, with the gentlemen who it is supposed will constitute the new Cabinet. Mr. Blair and myself both think it doubtful, however, whether Mr. Buchanan will accept upon the terms proposed (he should not be appointed unless he does), as he is full of the idea, as stated to you in my previous letters, of being a candidate for the succession. If he should not accept, I suppose the State Department will then be offered to Mr. Stevenson. With or without Mr. Buchanan, however, I think the Cabinet will be an able one, and fully entitled to, and doubtless will receive, the confidence of the nation.

"The truth is, General, I have never had any very great respect for Mr. Buchanan, and of late I have even had less than formerly. He did not come out upon the subject of that 'bargain, intrigue and corruption' charge upon Messrs. Clay and Adams, in 1825, as he ought to have done, and as was expected of him. Besides, I have heard him say, not more than a month ago, that he did not and never had believed there was any truth in the charge. This occurred at Mr. ———'s dinner table, and the remarks were addressed to Judge Mangum, the President of the Senate. But having taken place at the time and place when it did, I have said nothing about it to any one."

And now, gentlemen, behold the secret origin of the hatred of the Old Kitchen Cabinet for Mr. Buchanan, as furnished in the above letter, which it was never supposed would see the light of day. An impression prevailed that all of Gen. Jackson's papers had been consigned to Francis P. Blair, and it is well known that if such had been the destination of the letter I have just read, the light of day never would have shown upon this record of Mr. Buchanan's incorruptible integrity. See how *naively*, and how like a diplomat schooled in the atmosphere of the Kitchen Cabinet, he approaches his purpose. "The truth is, General, I have never had any very great respect for Mr. Buchanan." And why, Maj. Lewis? "Because he never stood up to us when we were denouncing Henry Clay!" On the contrary, he declared his belief in Mr. Clay's innocence—he did not come out on the question of bargain, intrigue, and corruption, as the Kitchen Cabinet expected of him! "But," continues Maj. Lewis, "I have had less respect for him of late than formerly." And why? Because in a private conversation, at a private dinner table, I heard Mr. Buchanan solemnly declare that he never did believe Mr. Clay guilty! And yet—strange perversion of reason and common sense—this letter of Gen. Jackson, thus elicited, is put forth by the Kitchen Cabinet, with a view of creating the impression upon Mr. Clay's old friends, that Mr. Buchanan was the originator and propagator of this very charge of bargain and corruption! Sirs, if you were to strike from the records of the past every syllable of testimony which has been adduced upon this subject, those two letters, the one the production of Wm. B. Lewis, the other the reply thereto of Gen. Jackson, would of themselves be sufficient to establish the fact that Mr. Buchanan had always and under every trying emergency done justice to Henry Clay.

I have thus presented an array of testimony, gleaned from the musty records of the past to the present moment, all or any part of which establishes conclusively, that the conduct of Mr. Buchanan towards Mr. Clay throughout that great struggle of a past generation, was characterized by that honorable and noble bearing for which, through life, he has been so eminently distinguished. I have brought together the single and accumulated evidence of George D. Prentice, Epes Sargeant, Calvin Colton, and Wm. H. Seward, the historians and biographers of Mr. Clay. I have added thereto the unanswerable evidence of his bosom friend and companion, R. P. Letcher, and of his own son, the present occupant of the old homestead of Ashland. I have arrayed before you even the declarations of Clay's bitterest foes of the old "Kitchen Cabinet," and of Gen. Andrew Jackson. And I have crowned the pyramid of proofs by the testimony of Henry Clay himself, furnished upon many different occasions, all of which, without a solitary exception, triumphantly claim that Mr. Buchanan's testimony fully and unreservedly established Mr. Clay's innocence. In addition to all this, I now solemnly declare, that so far as I have been able to ascertain the facts, no friend to Henry Clay, from the time when the charge of "bargain" was first made in 1824, up to June, 1856, when Mr. Buchanan was nominated for the Presidency, ever assumed that Mr. B's testimony did not fully and completely exonerate Mr. Clay.

Wilmot Proviso.

On the 12th of August, 1846, a bill being under consideration in the Committee of the Whole on the State of the Union, entitled "An act making further provision for the expenses attending the intercourse between the United

States and foreign nations," Mr. David Wilmot, a representative from the state of Pennsylvania, moved the following amendment:—

"Provided, That as an express and fundamental condition to the acquisition of any territory from the republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted."

This amendment was adopted in the Committee of the Whole by a vote, by tellers, of yeas 77, nays 58. There was no vote had on it in the House by yeas and nays, the bill having passed the body as it came from the Committee of the Whole, by a vote of yeas 87, nays 64. The bill was not voted on in the Senate, on account of a discussion as to Mr. Wilmot's amendment having engaged the time of the body until the hour arrived for an adjournment *sine die*.

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On the 8th of Feb., 1847, the three million bill being under consideration in the Committee of the whole on the state of the Union, Mr. Wilmot moved the following amendment:

Sec. —. "And be it further enacted, That there shall be neither slavery or involuntary servitude in any territory on the continent of America, which shall hereafter be acquired by, or annexed to the United States, except for crimes, whereof the party shall have been duly convicted: Provided always, That any person escaping into such territory from whom labor or service is lawfully claimed in any one of the United States, such fugitive may be lawfully reclaimed and conveyed out of said territory to the persons claiming his or her labor or service."

The amendment was adopted in the Committee of the Whole.

On the 15th of Feb., 1847, the question coming up in the House, upon agreeing to the amendment of the Committee of the Whole, it was decided in the affirmative by yeas and nays as follows:—

YEAS.—Messrs. Abbott of Mass., John Quincy Adams of Mass. Anderson of N. Y., Arnold of R. I., Ashmun of Mass., Benton of N. Y., Blanchard of Pa., Brinkerhoff of O., Buffington of Pa., William W. Campbell of N. Y., John H. Campbell of Pa., Carroll of N. Y., Cathcart of Ind., Collamer of Vt., Collin of N. Y., Cranston of R. I., Culver of N. Y., Cummins of O., Darragh of Pa., Delano of O., De Mott of N. Y., Dillingham of Vt., Dixon of Conn., Dunlap of Me., Edsall of N. J., Ellsworth of N. Y., John H. Ewing of Pa., Faran of O., Foot of Vt., Foster of Pa., Fries of O., Garvin of Pa., Giddings of O., Goodyear of N. Y., Gordon of N. Y., Grinnell of Mass., Grover of N. Y., Hall of Mass., Hamlin of Me., Hampton of N. J., Harper of O., Henley of Ind., Henry of Ill., Hoge of Ill., Elias B. Holmes of N. Y., Hough of N. Y., J. W. Houston of Del., Samuel D Hubbard of Conn., Hudson of Mass., Hungerford of N. Y., Washington Hunt of N. Y., James B. Hunt of Mich., Joseph R. Ingersoll of Pa., Jenkins of N. Y., James H. Johnson of N. H., Kennedy of Ind., Daniel P. King of Mass., Preston King of N. Y., Lawrence of N. Y., Levin of Pa., Lewis of N. Y., Maclay of N. Y., McClelland of Mich., McCrate of Me., Joseph J. McDowell of O., McGaughey of Ind., McIlvaine of Pa., Marsh of Vt., Miller of N. Y., Moseley of N. Y., Moulton of N. H., Niven of N. Y., Norris of N. H., Perrill of O., Pettit of Ind., Pollock of Pa., Ramsey of Pa., Rathbun of N. Y., Ripley of N. Y., Ritter of Pa., Julius Rockwell of Mass., John A. Rockwell of Conn., Root of O., Runk of N. J., Russell of N. Y., Sawtelle of Me., Scammon of Me., Schenck of O., Seaman of N. Y., Severance of Me., Truman Smith of Conn., Albert Smith of N. Y., Thomas Smith of Ind.. Caleb B. Smith of Ind.. Starkweather of O., Stewart of Pa., Strohm of Pa., Sykes of N. J., Benj. Thompson of Mass.. James Thompson of Pa., Thurman of O., Tilden of O., Vance of O., Vinton of O., Wentworth of Ill., Wheaton of N. Y., White of N. Y., Williams of Me., Wilmot of Pa., Winthrop of Mass., Wood of N. Y., Woodruff of N. Y., Woodworth of N. Y., Wright of N. J., Yost of Pa.—115.

NAYS.—Messrs. Stephen Adams of Miss., Atkinson of Va., Barringer of N. C., Bayly of Va., Bedinger of Va.. Bell of Ky., Biggs of N. C., James Black of Pa., James A. Black of S. C., Bowdon of Ala.. Bowlin of Mo., Boyd of Ky., Brockenbrough of Fla., Brodhead of Pa., Milton Brown of Tenn.. William G. Brown of Va., Burt of S. C., J. G. Chapman of Md., Augustus A. Chapman of Md.. Reuben Chapman of Ala., Chase of Tenn., Chipman of Mich., Clarke of N. C., Cobb of Ga., Cocke of Tenn., Constable of Md., Cottrell of Ala., Crozier of Tenn., Cullom of Tenn., Cunningham of O., Daniel of N. C., Dargan of Ala.. Garrett Davis of Ky., Dobbin of N. C., Dockery of N. C., Douglas of Ill., Dromgoole of Va., Ellett of Miss., Erdman of Pa., Edwin H. Ewing of Tenn.. Ficklin of Ill., Gentry of Tenn., Graham of N. C., Grider of Ky.. Haralson of Ga., Harmanson of La., Hilliard of Ala., Isaac E. Holmes of S. C., Hopkins of Va., George S. Houston of Ala.. Edmund W. Hubard of Va.. Hunter of Va.. Charles J. Ingersoll of Pa.. Joseph Johnson of Va., Andrew Johnson of Tenn.. C. W. Jones of Tenn., Seaborn Jones of Ga., Kaufman of Texas, Thomas Butler King of Ga., Leake of Va., La Sere of La., Ligon of Md., Long of Md., Lumpkin of Ga., McClean of Pa., McClernand of Ill., McDaniel of Mo., James McDowell of Va., McHenry of Ky.. McKay of N. C., John P. Martin of Ky., Barclay Martin of Tenn., Morris of O., Morse of La.. Newton of Ark., Owen of Ind., Parrish of O.. Payne of Ala.. Pendleton of Va., Perry of Md., Phelps of Mo., Pillsbury of Texas, Reid of N. C., Relfe of Mo., Rhett of S. C., Roberts of Miss., Sawyer of O., Seddon of Va., A. D. Sims of S. C., Leonard H. Sims of Mo., Simpson of S. C., Stanton of Tenn., Stephens of Ga., St. John of O., Strong of N. Y.. Thibodeaux of La.. Thomasson of Ky., Jacob Thompson of Miss., Tibbatts of Ky.. Toombs of Ga., Towns of Ga., Tredway of Va., Trumbo of Ky., Wick of Ind., Woodward of S. C., Young of Ky.—106.

The Senate having passed a similar bill, which came before the House on the 3d of March, 1847, Mr. Wilmot moved to amend the same by adding his proviso thereto.

