

SPEECH
OF
THADDEUS STEVENS, OF PENNSYLVANIA,
ON
THE CALIFORNIA QUESTION.

Made in the House of Representatives, Night Session, June 10, 1850.

Mr. CHAIRMAN: How far Congress can legislate for the Territories, and admit new States into the Union, has been matter of grave discussion.

The power to admit new States is expressly given by the Constitution. But the extent of that power is by no means settled. In my judgment, it refers only to new States formed out of territory previously belonging to the nation. Such was the opinion of Mr. Jefferson, and I have never seen it successfully controverted. Clearly that clause conferred no diplomatic powers on Congress. Consequently, Congress could enter into no negotiation with foreign Powers; for that would be an act of diplomacy. The right to admit foreign independent nations into the Confederacy is nowhere given to Congress, either by direct grant or necessary implication. I do not believe it exists anywhere, except with the treaty-making power. This question will probably be seriously considered and finally decided, when Texas comes to subdivide her territory into States, and claim their admission into the Union, if that unfortunate event should ever happen.

The right of Congress, and the extent of that right, to legislate for the Territories, has become a question of fierce discussion by the ablest minds of the nation. For sixty years and upwards, after the passage of the Ordinance of 1787 and the adoption of the Constitution, no one seriously doubted the right of Congress to control the whole legislation of the Territories—to establish Territorial Governments; create courts; fix the tenure of the judges and other officers—in short, to exercise all acts of municipal as well as political legislation. For sixty years, all that authority has been exercised over the Northwestern Territory, the Southwestern Territory, over Louisiana, Florida, and Oregon. In the mean time, the question had been definitively and conclusively settled by all the branches of the Government—by Presidents, by Congresses, by repeated decisions of the Supreme Court of the United States. Elementary writers, Story, Rawle, and others, had so laid down the law.

It is only since our dismemberment of the Mexican Empire, that this question has been opened, and found able and apparently sincere statesmen totally to deny the power.

Those who, half a century hence, shall be led to examine the archives of the nation, will naturally inquire what new light had been shed on this subject; what new event had happened to disturb this well-settled opinion. It may possibly be found, that even in this free and enlightened Republic, men, statesmen and demagogues, were actuated by the same cupidity, lust of power and of office, which governed the people of the old

and corrupt nations of the world. That an independent nation, without treaty and without warrant in the Constitution, by the mere act of Congress, was corruptly admitted into this Confederacy for the avowed purpose of extending the dominion of slavery; and that California and New Mexico were acquired for the same object. But that it was found that Congress, unexpectedly to the South, determined to exclude slavery from them; and had actually passed a bill for that purpose, through the House of Representatives; and it was lost in the Senate only for want of time. Then Southern statesmen discovered that the only chance they had of carrying out their original design, was to deny the power of Congress to pass such a law. They abandoned the position sanctioned by themselves, and by the prescription of sixty years, and boldly assumed this new attitude.

But to be successful, they must bring Northern aid to this new doctrine. They put