The motion was rejected by yeas and nays as follows:—

YEAS.—Messrs. Abbott of Mass., John Quincy Adams of Mass., Anderson of N. Y., Arnold of R. I.. Ashmun of Mass., Benton of N. Y.. Brinkerhoff of O., William W. Campbell of N. Y.. John H. Campbell of Pa.. Carroll of N. Y., Cathcart of Ind., Collamer of Vt.. Collin of N. Y., Cranston of R. I., Cummins of O., Darragh of Pa., Delano of O., De Mott of N. Y., Dillingham of Vt., Dixon of Conn., Dunlap of Me., Ellsworth of N. Y.. John H. Ewing of Pa.. Foot of Vt., Fries of O., Giddings of O., Gordon of N. Y., Grinnell of Mass., Grover of N. Y.. Hale of Mass.. Hamlin of Me.. Hampton of N. J., Harper of O.. Henry of Ill., Elias B. Holmes of N. Y., Hough of N. Y., John W. Houston of Del.. Samuel D. Hubbard of Conn., Hudson of Mass., Hungerford of N. Y., Washington Hunt of N. Y., James B. Hunt of Mich.. Joseph R. Ingersoll of Pa.. Jenkins of N. Y.. James H. Johnson of N. H., Kennedy of Ind.. D. P. King of Mass.. Preston King of N. Y., Lawrence of N. Y., Levin of Pa., Lewis of N. Y., McClelland of Mich., Jos. J. McDowell of O.. McGaughey of Ind.. McIlvaine of Pa., Marsh of Vt., Miller of N. Y., Mosely of N. Y., Moulton of N. H., Niven of N. Y., Norris of N. H., Perrill of O., Pettit of Ind., Pollock of Pa., Ramsey of Pa., Rathbun of N. Y., Ripley of N. Y., Ritter of Pa.. Julius Rockwell of Mass., John A. Rockwell of Conn.. Root of O., Runk of N. J., Sawtelle of Me., Scammond of Me., Schenck of O., Seaman of N. Y., Severance of Me., Truman Smith of Conn., Caleb B. Smith of Ind., Starkweather of O., Stewart of Pa., Strohm of Pa., Sykes of N. J., Benjamin Thompson of Mass., Thurman of O.. Vance of O.. Vinton of O.. Wentworth of Ill.. Wheaton of N. Y., White of N. Y., Williams of Me.. Wilmot of Pa., Winthrop of Mass., Wood of N. Y., Wright of N. J., Yost of Pa.—97.

NAYS.—Messrs. Stephen Adams of Miss., Atkinson of Va., Barringer of N. C., Bayly of Va.. Bedinger of Va.. Bell of Ky., James Black of Pa.. James A. Black of S. C., Bowdon of Ala., Bowlin of Mo., Boyd of Ky., Brockenbrough of Fla.. Brodhead of Pa.. M. Brown of Tenn., William G. Brown of Va.. Burt of S. C., John G. Chapman of Md., Augustus A. Chapman of Va.. Reuben Chapman of Ala., Chase of Tenn.. Chipman of Mich., Cobb of Ga., Cocke of Tenn.. Cottrell of Ala., Crozier of Tenn., Cullom of Tenn.. Cunningham of O.. Daniel of N. C.. t argan of Ala.. Garrett Davis of Ky.. Dockery of N. C., Douglas of Ill., Edsall of N. J., Ellett of Miss., Erdman of Pa., Edwin H. Ewing of Tenn., Foster of Pa., Garvin of Pa.,

Gentry of Tenn., Giles of Md., Graham of N. C., Harmanson of La., Henley of Ind., Hilliard of Ala., Isaac E. Holmes of S. C., Hopkins of Va., George S. Houston of Ala., Edmund W. Hubard of Va., Hunter of Va., Charles J. Ingersoll of Pa., Joseph Johnson of Va., Andrew Johnson of Tenn., George W. Jones of Tenn., Seaborn Jones of Ga., Kaufman of Texas, Thomas B. King of Ga., Leake of Va., Leffler of Ia., La Sere of La., Ligon of Md., Long of Md., Lumpkin of Ga., McClean of Pa., McDaniel of Mo., McHenry of Ky., McKay of N. C., John P. Martin of Ky., Barclay Martin of Tenn., Morris of O., Morse of La., Newton of Ark., Owen of Ind., Parrish of O., Payne of Ala., Pendleton of Va., Perry of Md., Pillsbury of Texas, Reid of N. C., Relfe of Mo., Rhett of S. C., Roberts of Miss., Russell of N. Y., Sawyer of O., Seddon of Va., Alexander D. Sims of S. C., Leonard H. Sims of Mo., Simpson of S. C., Robert Smith of Ill., Stanton of Tenn., Strong of N. Y., Thomasson of Ky., James Thompson of Pa., Jacob Thompson of Miss., Tibbatts of Ky., Towns of Ga., Tredway of Va., Trumbo of Ky., Wick of Ind., Woodward of S. C., Woodworth of N. Y., Young of Ky.—102.

The Senate bill without the amendment of Mr. Wilmot became a law.

This celebrated proviso has been moved by different Senators and Representatives to various bills since. The votes on it are seen under the caption of the various measures to amend which it has been moved.

Wisconsin.

By the act of April 20, 1836, this territory was constituted out of that remaining after deducting the state of Michigan from that which the government of the territory, as Michigan, had exercised jurisdiction over.

The bill as it became a law embraced a section subjecting it "to all the conditions and restrictions and prohibitions," imposed upon the people of the Northwestern Territory by the ordinance of 1787.

By act passed August 6, 1846, the people of Wisconsin territory were authorized to form a constitution and state government.

By act of March 3, 1847, the constitution was recognised by Congress, and she was declared to be a state upon the express fundamental condition, that the said constitution be assented to by the qualified electors thereof, in the manner and at the times prescribed in the 20th article of said constitution.

The act of May 29, 1848, admitted Wisconsin into the Union, and gave the assent of Congress to certain resolutions of the convention of said state, relative to the proceeds of the public lands therein.

Wise, Henry A.

Letter of, on Know-Nothingism.

Only, near Onancock, Va., Sept. 18, 1854.

To ——— ———:—

Dear Sir: I now proceed to give you the reasons for the opinions I expressed in my letter of the 2d inst., as fully as my leisure will permit.

I said that I did *not* "think that the present state of affairs in this country is such as to *justify* the formation, by the people, of *any secret political* society."

The laws of the United States—federal and state laws—declare and defend the liberties of our people. They are free in every sense—free in the sense of Magna Charta and beyond Magna Charta; free by the surpassing franchise of *American* charters, which makes them sovereign and their wills the sources of constitutions and laws.

If the Archbishop might say to King John,

> "Let every Briton, as his mind, be free;
> His person safe; his property secure;
> His house as sacred as the fane of Heaven;
> Watching, unseen, his ever open door,
> Watching the realm, the spirit of the laws;
> His fate determined by the rules of right,
> His voice enacted in the common voice
> And general suffrage of the assembled realm,
> No hand invisible to write his doom;
> No demon starting at the midnight hour,
> To draw his curtain, or to drag him down
> To mansions of despair. Wide to the world
> Disclose the secrets of the prison walls,
> And bid the groanings of the dungeon strike
> The public ear—Inviolable preserve
> The sacred shield that covers all the land.
> The Heaven-conferr'd palladium of the isle,
> To Britain's sons, the judgment of their peers,
> On these great pillars: freedom of the mind,
> Freedom of speech, and freedom of the pen,
> For ever changing, yet for ever sure,
> The base of Britains rests."

—we may say that our American charters have more than confirmed these laws of the confessor, and our people have given to them "as free, as full, and as sovereign a consent" as was ever given by John to the bishops and the barons "at Runnimede, the field of freedom," to which it was said—

> "Britain's sons shall come,
> Shall tread where heroes and where patriots trod,
> To worship as they walk!"

In this country, at this time, does any man think anything? Would he think aloud? Would he speak anything? Would he write anything? His mind is free; his person is safe; his property is secure; his house is his castle; the spirit of the laws is his body-guard and his house-guard; the fate of one is the fate of all measured by the same common rule of right; his voice is heard and felt in the general suffrage of freemen; his trial is in open court, confronted by witnesses and accusers; his prison house has no secrets, and he has the judgment of his peers; and there is nought to make him afraid, so long as he respects the rights of his equals in the eye of the law. Would he propagate truth? Truth is free to combat error. Would he propagate error? Error itself may stalk abroad and do her mischief, and make night itself grow darker, provided truth is left free to follow, however slowly, with her torches to light up the wreck! Why, then, should any portion of the people desire to retire in secret, and by secret means to propagate a political thought, or word, or deed, by stealth? Why band together, exclusive of others, to do something which all may not know of, towards some political end? If it be good, why not make the good known? Why not think it, speak it, write it, act it out openly and aloud? Or, is it evil, which loveth darkness rather than light? When there is no necessity to justify a secret association for political ends, what else can justify it? A caucus may sit in secret to consult on the general policy of a great public party. That may be necessary or convenient; but that even is reprehensible, if carried too far. But here is proposed a great primary, national organization, in its inception—What? Nobody knows. To do what?

Nobody knows. How organized? Nobody knows. Governed by whom? Nobody knows. How bound? By what rites? By what test oaths? With what limitations and restraints? Nobody, nobody knows! All we know is that persons of foreign birth and of Catholic faith are proscribed; and so are all others who don't proscribe them at the polls. This is certainly against the spirit of Magna Charta.

Such is our condition of freedom at home, showing no necessity for such a secret organization and its antagonism to the very basis of American rights. And our comparative native and Protestant strength at home repels the plea of such necessity still more. The statistics of immigration show that from 1820 to 1st January, 1853, inclusive, for 32 years and more, 3,204,848 foreigners arrived in the United States, at the average rate of 100,151 per annum; that the number of persons of foreign birth now in the United States is 2,210,839; that the number of natives, whites, is 17,735,578, and of persons whose nativity is "unknown," is 39,154. (Quere, by the by: What will "Know-Nothings" do with the "unknown?") The number of natives to persons of foreign birth in the United States, is as 8 to 1, and the most of the latter, of course, are naturalized. In Virginia the whole number of white natives is 813,891, of persons born out of the state and in the United States, 57,502, making a total of natives of 871,393; and the number of persons born in foreign countries, 22,953. So that in Virginia the number of natives is to the number of persons born in foreign countries, nearly as 38 to 1.

Again: The churches of the United States provide accommodations for 14,234,825 votaries; the Roman Catholics for but 667,823; number of votaries in the Protestant to the number in the Roman Catholic in the United States, as 21 to 1. In Virginia the whole number is 856,436, the Roman Catholics 7930, or 108 to 1.

The number of churches in the United States is 38,061, of Catholic churches 1221; more than 31 to 1 are Protestant. In Virginia the number of churches is 2383, of Catholic churches is 17; more than 140 to 1.

The whole value of church property in the United States is $87,328,801, of Catholic church property is $9,256,758, or 9 to 1. In Virginia the whole value of church property is $2,856,076; of Catholic church property, $126,100, or 22 to 1.

In the United States there are four Protestant sects, either of which is larger than the Catholics:—

The Baptists provide accommodations for	3,247,029
The Methodists for	4,343,579
The Presbyterians for	2,079,690
The Congregationalists for	801,835
Aggregate of four Protestant sects,	10,472,073
The Catholics for	667,823
Majority of only four Protestant sects,	9,804,250
Add the Episcopalians for	643,598
Majority of only five Protestant sects,	10,447,848

In Virginia there are five Protestant sects, either of which is larger than the number of Catholics in the state:—

Baptist,	247,589
Episcopal,	79,684
Lutheran,	18,750
Methodist,	323,708
Presbyterian,	103,625
	773,356
Catholics,	7,930
Majority of free Protestant sects in Virginia,	765,426
Or nearly	98 to 1
Thus natives are to persons of foreign birth	
In the United States, as	8 to 1
In Virginia, as	38 to 1
The Protestant church accommodations are to the Catholic	
In the United States, as	21 to 1
In Virginia, as	108 to 1
The number of Protestant churches is to the number of Catholic	
In the United States, as	31 to 1
In Virginia, as	140 to 1
The value of Protestant church property is to the value of Catholic	
In the United States, as	9 to 1
In Virginia, as	22 to 1

There are four Protestant sects, each of which is larger than the Catholic, in the United States, and the aggregate of which exceeds the Catholic by a majority of 9,804,250 votaries, and, adding one sect smaller, by a majority of 10,447,848.

In Virginia there are five Protestant sects, each larger than the number of Catholics in the state, and the aggregate of which exceeds the Catholics by a majority of 765,426 votaries.

Now, what has such a majority of numbers and of wealth, of natives and of Protestants, to fear from such minorities of Catholics and naturalized citizens? What is the necessity for this master majority to resort to secret organization against such a minority? I put it fairly: Would they organize at all against the Catholics and naturalized citizens, if the Catholics and naturalized citizens were in the like majority of numbers and of wealth, or if majorities and minorities were reversed? To retire in secret with such a majority, does it not confess to something which dares not subject itself to the scrutiny of knowledge, and would have discussion Know-Nothing of its designs and operations and ends? Cannot the Know-Nothings trust to the leading Protestant churches to defend themselves and the souls of all the saints, and sinners too, against the influence of Catholics? Can't they trust to the patriotism and fraternity of natives to guard the land against immigrants? In defence of the great American Protestant churches, I venture to say in their behalf, that the Pope, and all his priests combined, are not more zealous and watchful in their master's work, or in the work for the mastery, than are our Episcopal, Presbyterian, Baptist, Methodist, Lutheran, and Congregational clergy. They are, as a whole church militant, with their armor bright: they are zealous, they are jealous, they are watchful, they are organized, embodied, however divided by sectarianism, yet banded together against Papacy, and learned and active, and politic too as any brotherhood of monks. They need

no such political organization to defend the faith. Are they united in it? Do they favor or countenance it among their flocks? To what end? In the name of their religion, I ask them—Why not rely on God? And do the Know-Nothings imagine that the pride and love of country are so dead in native hearts, that secret organizations are necessary to beget a new-born patriotism to protect us from foreign influence? Now, in defence of our people, I say for them that no people upon earth are more possessed with nationality as a strong passion than the freemen of the United States of North America. Nowhere is the filial and domestic tie stronger, nowhere is the tie of kinship more binding, nowhere is there more *amor loci*—the love of home, which is the surest foundation of the love of country—nowhere is any country's romance of history more felt, nowhere are the social relations on a better moral foundation, nowhere is there as clear identity of parentage and offspring, nowhere are sons and daughters so "educated to liberty," nowhere have any people such certainty of the knowledge of the reward of vigilance, nowhere have they such freedom of self-government, nowhere is there such trained hatred of kings, lords, and aristocracies, nowhere is there more self-independence, or more independence of the Old World or its traditions—in a word, nowhere is there a country whose people have, by birthright, a tithe of what our people have to make them love that land which is their country, and that spot which is their home! I am an American, a Virginian! Prouder than ever to have said, "I am a Roman citizen!" So far from Brother Jonathan wanting a national feeling, he is justly suspected abroad of a little too much pride and bigotry of country. The Revolution and the last war with Great Britain tried us, and the late conquest of Mexico found us not wanting in the sentimentality of nationalism. Though so young, we have already a dialect and a mannerism, and our customs and our costume. A city dandy may have his coat cut in Paris, but he would fight a Frenchman in the cloth of his country as quick to-day as a Marion man ever pulled the trigger of a Tower musket against a red-coat Englishman in '76. And peace has tried our patriotism more than war. What people have more reason to love a country from the labor they have bestowed upon its development by the arts of industry? No: as long as the memory of George Washington lives, as long as there shall be a 22d of February and a 4th of July, as long as the everlasting mountains of this continent stand, and our Father of Waters flows, there will be fathers to hand down the stories which make our hearts to glow, and mothers to sing "Hail Columbia" to their babes—and that song is not yet stale. There is no need to revive a sinking patriotism in the hearts of our people. And who would have them be selfish in their freedom? Freedom! Liberty! selfish and exclusive! Never; for it consumeth not in its use, but is like fire in magnifying, by imparting its sparks and its rays of light and of heat. Is there any necessity from abroad for such secret political organizations? Against whom, and against what, is it levelled? Against foreigners by birth.

When we were as weak as three millions, we relied largely on foreigners by birth to defend us and aid us in securing independence. Now that we are twenty-two millions strong, how is it we have become so weak in our fears as to apprehend we are to be deprived of our liberties by foreigners? Verily, this seemeth as if Know-Nothings were reversing the order of things, or that there is another and a different feeling from that of the fear arising from a sense of weakness. It comes rather from a proud consciousness of overweening strength. They wax strong rather, and would kick, like the proud grown fat. It is an exclusive, if not an aristocratic feeling in the true sense, which would say to the friends of freedom born abroad: "We had need of you, and were glad of your aid when we were weak, but we are now so independent of you that we are not compelled to allow you to enjoy our republican privileges. We desire the exclusive use of human rights, though to deprive you of their common enjoyment will not enrich us the more, and will make you 'poor indeed!'" But not only is it levelled against foreigners by birth, but against the Pope of Rome.

There was once a time when the very name of Papa frightened us as the children of a nursery. But now, now! who can be frightened by the temporal or ecclesiastical authority of Pius IX? Has he got back to Rome from his late excursion? Who are his bodyguard there? Have the lips of a crowned head kissed his big toe for a century? Are any so poor as to do his Italian crown any reverence? Do not two Catholic powers, France and Austria, hold all his dominions in a detestable dependency? What army, what revenue, what diplomacy, what church domination in even the Catholic countries of the old or the new world, has he? Why, the idea of the Pope's influence at this day is as preposterous as that of a gunpowder plot. I would as soon think of dreading the ghost of Guy Fawkes.

No, there is no necessity, from either oppression or weakness of Protestants or natives. They are both free and strong; and do they now, because they are rich in civil and religious freedom, wish in turn to persecute, and exclude the fallen and the down-trodden of the earth?—God forbid!

2d. But there is not only no necessity for this secret political organization, but it is against the spirit of our laws and the facts of our history. Some families in this republic render themselves ridiculous, and offensive, too, by the vain pretensions to the exalting accidents of birth. We, in Virginia, are not seldom pointed at for our F. F. V.'s of ancestral arrogance. But whoever thought that pretension of this sort was so soon to be set up

by exclusives for the republic itself? Some of the ancient European people may boast of their "protoplasts," and of their being themselves "autochthones"—that they had fathers and mothers from near Adam, whom they can name as their first formers, and that they are of the same unmixed blood, original inhabitants of their country. But who were our protoplasts? English, Irish, Scotch, German, Dutch, Swedes, French, Swiss, Spanish, Italian, Ethiopian—all people of all nations, tribes, complexions, languages, and religions! And who alone are "autochthones" here in North America?—Why, the Indians! They are the only true natives. One thing we have, and that more distinctly than any other nation: we have our "eponymas." We can name the very hour of our birth as a people. We need recur to no fable of a wolf to whelp us into existence. It may be hard to fix Anno Mundi, or the year of Noah's flood, or the building of Rome. Rome may have her Julian epocha, the Ethiopian their epocha of the Abyssines, the Arabians theirs of the flight of Mahomet, the Persians theirs of the coronation of Jesdegerdis; but ours dates from the Declaration of Independence among the nations of the earth, the 4th day of July, A. D. 1776. As a nation we are but 78 years of age. Many a person is now living who was alive before this nation was born. And the ancestors of this people, about two centuries only ago, were foreigners, every one of them coming to the shores of this country, to take it away from the aborigines, the "autochthones," and to take possession of it by authority, either directly or derivatively, of Papal power. His holiness the Pope was the great grantor of all the new countries of North America. This fiction was a fact of the history of all our first discoveries and settlements. Foreigners, in the name of the Pope and Mother Church, took possession of North America, to have and to hold the same to their heirs against the heathen for ever!—and now already their descendents are for excluding foreigners and the Pope's followers from an equal enjoyment of the privileges of this same possession! So strange is human history. Christopher Columbus! Ferdinand and Isabella! What would they have thought of this had they foreseen it when they touched a continent, and called it theirs in the name of the Holy Trinity, by authority of the keeper of the keys of Heaven, and of the great grantor of the empire and domain of earth? What would have become of our national titles to northeastern or northwestern boundaries, but for the plea of this authority, valid of old among all Christian powers?

Following the discovery and the possession of the country by foreigners, in virtue of Catholic majesty, came the settlements of the country by force and constraint of religious intolerance and persecution. Puritans, Huguenots, Cavaliers, Catholics, Quakers, all came to western wilds, each in turn persecuted and persecuting for opinion's sake. Oppression of opinion was the most odious of the abominations of the Old World's despotism—its only glory and grace is that it made thousands of martyrs. It deluged every country, and tainted the air of every clime, and stained the robes of righteousness of every sect with blood, with the blood of every human sacrifice, which was honest and earnest in its faith, the hypocrites and hinds of profession alone escaping the swords or the flames of persecution. The colonies were blackened by the burnings of the stake, and were dyed red with the blood of intolerance. The American Revolution made a new era of liberty to dawn—the era of the liberty of conscience. If there is any essence in Americanism, the very salt wherewith it is savored is the freedom of opinion and the liberty of conscience. Is it now proposed that we shall go back to the deeds of the dark ages of despotism? That this broad land, still unoccupied in more than half of its virgin soil, shall no longer be an asylum for the oppressed? That here, as elsewhere, and again, as of old, men shall be burthened by their births, and chained for their opinions? I trust that a design of that intent will remain a secret buried for ever.

I have said this organization was against the spirit of our laws. Our laws sprang from the necessity of the condition of our early settlers. They brought with them from England their Penates, the household gods of an Anglo-Saxon race, the liberties of Magna Charta, the trial by jury, the judgment of the peers, and the other muniments of human dignity and human rights secured by the first English Charta. These, *foreigners* brought with them from Europe. Here they found the virtues to extend these rights and their muniments. The neglect of the mother country left them self-dependent and self-reliant until they were thoroughly taught the lesson of *self-government*—that they could be their own sovereigns—and the very experience of despotism they had once tasted made them hate tyrants, either elective or hereditary. Their destitute and exposed condition trained them to hardy habits, and cultivated in them every sterner virtue. They knew privation, fatigue, endurance, self-denial, fortitude, and were made men at arms—cautious, courageous, generous, just, and trusting in God. They had to fight Indians, from Philip, on Massachusetts Bay, to Powhattan, on the river of Swans. And they had an unexplored continent to subdue, with its teeming soil, its majestic forests, its towering mountains, and its unequalled rivers. Above all things, they needed population, more fellow-settlers, more *foreigners* to immigrate, and to aid them in the task of founders of empire set before them, to open the forests, to level the hills, and to raise up the valleys of a giant new country. Well, these *foreigners* did their task like men. Such a work! who can exaggerate it? They did it against all odds, and in spite of European oppression. They grew and thrived, until they were rich enough to be taxed. They were

told taxation was no tyranny. But these foreigners gave the world a new truth of freedom. Taxation without representation was tyranny. The attempt to impose it upon them, the least mite of it, made them resolve, "that they would give millions for defence, but not a cent for tribute." That resolve drove them to the necessity of war, and they, foreigners, Protestants, Catholics and all, took the dire alternative, united as a band of brothers, and declared their dependence upon God alone. And they entered to the world a complaint of grievances—a Declaration of Independence! This was pretty well to show whether foreigners, of any and all religions, just fresh from Europe, could be trusted on the side of America and liberty. One of the first of their complaints was:—

He (George III.) has endeavored to prevent the population of these states, for that purpose obstructing the laws for *naturalization of foreigners*, refusing to pass others to encourage their emigration hither, and raising the conditions of new appropriations of land."

There is the proof that they valued the naturalization of foreigners, and the immigration of foreigners hither, and they desired appropriations, new appropriations of land, for immigrants.

Another complaint was, that they had appealed in vain to "British brethren." They said:—

"We have appealed to their *native* justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, &c. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends."

There is proof, too, that Nativism can't always be relied on to help one's own countrymen, and that brethren, and kindred, and consanguinity, will fail a whole people in trouble, just as kinship too often fails families and individuals in the trials of life.

"And," lastly, "for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

There was tolerance, there was firm reliance on the same one God; there was mutuality of pledge, each to the other, at one altar, and there was a common stake of sacrifice—"lives, fortunes, and honor." And who were they? There were Hancock the Puritan, Penn the Quaker, Rutledge the Huguenot, Carroll the Catholic, Lee the Cavalier, Jefferson the Free Thinker. These, representatives of all the signers, and the signers, representatives of all the people of all the colonies.

Oh! my countrymen, did not that "pledge" bind them and bind us, their heirs, for ever to faith and hope in God and to charity for each other—to tolerance in religion, and to "mutuality" in political freedom? Down, down with any organization, then, which "denounces" a "separation" between Protestant Virginia and Catholic Maryland—between the children of Catholic Carroll and Protestant George Wythe. Their names stand together among "the signatures," and I will redeem their "mutual" pledges with my "life," my "fortune," and my "sacred honor," "so far as in me lies—so help me, Almighty God!"

I think that here is proof enough that "foreigners" and Catholics both entered as material elements into our Americanism. But before the 4th day of July there were laws passed of the highest authority, to which this secret organization is opposed.

On the 12th of June, 1776, the convention of Virginia passed a "Declaration of Rights." Its 4th section declares: "that no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary."

Now, does the Know-Nothing organization not claim for the "native born" "set of men" to be entitled to exclusive privileges from the community as against naturalized and Catholic citizens; and thus, by virtue of birth, to inherit the right of election to the offices of magistrates, legislator, or judge, which are not descendible? They set up no such claim for the individual person native born, but they do set up a quality for nativity, to which, and to which alone, they claim, pertains the privileges of eligibility to offices.

Again:—Does this organization not violate the 7th section of this declaration of rights, which forbids "all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, as injurious to their rights, and which ought not to be exercised?" When the laws say, and the representatives of the people say, that Catholics and naturalized citizens shall be tolerated and allowed to enjoy the privileges of citizenship, and eligibility to office, have they not organized a secret power to suspend these laws, and to prevent the execution of them, by their sole authority, without consent of the representatives of the people? This declaration denounces it as injurious to the rights of the people, and as a power which ought not to be exercised.

Again:—Does not this organization annul that part of the 8th section of this declaration, which says: "That no man shall be deprived of his liberty, except by the law of the land, or the judgment of his peers?" This don't apply alone to personal liberty, the freedom of the body from prison, but no man shall be deprived of his franchises of any sort, of his liberty in its largest sense, except by the law of the land or the judgment of his peers, the trial by jury. Has, then, a private and secret tribunal a right to impose qualifications for

office, and to enforce their laws by test oaths, so as to deprive any man of his liberty to be elected?

Again:—Is this organization not an imperium in imperio against the 14th section of this declaration, which says: "That the people have a right to uniform government, and, therefore, that no government separated from or independent of the government of Virginia, ought to be erected or established within the limits thereof." It is not a government, but does it not, will it not, politically govern the portion of the people belonging to it, differently from what the portion of the people not belonging to it, are governed by the laws of Virginia?

Again:—It does not adhere to the "justice and moderation" inculcated in the 15th section of the declaration. And lastly, it avowedly opposes the 16th section, which declares, "that religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other."

But this organization not only contravenes the rules of our Declaration of Independence and rights, but it is in the face of a positive and perpetual statute, now made a part of our organic law by the new Constitution—the Act of Religious Freedom, passed the 16th of December, 1785. Against this law, this Know-Nothing order attacks the freedom of the mind, by imposing "civil incapacitations:" it "attempts to punish one religion and to propagate another by coercion on both body and mind;" it "sets up its own opinions and modes of thinking as the only true and infallible;" it makes our "civil rights to have a dependence on our religious opinions;" it "deprives citizens of their natural rights, by proscribing them as unworthy the public confidence, by laying upon them an incapacity of being called to offices of trust and emolument, unless they profess to renounce this or that religious opinion;" "it tends to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it;" it lacks confidence in truth, which "is great and will prevail," if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate; it withdraws errors from free argument and debate, and hides them in secret, where they become dangerous, because it is not permitted freely to contradict them.

Let it not be said that this is a restraining statute upon government, and is a prohibition to "legislators and rulers, civil as well as ecclesiastical." If they even are restrained by this law, *a fortiori*, every private organization, or order, or individual, is restrained. The Know-Nothings will hardly pretend to do what the government itself, and legislators, and rulers, civil as well as ecclesiastical, dare not do. If such be their pretensions they claim to be above the law, or to set up a higher law—then, *sic volo*, to compel a man to frequent or support any religious worship, and to enforce, restrain, molest, or burthen him, or "to make him suffer" on account of his religious opinions or belief; or to deprive men of their freedom to profess, and by argument to maintain their opinions in matters of religion, and to make the same diminish, enlarge, or affect their civil capacities. No, when our constitutions forbid the legislators to exercise a power, they intend that no such power shall be exercised by any one.

Not only is the law of Virginia thus liberal as to religion, but also as to naturalization.

So far as "Know-Nothingism" opposes our naturalization laws, it is not only against our statute policy, but against Americanism itself. In this it is especially anti-American. One of the best fruits of the American Revolution was to establish, for the first time in the world, the human right of expatriation. Prior to our separate existence as a nation of the earth, the despotisms of the old world had made a law unto themselves, whereby they could hold for ever in chains those of mankind who were so unfortunate as to be born their subjects. In respect to birthright and the right of expatriation, and the duty of allegiance and protection, and the law of treason, crowned heads held to the ancient dogma: "Once a citizen always a citizen." If a man was so miserable as to be born the slave of a tyrant, he must remain his slave for ever. He could never renounce his ill-fated birthright—could never expatriate himself to seek for a better country—and could never forswear the allegiance which bound him to his chains. He might emigrate, might take the wings of the morning and fly to the uttermost parts of the earth, might cross seas and continents, and put oceans, and rivers, and lakes, and mountains between him and the throne in the shadow of which he was born, and he would still "but drag a lengthening chain." Still the despotism might pursue him, find and bind him as a subject slave. If America beckoned to him to fly to her for freedom, and to give her the cunning and the strength of his right arm to help ameliorate her huge proportions and to work out her grand destiny, the tyrant had to be asked for passports and permission to expatriate. But they came—lo! they came! Our laws encouraged them to come. Before '76, Virginia and all the colonies encouraged immigration. It was a necessity as well as a policy of the whole country. Early in the Revolution, the king's forces hung some of the best blood of the colonies, under the maxim, "Once a citizen always a citizen." They were traitors if found fighting for us, because they were once subjects. Washington was obliged to hold

hostages, to prevent the application of this barbarous doctrine of tyranny. At last our struggle ended, and our independence was recognised. George III. was compelled to renounce our allegiance to him, though we were born his subjects. But still, when we came to our separate existence, we were called on to recognise the same odious maxim, still adhered to by the despots of Europe: "Once a citizen always a citizen." Subjects were still told that they should not expatriate themselves, and America was warned that she should not naturalize them without the consent of their monarch masters. Spurning this dogma, and the tyrants who boasted the power to enforce it, the 4th power which the Convention of 1787, that formed our blessed Constitution, enumerated, is: "The Congress shall have power 'to establish an uniform rule of naturalization.'"

The meaning of this was, to say by public law to all Europe and her combined courts, "Your dogma, 'once a citizen always a citizen,' shall cease for ever as to the United States of North America. We need population to smooth our rough places, and to make our crooked places straight; but, above and beyond that policy, we are, with the help of God, resolved that this new and giant land shall be one vast asylum for the oppressed of every other land, now and for ever!" That is my reading of our law of liberty. Those born in bondage might raise their eyes up in hope of a better country! They might, and should if they would, expatriate themselves, fly from slavery and chains, and come!—Ho, every one of them, come to our country and be free with us! They might forswear their allegiance to despots, and should be allowed here to take an oath to liberty and her flag, and her freedom, and they should not be pursued and punished as traitors. When they came and swore that our country should be their country, we would swear to protect them as if in the country born, as if natives—*i. e.*, as naturalized citizens, and they should be our citizens and be entitled to our protection. And this was in conformity to the only true idea of "Naturalization," which, according to its legal as well as its etymological sense, means, "when one who is an alien is made a natural subject by act of law and consent of the sovereign power of the state." The consent of our sovereign power is written in the Constitution of the United States, and Congress, at an early day after its adoption, passed the acts of naturalization. The leading statute is that of April 14, 1802. It provided that any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:—

1st. That he shall have declared on oath or affirmation before the supreme, superior, district, or circuit court of some one of the states, or of the territorial districts of the United States, or a Circuit or District Court of the United States, three years (two years by act of May 26, 1824) at least before his admission, that it was his bona fide intention to become a citizen of the United States, and to renounce for ever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, whereof such alien may at the time be a citizen or subject.

2d. That he shall, at the time of his application to be admitted, declare on oath or affirmation before some one of the courts aforesaid, that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

3d. That the court admitting such alien shall be satisfied that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year, at least; and it shall further appear to their satisfaction, that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: Provided, That the oath of the applicant shall in no case be allowed to prove his residence.

4th. That in case the alien applying to be admitted to citizenship shall have borne any hereditary title or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application shall be made, which renunciation shall be recorded in the said court: Provided, That no alien who shall be a native, citizen, denizen, or subject of any country, state, or sovereign, with whom the United States shall be at war at the time of his application, shall then be admitted to be a citizen of the United States.

The act has other provisions, and has since been modified from time to time. This statute had not operated a legal lifetime before Great Britain again asserted the dogma: "Once a citizen, always a citizen!" The base and cowardly attack of the Leopard on the Chesapeake, at the mouth of this very bay, in sight of the Virginia shore, was made upon the claim of right to seize British born subjects from on board our man-of-war. The star-spangled banner was struck that day for the last time to the detestable maxim of tyranny: "Once a citizen, always a citizen." It must not be forgotten that it was upon this doctrine of despots that the Right of Search was founded. They arrogated to themselves the prerogative to search our decks on the high seas, and to seize those of our crews who were born in British dominions. In 1812, we declared the last war. For what? For "Free Trade and Sailors' Rights." That is, for the

right of our naturalized citizen-sailors to sail on the high seas, and to trade abroad free from search and seizure. They had been required to "renounce and abjure," all "allegiance and fidelity" to any other country, state, or sovereignty, and particularly to the country, state, or sovereignty under which they have been natives or citizens, and we had reciprocally undertaken to protect them in consideration of their oaths of allegiance and fidelity to the United States. How protect them? By enabling them to fulfil their obligations to us of allegiance and fidelity, by making them free to fight for our flag, and free in every sense, just as if they had been born in our country. Fight for us they did; naturalized, and those not naturalized, were of our crews. They fought in every sea for the flag which threw protection over them, from the first gun of the Constitution frigate to the last gun of the boats on Lake Pontchartrain, in every battle where

> "Cannon's mouths were each other greeting,
> And yard arm was with yard arm meeting."

That war sealed, in the blood of dead and living heroes, the eternal American principle:—"The right of expatriation, the right and duty of naturalization—the right to fly from tyranny to the flag of freedom, and the reciprocal duties of allegiance and protection." And does a party—an order or what not, calling itself an American party, now oppose and call upon me to oppose these great American truths, and to put America in the wrong for declaring and fighting the last war of Independence against Great Britain? Never! I would soon go back to wallowing in the mire of European serfdom. I won't do it. I can't do it. No: I will lie down and rise up a Native American, for and not against these imperishable American truths. Nor will any true American, who understands what Americanism is, do otherwise. I put a case:—

A Prussian born subject came to this country. He complied with our naturalization laws in all respects of notice of intention, residence, oath of allegiance, and proof of good moral character. He remained continuously in the United States the full period of five years. When he had fully filled the measure of his probation and was consummately a naturalized citizen of the United States, he then, and not until then, returned to Prussia to visit an aged father. He was immediately, on his return, seized and forced into the Landwehr, or militia system of Prussia, under the maxim: "Once a citizen, always a citizen!" There he is forced to do service to the king of Prussia at this very hour. He applies for protection to the United States. Would the Know-Nothings interpose in his behalf or not? Look at the principles involved. We, by our laws, encouraged him to come to our country, and here he was allowed to become naturalized, and to that end required to renounce and abjure all allegiance and fidelity to the king of Prussia, and to swear allegiance and fidelity to the United States. The king of Prussia now claims no legal forfeiture from him—he punishes him for no crime—he claims of him no legal debt—he claims alone that very allegiance and fidelity which we required the man to abjure and renounce. Not only so, but he hinders the man from returning to the United States, and from discharging the allegiance and fidelity we required him to swear to the United States. The king of Prussia says he should do him service for seven years, for this was what he was born to perform; his obligations were due to him first, and his laws were first binding him. The United States say—true, he was born under your laws, but he had a right to expatriate himself; he owed allegiance first to you, but he had a right to forswear it and to swear allegiance to us; your laws first applied, but this is a case of political obligation, not of legal obligation; it is not for any crime or debt you claim to bind him, but it is for allegiance; and the claim you set up to his services on the ground of his political obligation, his allegiance to you, which we allow him to abjure and renounce, is inconsistent with his political obligation, his allegiance, which we required him to swear to the United States; he has sworn fidelity to us, and we have, by our laws, pledged protection to him.

Such is the issue. Now, with which will the Know-Nothings take sides? With the king of Prussia against our naturalized citizen and against America, or with America and our naturalized citizen? Mark, now, Know-Nothingism is opposed to all foreign influence—against American institutions. The king of Prussia is a pretty potent foreign influence—he was one of the holy alliance of crowned heads. Will they take part with him, and not protect the citizen? Then they will aid a foreign influence against our laws! Will they takes sides with our naturalized citizen? If so, then upon what grounds? Now, they must have a good cause of interposition to justify us against all the received dogmas of European despotism.

Don't they see, can't they perceive, that they have no other grounds than those I have urged? He is our citizen, nationalized, owing us allegiance and we owing him protection. And if we owe him protection abroad, because of his sworn allegiance to us as a naturalized citizen, what then can deprive him of his privileges at home among us when he returns? If he be a citizen at all, he must be allowed the privileges of citizenship, or he will not be the equal of his fellow-citizens. And must not Know-Nothingism strike at the very equality of citizenship, or allow him to enjoy all its lawful privileges? If Catholics and naturalized citizens are to be citizens and yet to be proscribed from office, they must be rated as an inferior class—an excluded class of citizens. Will it be said that the law will not make this distinction? Then are we to understand that Know-Nothings would not make them equal by law? If not by law, how can

they pretend to make them unequal, by their secret order, without law and against law? For them, by secret combination, to make them unequal, to impose a burthen or restriction upon their privileges which the law does not, is to set themselves up above the law, and to supersede by private and secret authority, intangible and irresponsible, the rule of public, political right. Indeed, is this not the very essence of the "Higher Law" doctrine? It cannot be said to be legitimate public sentiment and the action of its authority. Public sentiment, proper, is a concurrence of the common mind in some conclusion, conviction, opinion, taste, or action in respect to persons or things subject to its public notice. It will, and it must control the minds and actions of men, by public and conventional opinion. Count Molé said that in France it was stronger than statutes. It is so here. That it is which should decide at the polls of a republic. But, here is a secret sentiment, which may be so organized as to contradict the public sentiment. Candidate A. may be a native and a Protestant, and may concur with the community, if it be a Know-Nothing community, on every other subject except that of proscribing Catholics and naturalized citizens; and candidate B. may concur with the community on the subject of this proscription alone, and upon no other subject; and yet the Know-Nothings might elect B. by their secret sentiment against the public sentiment. Thus it attacks not only American doctrines of expatriation, allegiance, and protection, but the equality of citizenship, and the authority of public sentiment. In the affair of Koszta, how did our blood rush to his rescue? Did the Know-Nothing side with him and Mr. Marcy, or with Hulseman and Austria? If with Koszta, why? Let them ask themselves for the rationale, and see if it can in reason abide with their orders. There is no middle ground in respect to naturalization. We must either have naturalization laws and let foreigners become citizens, on equal terms of capacities and privileges, or we must exclude them altogether. If we abolish naturalization laws, we return to the European dogma: "Once a citizen, always a citizen." If we let foreigners be naturalized and don't extend to them equality of privileges, we set up classes and distinctions of persons wholly opposed to republicanism. We will, as Rome did, have citizens who may be scourged. The three alternatives are presented—Our present policy, liberal, and just, and tolerant, and equal; or the European policy of holding the noses of native born slaves to the grind-stone of tyranny all their lives; or, odious distinctions of citizenship tending to social and political aristocracy. I am for the present laws of naturalization.

As to religion, the Constitution of the United States, art. 6, sec. 3, especially provides that no religious test shall ever be required as a qualification to any office or public trust under the United States. The state of Virginia has, from her earliest history, passed the most liberal laws, not only towards naturalization, but towards foreigners. But I have said enough to show the spirit of American laws and the true sense of American maxims.

3d. Know-Nothingism is against the spirit of Reformation and of Protestantism.

What was there to reform?

Let the most bigoted Protestant enumerate what he defines to have been the abominations of the church of Rome. What would he say were the worst? The secrets of Jesuitism, of the Auto da fe, of the Monasteries and of the Nunneries. The private penalties of the Inquisition's Scavenger's Daughter. Proscription, persecution, bigotry, intolerance, shutting up of the book of the word. And do Protestants now mean to out-Jesuit the Jesuits? Do they mean to strike and not be seen? To be felt and not to be heard? To put a shudder upon humanity by the masks of mutes? Will they wear the monkish cowls? Will they inflict penalties at the polls without reasoning together with their fellows at the hustings? Will they proscribe? Persecute? Will they bloat up themselves into that bigotry which would burn non-conformists? Will they not tolerate freedom of conscience, but doom dissenters, in secret conclave, to a forfeiture of civil privileges for a religious difference? Will they not translate the scripture of their faith? Will they visit us with dark lanterns and execute us by signs, and test oaths, and in secrecy?

Protestantism! forbid it!

If anything was ever open, fair, and free—if anything was ever blatant even—it was the Reformation. To quote from a mighty British pen: "It gave a mighty impulse and increased activity to thought and inquiry, agitated the inert mass of accumulated prejudices throughout Europe. The effect of the concussion was general, but the shock was greatest in this country" (England). It toppled down the full grown intolerable abuses of centuries at a blow; heaved the ground from under the feet of bigoted faith and slavish obedience; and the roar and dashing of opinions, loosened from their accustomed hold, might be heard like the noise of an angry sea, and has never yet subsided. Germany first broke the spell of misbegotten fear, and gave the watchword; but England joined the shout, and echoed it back, with her island voice, from her thousand cliffs and craggy shores, in a longer and a louder strain. With that cry the genius of Great Britain rose, and threw down the gauntlet to the nations. There was a mighty fermentation; the waters were out; public opinion was in a state of projection; liberty was held out to all to think and speak the truth; men's brains were busy; their spirits stirring; their hearts full; and their hands not idle. Their eyes were opened to expect the greatest things, and their ears burned with curiosity and zeal to know the truth, that the truth might make them free. The death blow which had been struck at scarlet vice and bloated hypocrisy, loosened tongues, and made the talismans and love tokens of popish superstitions with which

she had beguiled her followers and committed abominations with the people, fall harmless from their necks."

The translation of the Bible was the chief engine in the great work. It threw open, by a secret spring, the rich treasures of religion and morality, which had then been locked up as in a shrine. It revealed the visions of the Prophets, and conveyed the lessons of inspired teachers to the meanest of the people. It gave them a common interest in a common cause. Their hearts burnt within them as they read. It gave a mind to the people, by giving them common subjects of thought and feeling. It cemented their Union of character and sentiment; it created endless diversity and collision of opinion. They found objects to employ their faculties, and a motive in the magnitude of the consequences attached to them, to exert the utmost eagerness in the pursuit of truth, and the most daring intrepidity in maintaining it. Religious controversy sharpens the understanding by the subtlety and remoteness of the topics it discusses, and braces the will by their infinite importance. We perceive in the history of this period a nervous, masculine intellect. No levity, no feebleness, no indifference; or, if there were, it is a relaxation from the intense activity which gives a tone to its general character. But there is a gravity approaching to piety, a seriousness of impression, a conscientious severity of argument, an habitual fervor of enthusiasm in their method of handling almost every subject. The debates of the schoolmen were sharp and subtle enough: but they wanted interest and grandeur, and were besides confined to a few. They did not affect the general mass of the community. But the Bible was thrown open to all ranks and conditions "to own and read," with its wonderful table of contents, from Genesis to the Revelations. Every village in England would present the scene so well described in Burns's "Cotter's Saturday Night." How unlike this agitation, this shock, this angry sea, this fermentation, this shout and its echoes, this impulse and activity, this concussion, this general effect, this blow, this earthquake, this roar and dashing, this longer and louder strain, this public opinion, this liberty to all to think and speak the truth, this stirring of spirits, this opening of eyes, this zeal to know—not nothing—but the truth, that the truth might make them free. How unlike to this is Know-Nothingism, sitting and brooding in secret to proscribe Catholics and naturalized citizens! Protestantism protested against secrecy, it protested against shutting out the light of truth, it protested against proscription, bigotry, and intolerance. It loosened all tongues, and fought the owls and bats of night with the light of meridian day. The argument of Know-Nothings is the argument of silence. The order ignores all knowledge. And its proscription can't arrest itself within the limit of excluding Catholics and naturalized citizens. It must proscribe natives and Protestants both, who will not consent to unite in proscribing Catholics and naturalized citizens. Nor is that all; it must not only apply to birth and religion, it must necessarily extend itself to the business of life as well as to political preferments. The instances have already occurred. Schoolmistresses have been dismissed from schools in Philadelphia, and carpenters from a building in Cincinnati.

4th. It is not only opposed to the Reformation and Protestantism, but it is opposed to the faith, hope, and charity of the gospel. Never was any triumph more complete than that of the open conflict of Protestants against the Pope and priestcraft. They did not oppose proscription because it was a policy of Catholics; but they opposed Catholics because they employed proscription. Proscription, not Catholics, was the odium to them. Here, now, is Know-Nothingism combating proscription and exclusiveness with proscription and exclusiveness, secrecy with secrecy, Jesuitism with Jesuitism. Toleration, by American example, had begun its march throughout the earth. It trusted in the power of truth, had faith in Christian love and charity, and in the certainty that God would decide the contest. Here, now, is an order proposing to destroy the effect of our moral example. The Pope himself would soon be obliged, by our moral suasion, to yield to Protestants in Catholic countries their privileges of worship and rites of burial. But, no, the proposition now is, "to fight the devil with fire," and to proscribe and exclude because they proscribe and exclude. And they take up the weapons of Popery without knowing how to wield them half so cunningly as the Catholics do. The Popish priests are rejoiced to see them giving countenance to their example, and expect to make capital and will make capital out of this step backwards from the progress of the Reformation. Protestantism has lost nothing by toleration, but may lose much by proscription.

5th. It is against the peace and purity of the Protestant churches and in aid of priestcraft within their folds, to secretly organize orders for religious combined with political ends. The world—I mean the sinner's world—will be set at war with the sects who unite in this crusade against tolerance and freedom of conscience and of speech. Christ's kingdom is not of this world, and freemen will not submit to have the Protestant any more than the Catholic churches attempt to influence political elections, without a struggle from without. And the churches from within must reach a point when they must struggle among themselves and with each other. Peace is the fruit of righteousness, and righteousness and peace must flee away together from a fierce worldly war for secular power. And the churches must be corrupted, too, as evil passions, hatred, and jealousy, and ambition, and envy, and revenge, and strife arise, and temptations steal away the hearts of votaries from the humble service of the "meek and lowly Jesus." Protestant priestcraft is cousin germain to Catholic; and where is this to end but

in giving to our Protestant priests—the worst of them, I mean—such as will "put on the livery of heaven to serve the devil in"—a control of political power, and thus to bring about the worst union which could be devised, of church and state! The state will prostitute and corrupt any church, and any church will enslave any state. Corrupt our Protestant priests as the Catholics have been, with temporal and political power, and they will be of the same "old leaven"—the same old beast—the same old ox going about with straw in his mouth! And where will the war of sects end? When the Protestant priests have gotten the power, which of their sects is to prevail? The Catholics proscribed, which denomination next is to fall? The Episcopal church, my mother church, is denounced by some as the bastard daughter of the whore of Rome. Is she next to be put upon the list of proscription? And when she is excluded, how are the Predestinarians and Arminians to agree among themselves? Which is to put up the Governor for Virginia or the President for the United States? Which is to have the offices, and how is division to be made of the spoils? Sir, this secret association, founded on proscription and intolerance, must end in nothing short of corruption and persecution of all sects, and in a civil war against the domination of priestcraft, Protestant or Catholic. Indeed, it is so, already, that a real reason for this secrecy is that the priests, who have a zeal without knowledge against the Pope, are unwilling to be seen in their union with this dark-lantern movement! Woe, woe, woe! to the hypocrite who leaves the work of his Master, the Prince of Peace, the Great High Priest after the order of Melchisedeck, for a worldly work like this!

6th. It is against free civil government, by instituting a secret oligarchy, beyond the reach of popular and public scrutiny, and supported by blind instruments of tyranny, bound by test oaths. If the oaths and proceedings of induction of members published be true, they bind the noviciates from the start to a passive obedience but to one law, the order of intolerance and proscription. Men are led to them by a burning curiosity to know that they are to Know Nothing! The novelty of admission beguiles them into adherence. They assemble to take oaths and promise to obey. To obey whom? Do the masses, will the masses, is it intended that the masses of their members shall know whom? Where is the central seat of the Veiled Prophet? In New York? New England? or Old England? Who knows that Know-Nothingism is not influenced by a cabal abroad—by a foreign influence? Whence passes the sign?—Of course from a common centre somewhere. Is that centre in Virginia, for the orders here? If not, is it not alarming that our people in this state are to be swerved by a sign from somewhere, anywhere else, to go for this or that side of a cause, for this or that candidate for election? Those orders must have degrees; the degrees are higher and lower, of course, and the higher must prescribe the rule to govern. Each degree must have its higher officers, and all the orders must be subject to some one. Now, how many persons constitute the select few of the highest functionaries, nobody knows. Nobody knows who they are, where they are, or how many of them there are. They exist somewhere in the dark. Their blows can't be guarded against, for they strike, not like freemen bold, bravely for rights, but unseen, and to make conquest of rights. Their adherents are sworn to secrecy and to obey. They magnify their numbers and influence by the very mystery of their organization, and the timid and time-serving fly to them for fear of proscription or for hope of reward. They quietly warn friends not to stand in the way of their axe, and friends begin to apprehend that it is time to save themselves by Knowing Nothing. They threaten their enemies, and some of their enemies skulk from fear of offending them. They alarm a nation, and a nation, with its political and church parties, gives them at once consideration and respect as a power to be dreaded or courted. Thus, in a night, as it were, has an oligarchy grown up in secret to control our liberties, to dictate to parties, to guide elections, and to pass laws. They are establishing presses, too, but we cannot define from their positions a single principle which we can say Know-Nothings may not disown and disavow. The Prophet of Khorassan never gave out words more cabalistic—words to catch by sounds, and sounding the very opposite of what they really mean. When they have men's fears, curiosity, hopes, the people's voices, the ballot boxes, the press, at their command, how long will our minds be free, or persons safe, or property secure? How long will stand the pillars of freedom of speech and of the pen, when liberty of conscience is gone and birth is made to "make the man?" He is a dastard, indeed, who fears to oppose an oligarchy or secret cabal like this, and loves not human rights well enough to protect them.

7th. It is opposed to our progress as a nation. No new acquisition can ever be made by purchase or conquest, if foreigners or Catholics are in the boundaries of the acquired countries; for, surely we would not seek to take jurisdiction over them; to make them slaves; to raise up a distinct class of persons to be excluded from the privileges of a republic. If not for their own sakes, for the sake of the republic we would save ourselves from this example.

As early as 1787, we established a great land ordinance. The most perfect system of eminent domain, of proprietary titles, and of territorial settlements, which the world had ever beheld to bless the homeless children of men. It had the very housewarming of hospitality in it. It wielded the logwood axe, and cleared a continent of forests. It made an exodus in the old world, and dotted the new with log-cabins, around the hearths of

which the tears of the aged and the oppressed were wiped away, and cherub children were born to liberty, and sang its songs, and have grown up in its strength and might and majesty. It brought together foreigners of every country and clime—immigrants from Europe of every language and religion, and its most wonderful effect has been to assimilate all races. Irish and German, English and French, Scotch and Spaniard, have met on the western prairies, in the western woods, and have peopled villages and towns and cities—queen cities, rivalling the marts of eastern commerce; and the Teutonic and Celtic and Anglo-Saxon races have in a day mingled into one undistinguishable mass—and that one is American!"—American in every sense and in every feeling, in every instinct and in every impulse of American patriotism. The raw German's ambition is first to acquire land enough upon which to send word back to the Baron he left behind him, that he does not envy him his principality!

The Irishman no longer hurra's for "my Lord" or "my Lady," but exclaims in his heart of hearts that "this is a free country." The children of all are crossed in blood, in the first generation, so that ethnology can't tell of what parentage they are—they all become brother and sister Jonathans—Jonathans to sow and plant grain—Jonathans to raise and drive stock—Jonathans to organize townships and counties and states of free election—Jonathans to establish schools and colleges and rear orators, sages, and statesmen for the Senate—Jonathans to take a true heart aim with the rifle at any foe who dares invade a common country—Jonathans to carry conquest of liberty to other lands, until the whole earth shall be filled with the glory of Americanism! As in the colonies, as in the Revolution, as in the last war, so have foreigners and immigrants of every religion and tongue, contributed to build up the temple of American law and liberty, until its spire reaches to heaven, whilst its shadow rests on earth!! If there has been a turnpike road to be beaten out of the rocky metal, or a canal to be dug, foreigners and immigrants have been armed with the mattock and the spade; and, if a battle on sea or land had to be fought, foreigners and immigrants have been armed with the musket and the blade. So have foreigners and immigrants proved that their influence has not impaired the genius, or the grace, or gladness, or glory of American institutions. At no time have they warred upon our religion in the west, and they have been at peace among themselves. The Pope has lost more than he has gained of proselytes by the Catholics coming here. No proscription but one has ever disturbed the religious tolerance of the west, and that one was to drive out the religion of an impostor which struck at every social relation surrounding it. If Know-Nothings may tolerate Mormons, I can't see why they leave them to their religious liberty and select the very mother church of Protestantism itself for persecution and proscription. But the west, I repeat, made up of foreigners and immigrants of every religion and tongue, the west is as purely patriotic, as truly American, as genuinely Jonathan, as any people who can claim our nationality. Now, is not here proof in war and in peace that the apprehension of foreign influence, brought here by immigrants, is not only groundless but contradicted by the facts of our settlements and developments? Did a nation ever so grow as we have done under land ordinances and our laws of naturalization? They have not made aristocracies, but sovereigns and sovereignties of the people of the west. They have strengthened the stakes of our dominion and multiplied the sons and daughters of America so that now she can muster an army, and maintain it, too, outnumbering the strength of any invaders, and making "a host of freedom which is the host of God!"

Now, shall all this policy and its proud and happy fruits be cast aside for a contracted and selfish scheme of intolerance and exclusion? Shall the unnumbered sections of our public lands be fenced in against immigrants? Shall hospitality be denied to foreign settlers? Shall no asylum be left open to the poor and the oppressed of Europe? Shall the clearing of our lands be stopped? Shall population be arrested? Shall progress be made to stand still? Are we surfeited with prosperity? Shall no more territory be acquired? Shall Bermuda be left a mare clausum of the Gulf of Mexico, and Jamaica, a key of South American conquest and acquisition, in the hands of England; Cuba, a depot of domination over the mouth of the Mississippi, in the hands of Spain, just strong enough to keep it from us for some strong maritime power to seize, whenever they will conquer or force a purchase; Central America, in the gateway of commerce between our Atlantic and Pacific possessions—lest foreigners be let in among us, and Catholics come to participate in our privileges? Verily, this is a strange way to help American institutions and to promote American progress. No, we have institutions which can embrace a world, all mankind with all their opinions, prejudices, and passions, however diverse and clashing, provided we adhere to the law of Christian charity and of free toleration. But the moment we dispense with these laws, the pride, and progress, and glory, and good of American institutions will cease for ever, and the memory of them will but goad the affections of their mourners. Selfishness, utter selfishness alone, can enjoy these American blessings, without desiring that all mankind shall participate in their glorious privileges. Nothing, nothing is so dangerous to them, nothing can destroy them so soon and so certainly, as secret societies, formed for political and religious ends combined, founded on proscription and intolerance, without necessity, against law, against the spirit of the Christian Reformation, against

the whole scope of Protestantism, against the faith, hope, and charity of the Bible, against the peace and purity of the churches; against free government by leading to oligarchy and a union of church and state; against human progress, against national acquisitions, against American hospitality and comity, against American maxims of expatriation, and allegiance and protection, against American settlements and land ordinances, against Americanism in every sense and shape!

Lastly. What are the evils complained of, to make a pretext for these innovations against American policy, as heretofore practised with so much success and such exceeding triumph?

1st. The first cause, most prominent, is that the native and Protestant feeling has been exasperated by the course pursued by both political parties, in the last several Presidential campaigns; they have cajoled and "honey-fugled" with both Catholics and foreigners by birth, naturalized and unnaturalized, ad nauseam.

Foreigners and Catholics were not so much to blame for that as both parties. And take these election toys from them, and does any one suppose that they would not resort to some other humbug? Is not another hobby now arising to put down both of these pets of party? Is not the donkey of Know-Nothingism now kicking its heels at the lap-dogs of the "rich Irish brogue" and the "sweet German accent," for the fondlings and pettings of political parties?

2d. Both parties have violated the election laws and laws of naturalization, in rushing green emigrants, just from on ship-board, up to the polls to vote.

This, again, is the fault of both parties. And this is confined chiefly, if not entirely, to the cities. It don't reach to the ballot boxes of the country at large, and is not a drop in the ocean of our political influence. In New York, Philadelphia, Baltimore, Cincinnati, and New Orleans, the abuse, I venture to say, don't number, in fact, 500 votes. It is nothing everywhere else, in a country of universal suffrage and of twenty millions of free people. And would perjury and fraud in elections be arrested by the attempt to exclude Catholics and foreigners by birth from office?—or, by extending the limitation of time for naturalization?—or by repealing the naturalization laws? Either of these remedies for the error would multiply the perjuries and the frauds and the foreign votes. Then there would be a pretext for obtaining by fraud and force what was denied under law. By making naturalization rather to follow immediately upon the oath of allegiance, and that to depend on the will and the good character of the applicant, fraud and perjury would rather be stripped of their pretexts. The foreigners would be at once exalted in their self-respect and dignity of deportment, right would enable them to exercise the elective franchise in peace, and the country would escape the demoralization resulting from a violation of the laws, and from the means employed to set at nought their force and effect.

3d. Foreigners have abused the protection of the United States abroad.

If they have, it was a violation of law. They cannot well do it, without the want of care and vigilance in our consular and diplomatic functionaries abroad. Citizens at home abuse our protection, and they are not always punished for their crimes.

4th. Catholics, it is urged, have been combined and obeyed the signs of their bishops and priests in elections, and have been influenced in their votes to a great extent by religious and exclusive considerations.

If they have, that is one of the best reasons why Protestants should not follow their example. It is evil, and the less there is of it the better for all. Let bigotry and proscription belong to any sect rather than to Protestants. When they follow alleged Catholic examples, which they arraign as dangerous and mischievous, then they themselves become as Catholics, according to their own opinions, dangerous and mischievous.

5th. Catholics and Catholic governments, it is urged, have always excluded Protestants from religious and social privileges in their countries.

And how much have we gained upon them by following the opposite policy? By tolerance we have grown so great as now to make them feel the necessity to respect our title to comity and right to a separate enjoyment of the privileges of Protestants. Our government is interposing in that behalf, and I fear it will not be assisted any in its negotiations by the attempt here to proscribe Catholics and strangers by birth.

6th. It is complained that in some instances, in New York particularly, the Catholics have been arrogant, exclusive, and anti-republican in their attempts to control the public schools, and to exclude from them the free and open study of the word of God.

How can this bigotry be subdued by bigotry, which retires itself in secrecy and proscribes all who don't proscribe Catholics? There is no homœopathy in moral disease. Proscription and bigotry and secrecy must not be prescribed for the maladies of proscription, bigotry, and hiding of the word! The diseases would then be epidemics among Protestants, Catholics, and all. The open and lawful and liberal means for either prevention or correction of this evil are simple and efficacious if righteously applied.

7th. It is urged that Catholics recognise the supremacy of the Pope and submission to priestcraft, which might, under circumstances, be destructive of our free government.

Suppose that to be so, there are worse sects among us, whom Know-Nothings pretend not to assail. There are the Mormon polygamists; there are the necromancers of Spiritual Rappings; and there is a sect which aspires not only to destroy free government, but the great globe and all that it inhabit—the

millennial Millerites. And, it is about as likely that Millerites will set the world on fire in one day, as that Popery will ever be able to break up or bow down this republic. The prophecies must all fail, and Christ's dominion upon earth must cease, and printing presses and telegraphs and steam must be lost to the arts, and revolutions must go backwards, and the sky must fall and catch Know-Nothings, before the times of Revelations are out, and the Pope catches "Uncle Sam."

No, no, no—there is not a reason in all these complaints, which is not satisfied by our laws as they exist, and not an error, which may not be corrected by the proper application of the lawful authority at our command, without resorting to the extraordinary, extra-judicial, revolutionary, and anti-American plan of a secret society of intolerance and proscription.

I belong to a secret society, but for no political purpose. I am a native Virginian *intus et in cute*, a Virginian; my ancestors on both sides for two hundred years were citizens of this country and this state—half English, half Scotch. I am a Protestant by birth, by baptism, by intellectual belief and by education and by adoption. I am an American, in every fibre and in every feeling an American; yet in every character, in every relation, in every sense, with all my head, and all my heart, and all my might, I protest against this secret organization of native Americans, and of Protestants, to proscribe Roman Catholic and naturalized citizens!

Now, will they proscribe me?

That question weighs not a feather with

Your obedient servant,

HENRY A. WISE.

Witte, Wm. H., of Pa.

ANTI-SECRET-POLITICAL-ASSOCIATION RESOLUTIONS OF.

THE astonishing increase about the meeting of the second session of the 33d Congress of the then new political party commonly called Know-Nothings, had involved in the changes it produced that of the politics of no small portion of the members of the House. Many representatives who had been elected under the auspices of the old parties had joined the new order, others sympathized with it, whilst others, fearing its apparent gigantic proportions, were afraid to show their hands against it. Mr. Wm. H. Witte, a Democratic representative from the state of Pennsylvania, conceived the idea of bringing the House to an expression of opinion as to the new order, through the medium of resolutions in opposition to it. He was aware that it would be impossible to bring the body to a direct vote, so he proposed to make the vote on the suspension of the rules for the introduction of the resolutions the test. The following are the proceedings which took place in the House on the 5th of February, 1855, which fully explain themselves:—

SECRET POLITICAL ASSOCIATION.

Mr. WITTE. Mr. Speaker, I ask the unanimous consent of the House to enable me to introduce a preamble and three short resolutions.

[Cries of "Read them!"]

The preamble and resolutions were reported, as follows:—

Whereas, discussions have been indulged in this House in Committee of the Whole which, with other circumstances, lead to the conviction that there exists in this country an extensive secret oath-bound political association, which seems intended to interfere with the purity of election, and the legislation of the country, such an association has excited the fears, and induced the solemn warning of Washington in his Farewell Address: Therefore—

Resolved, That in the opinion of this House, the existence of secret oath-bound political associations, having in view an interference with the sanctity of the ballot-box and the direction of the course of national or municipal legislation, is inconsistent with, and dangerous to, the institutions of republicanism and directly hostile to the genius of this government.

Resolved, That every attempt to proscribe any class of citizens on account of their religious opinions, or to favor or injure any religious denomination by national legislation, is in direct violation of the spirit of the Constitution of the United States.

Resolved, That while a careful and strict administration of the naturalization laws is a solemn duty, yet every interference with the guarantied rights of naturalized citizens, is inconsistent with the plighted faith of the nation, and must diminish its growth and prosperity.

Mr. MACE. I object.

Mr. WITTE. I move a suspension of the rules, for the purpose of enabling me to introduce these resolutions, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WITTE. I wish that the vote by which the motion to suspend the rules may be adopted or rejected, may be regarded as a test vote on the resolution.

Mr. FLORENCE and other members. Oh! every one understands that.

Mr. WENTWORTH of Ill. I wish to ask a question of the Chair. Will it now be in order to have a call of the House? I think all the members ought to be present when this vote is taken. I therefore move that there be a call of the House.

[Cries "Oh! no." "We are all here."]

Mr. WENTWORTH. I ask for the yeas and nays on my motion for a call of the House. That will show the opinions of members on the matter.

Mr. BAYLY of Va. Nobody can make tests for the members of the House. This is no proper matter of legislation, and I shall vote against the suspension of the rules.

The yeas and nays were not ordered.

Mr. WENTWORTH demanded tellers on the call for the yeas and nays, but subsequently withdrew the demand.

Mr. SMITH of Tenn. I wish to ask if it is in order now to move to suspend the rules for the purpose of going into the Committee of the Whole on the State of the Union?

The SPEAKER. Not while the motion of the gentleman from Pennsylvania [Mr. Witte] is pending.

Mr. JONES of Tenn. I am satisfied that there will be no good, but some harm done here to-day; and I therefore move that this House do now adjourn.

The question was taken; and the motion was not agreed to.

The question on the motion of Mr. WITTE was then taken; and it was decided in the negative—yeas 103, nays 78, as follows:—

YEAS.—Messrs. James C. Allen, Willis Allen, *Appleton*, Ashe, David J. Bailey, Barksdale, Barry, Belcher, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Caskie, *Chandler*, Chastain, Chrisman, Clark, Craige, Curtis, John G. Davis, Thomas Davis, Dawson, *Edmands*, Edmundson, *Thomas D. Eliot*, John M. Elliott, Ellison, English, *Farley*, Florence, Fuller, GIDDINGS, Green, Greenwood, Hamilton, Hastings, Hendricks, Henn, Hibbard, *Hiester*, *Hill*, Hillyer, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kidwell, Kurtz, Lamb, Letcher, Lilly, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, Maxwell, May, Smith Miller, Morrison, Nichols, Noble, Olds, Orr, John Perkins, Phelps, Richardson, Riddle, Robbins, Rowe, Ruffin, *Russell*, Seymour, Shaw, Shower, *Simmons*, Singleton, Samuel A. Smith, George W. Smyth, Richard H. Stanton, Straub, Andrew Stuart, David Stuart, John J. Taylor, Trout, Tweed, *Upham*, Vansant, Walbridge, Walker, *Walley*, Walsh, Warren, *Elihu B. Washburne*, Wells, John Wentworth, Witte, Daniel B. Wright, Hendrick B. Wright—103.

NAYS.—Messrs. Aiken, Thomas H. Bayly, *Ball*, Banks, *Bennett*, *Benson*, *Bugg*, *Carpenter*, *Caruthers*, *Chase*, Clingman, Cobb, *Cook*, *Corwin*, Disney, Dunham, Eastman, Edgerton, *Etheridge*, *Everhart*, Faulkner, Fenton, *Flagler*, *Franklin*, *Goodwin*, *Gray*, Grow, *Aaron Harlan*, Andrew J. Harlan, *Haven*, Houston, *Howe*, *Hunt*, Daniel T. Jones, *Kerr*, *Knox*, Latham, *Lindley*, Lyon, *McCulloch*, Mace, *Matteson*, *Maydi*, *Middleswarth*, Millson, *Morgan*, Murray, Andrew Oliver, *Mordecai Oliver*, *Parker*, Peckham, *Pennington*, Phillips, Pratt, *Pringle*, *Puryear*, *Ready*, *Reese*, *David Ritchie*, Thomas Ritchey, *Rogers*, *Sabin*, *Sage*, *Sapp*, Seward, Shanoon, *Skelton*, *Sollers*, Frederick P. Stanton, *John L. Taylor*, *Nathaniel G. Taylor*, *Teller*, Thurston, *Tracy*, *Wade*, Wheeler, *Yates*, *Zollicoffer*—78.

Those in roman, Democrats; classification according to politics when elected.

So (two-thirds not voting in favor thereof) the rules of the House were not suspended.

Pending the announcement of the vote,

Mr. SOLLERS asked to have the resolutions again read.

[Cries of "Object!"]

The SPEAKER. It is not strictly in order while the vote is being taken, objection being made.

Mr. CORWIN. Is it proposed to make this a test vote on the resolutions?

The SPEAKER. The Chair knows nothing about that.

Mr. CORWIN. Do my brethren around here suppose this to be a test vote?

Several members. Oh no.

Mr. CORWIN. If so, I vote no.

Mr. CAMPBELL. I was called out of my seat on business, and was not within the bar when my name was called. I ask the unanimous consent of the House to my voting.

Several members. I object.

Mr. LANCASTER. I would inquire from the Chair whether Delegates can be permitted to vote on resolutions of this character?

The SPEAKER. Delegates are not entitled to vote.

Mr. LEWIS. I was not within the bar when my name was called, but I suppose that it is competent for me to ask the unanimous consent of the House to record my vote.

Mr. KEITT. Unless the gentleman from Ohio be allowed to vote I will object.

Mr. LEWIS. Then I will say that if I were permitted to give my vote, I should have voted in the negative.

Mr. CULLOM. If I had been within the bar when my name was called, I should have voted in the negative.

Mr. Faulkner of Va., on the 9th of Feb., 1855, made the following explanation of the reasons which governed his vote and that of other Democrats in the House upon it:—

I ask, sir, then, with what propriety could I have aided, by my vote, the introduction before this House, of resolutions such as those submitted by the gentleman from Pennsylvania, which, however sound they may be in their political teachings, propose no legislation whatever by Congress; are merely declaratory of individual opinion, and would only lead to debate and a useless consumption of time that should be devoted to the urgent wants of the country? I ask, more especially, with what propriety could I record my assent to this waste of time, when that branch of the public service which has, in some measure, been specially confided to my care, was then, and is, at this moment, most grievously suffering for want of the legislation of this House? Sir, I thought it better to submit to a temporary misconstruction of my motives, than to exhibit such infidelity to the trust reposed in me.

The views which influenced my vote were, I believe, participated in by nearly every chairman of an important committee in this House, who manifested, by their course, the same repugnance that I did, to see the time of this body consumed in action upon mere abstract resolutions, when the necesssities of the country so loudly call for practical measures of legislation. I may here refer to the chairman of the Committee of Ways and Means [Mr. Houston], to the chairman of the Committee on Foreign Relations [Mr. Bayly], to the chairman of the Judiciary Committee [Mr. Stanton], to the chairman of the Committee on Public Lands [Mr. Disney], to the chairman of the Committee of Claims [Mr. Edgerton], to the chairman of the Committee on Revolutionary Claims [Mr. Peckham], to the chairman of the Committee on Roads and Canals [Mr Dunham], to the chairman of the Committee on Printing [Mr. Murray], and perhaps others who concurred in their vote with me; but of those gentlemen named, I can speak with confidence, as they all have seats near to me, and my opposition to the suspension of the rules was the result of a consultation between three of the gentlemen named and myself, founded upon the pressing condition of the business of the House.

Mr. Speaker, I will not abuse the courtesy which has been so kindly extended to me by the House, by indulging in any general remarks on the merits of the resolutions which

were sought to be introduced by the gentleman from Pennsylvania. But I trust I may be allowed, in conclusion, to say that, although I did not, and will not, hereafter, under similar circumstances, vote for the suspension of the rules, yet, that I do not yield to that gentleman or to any other member of this body in my firm determination to maintain the rights of conscience, and the inviolability of the great principles of religious freedom. I am not, never have been, and never expect to be, a member of any oath-bound secret political association. I claim communion with but one political organization—and that is the great national Democratic party of this country—a party that has shown itself, after the most ample experience, broad enough to embrace all the vast interests of liberty and humanity, and strong enough to uphold by its firm and conservative grasp, the Constitution of my country and the Union of these states.

APPENDIX.

Public Lands.

Statement showing the amount of public lands unsold and unappropriated, of offered and unoffered, up to June 30, 1853, in the following states, which includes all the land states:—

	Acres.
Ohio	244,196.08
Indiana	246,339.41
Illinois	4,115,969.97
Missouri	22,722,801.41
Alabama	15,049,693.70
Mississippi	9,083,655.94
Louisiana	9,134,143.81
Michigan	16,142,293.48
Arkansas	15,725,388.33
Florida	29,262,674.59
Iowa	22,773,175.57
Wisconsin	23,678,486.19
California	113,682,437.00
	281,861,254.48

[Report of the Commissioner of the General Land Office, 1853, first session Thirty-third Congress, page 45.]

Statement showing the amount of public lands unsold and unappropriated, of offered and unoffered, up to June 30, 1853, in the territories of the United States:—

	Acres.	
Minnesota Territory		85,225,601
New Mexico Territory		127,383,040
Utah Territory		113,589,013
Oregon Territory		116,259,698
Washington Territory		78,737,578
Nebraska and Kansas:		
Nebraska Territory		219,160,320
Kansas Territory		80,821,120
Cha-lah-kee Territory		17,715,200
Muscogee Territory	343,274,240	6,048,000
Chah-a Territory		19,129,600
		864,069,170

[Report of the Commissioner of the General Land Office, 1853, first session Thirty-third Congress, page 45. Corrected and revised at the Land Office, June 3, 1854.]

Public Lands.

	Acres.	Acres.
Areas of land in the states and territories, exclusive of water,		1,391,480,320
Of which there has been surveyed up to June 30, 1853,	336,202,587	
And unsurveyed (estimated)	1,055,277,733	
Of the amount surveyed	336,202,587	
There have been offered for sale up to June 30, 1853,	316,278,804	
Leaving of the surveyed, unoffered for sale,	19,923,783	
Of the amount offered for sale up to June 30, 1853,	316,278,804	
There have been sold to that date	103,197,356.35	
Land in the states yet undisposed of by the general government subject to entry June 30, 1853		94,746,032
Amount of land in the states unsold and unappropriated of offered and unoffered lands in June 30, 1853,		281,861,254
If lands in California be subtracted, it will leave		168,179,818
Areas of land in states and territories, exclusive of water,		1,391,480,320,00
Which has been disposed of as follows:		
Sold up to June 30, 1853,	103,197,356.35	
Disposed of for schools, universities, &c.	49,416,435.00	
Disposed of for deaf-and-dumb asylums	44,971.11	
Disposed of for internal improvements	10,757,677.60	
For individuals and companies	279,792.07	
For seats of government and public buildings	50,860.00	
For military services	24,841,979.83	
Reserved for salines	422,325.00	
Reserved for benefit of Indians	3,400,725.53	
Reserved for companies, individuals, and corporations	8,955,383.75	
Confirmed private claims	8,923,903.21	
Swamp lands disposed of to states	35,798,254.66	
Railroads	6,024,573.00	
		252,114,237.11
Total unsold and unappropriated of offered and unoffered lands, June 30, 1853		1,139,366,083.11

[Report of the Commissioner of the General Land Office, 1853, first session Thirty-third Congress, pages 44 and 45.]

Statement showing the number of Acres of the Public Lands donated by Congress, the purposes for which donated, &c., in reply to resolution of the House of Representatives of Jan. 30, 1854.

States and Territories.	Schools.	Universities.	Seats of government.	Salines.	Internal improvements, 1841, *a*	Roads.	Canals and rivers.	Railroads.	Swamp lands.*b*	Deaf and dumb.	Individuals and companies.	Military services.	Aggregate.
Ohio	704,483	23,040	..	24,216	..	80,773	1,163,229	..	25,641	..	32,141	1,783,0.4	3,835,552
Indiana	680,317	23,040	2,560	23,040	..	170,582	1,439,279		1,286,827	..	843	1,2 5.336	4,821,824
Illinois	978,755	23,040	2,560	121,6.9	209,085		290,915	2,595,053	1,833,413	..	954	9,060,330	15,115,734
Missouri	1,199,139	23,040	2,560	46,080	500,000	..	..	2,442,240	2,178,716		..	2,288,3.3	8,680,098
Alabama	902,774	23,040	1,620	23,040	100,000		400,000	419,528	2,595	..	1,981	794,9.5	2,669,503
Mississippi	837,584	23,040	1,280	..	500,000	..	..	737,130	1,824,812		15,965	178,383	4,118,194
Louisiana	736,044	46,080	..	..	500,000				9,771 275	..	8,413	518,670	11,630,482
Michigan	1,067,397	46,080	13,200	46,080	500,000	..	750,000		6,788,125		4,080	1,108,003	10,322,965
Arkansas	886,360	46,080	10,600	46,080	500,000		..	2,189,200	8,690,017	..	139,366	1,645,273	14,153,076
Florida	908,503	46,080	6,240	46,080	500,000	..			2,065,605		52,114	291,400	3,916,922
Iowa	935,144	46,080	3,840	46,080	500,000		*c* 885,078	..	71,958	..	18,227	4,5.3,573	6,999,880
Wisconsin	958,648	46,080	6,400		360,364	..	569,372		1,259,.69	..	5,706	2,467,497	5,673,336
California	6,719,324	46,080	6,400	..	500,000			..	No return	..	..	..	7,271,804
Minnesota Ter.	5,089,224	..					*d* 340,000	..		..	..	105,520	5,534,744
Oregon Ter. *e*	12,140,907	46,080	..	..	..	..	..	..	..	..	..	..	12,186,987
New Mexico Ter.	7,493,1.0												7,493,1.0
Utah Ter.	6,681,707	..	..	..	..	..	..	..	..	..	..	..	6,681,707
Connecticut										*f* 23,040			23,040
Tennessee	..	*g*3,553,824	..	..	..	..	..	..	..	..	..	..	3,553,824
Kentucky										*h*22,400			22,400
	48,909,535	4,060,704	57,260	422,325	4,669,449	251,355	5,836,873	8,383,151	35,798,253	45,440	279,790	25,990,357	134,704,392

a By the act of September 4, 1841. 500,000 acres of land were granted to each land state for purposes of internal improvements, provided that such states as had theretofore received grants for such purposes should, in addition, be entitled to select only so much as would make the above amount of 500,000. Ohio and Indiana having received more than that amount, were, of course, not entitled to any land under said act.

b Reported by state authorities and estimated.

c In part estimated.

d Estimated.

e Donations in Oregon not yet reported.

f Located principally in Alabama.

g The vacant lands in Tennessee, amounting to 3,553,824 acres, were granted to the state, provided $40,000, if the proceeds amounted to so much, be applied to establish and support a college.

h Located principally in Florida.

B.

Persons employed by the General Government in 1800.

Treasury Department:	
Number employed in collecting the external revenue, such as port collectors, revenue captains and lieutenants, custom-house officers, &c.	1,257
Light-house keepers, inspectors, &c.	37
Number employed in the Mint	10
Clerks in the Department at Washington	70
Total number in Treasury Department	1.374
State Department, including diplomatic corps	112
Persons employed in Pension Office	37
Persons employed in Land Office	8
Persons employed in Indian Office	19
Purveyor of Public Supplies	4
Total	68
War Department, exclusive of Army	17
Navy Department, exclusive of Navy	17
Judiciary	107
Post Office Department: Clerks at Washington, 10; deputy postmasters, 906; whole number employed in Post Office Department	916
Miscellaneous appointments	9
Whole number employed by General Government	3,806

Persons employed by the General Government in 1854.

The Department of—	
Treasury	3,245
Post Office	30,480
Interior	707
War	232
Judiciary	238
Navy	263
State	205
Whole number of persons employed by General Government excluding Army and Navy	35,456

C.

Natives of the old States residing in the land States, as per census of the United States for 1850, *with the natives of New York specially therein resident.*

Where resident.	Number of white residents.	Natives of New York residing in the land States.	Native-born population of each State.	Proportion of the natives of the old states residing in the land States to the native-born population.
Alabama	151,915	1,443	420.032	Over 1-3
Arkansas	26,787	537	160,345	About 1-6
California	34,808	10,160	69.610	About 1-2
Florida	21,875	614	45.320	Nearly 1-2
Illinois	199.780	67,180	736.931	About 2-7
Indiana	179.242	24,310	931.392	Nearly 1-5
Iowa	43,254	8,134	170,620	About 1-4
Louisiana	30,527	5.510	205.921	About 1-7
Michigan	182,618	133,756	341.591	Over 1-2
Miss.	79,366	952	291,114	Over 1-4
Missouri	84,398	5,040	520.826	Over 1-6
Ohio	508,672	83,979	1,757,556	Nearly 1-3
Wisconsin	109,932	68.595	197,912	Over 1-2
	1,653,174	410,210	5,849,176	More than 1-4 and less than 1-3

HOUSE OF REPRESENTATIVES, *May* 29, 1854.

MR. PERKINS—SIR: In reply to your inquiry concerning the state of the business referred to the Committee on Private Land Claims. I have to inform you that the claims referred to that committee this session amount to over one hundred. They have been referred at different times during the whole course of the session. Early in the session, while the committees were called for reports, there were but few claims pending before the committee, and we were able to report upon them to the House nearly as fast as they were referred. At a later period of the session, the committees not being called, we have not been able to report. The committee have agreed upon many reports, which are ready to be reported whenever there is an opportunity of doing so. The Committee on Private Land Claims has not been called since the 6th of February last, because the morning hour since that time has been consumed by other business; and I am not able to give an opinion as to when our committee will be again called. Respectfully,

JUNIUS HILLYER,
Chairman Committee on Private Land Claims.

COMMITTEE ROOM COMMITTEE OF CLAIMS,
HOUSE OF REPRESENTATIVES, *May* 25, 1854.

SIR: During the Thirty-Second Congress there were referred to the Committee of Claims four hundred and forty-two cases. The number acted upon by the committee was one-hundred and eighty-seven, although the actual number was much larger; the committee frequently passing upon *classes* of cases, which were disposed of by one bill or one adverse report. But a very small number of the cases acted upon were ever reported, to the House, for the reason that the committee was not called for reports. The "morning hour," devoted by the rules to the calling of committees for

reports, was consumed, for a great part of the first session, by the Committee on Public Lands. The precise time I do not know, but I believe it to have been nearly five months. I think the Committee of Claims were not called for reports after the 1st of March in the first session of the Thirty-Second Congress. This denial of justice to private claimants was occasioned by permitting other committees to put the bills reported by them upon their passage, and particularly the Committee on Public Lands.

A larger number of cases have been acted upon by this committee during the present session of this Congress. The number now ready to be reported is eighty-four; but the committee has not been called for reports since February, and probably will not be called for months; certainly not, if other committees are permitted to put bills upon their passage.

I am, very respectfully, yours,

N. P. EDGERTON, *Chairman.*

Hon. JOHN PERKINS, Jr.,
House of Representatives.

WASHINGTON, *May* 21, 1854.

DEAR SIR: In obedience to your request, I state it as my deliberate opinion that during the sixteen years I have served in Congress, at least one-third of the entire time of that body has been consumed in the consideration of questions connected, in one form or other, with our public land system.

Very respectfully, your obedient servant,

LINN BOYD.

Hon. JOHN PERKINS, JR.

WASHINGTON, *April* 27, 1854.

MY DEAR SIR: In compliance with the request contained in your note, I have the honor to reply, that from the most careful examination which could be made, with the efficient aid of Mr. Buck, taking the two sessions of the Thirty-Second Congress as the best guide, the cost of the debates on the question of the public lands, in the Senate and the House of Representatives, as published in the Appendix to the Congressional Globe, and in the Congressional Globe for that Congress, was about $149,145. The statement subjoined is submitted to your consideration:—

1,500 columns of the Congressional Globe devoted to debates on public lands.
299 Senators, Members, and Delegates.
2½ hours allowed for consideration.
10 columns allowed for an hour speech.
7½ dollars per column for reporting in the Daily Globe.
10)1,500

150 hour speeches.
60 days spent in consideration of public lands.

$2,392 expense of daily session.
60 days spent.

143,520 expense of Congress for sixty days.
5,625 expense of reporting.

149,145

This estimate includes the debates in the Thirty-Second Congress on the homestead, assignability of land warrants, for railroad grants, and on the proposal to grant lands to the indigent insane. It is not too high, because we have not included the speeches made on other subjects of legislation while the House was in Committee of the Whole on some one of the various projects connected with the disposition of the public lands, and which would have been made on other bills in committee.

The estimate enclosed is lower than the probable average cost of the debates on the land question in the present Congress, judging from such an examination as I have been enabled to make, so far as the debate has gone.

Very respectfully yours,

JOHN W. FORNEY,
Clerk House of Representatives United States.

Hon. JOHN PERKINS, Jr.

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THE END.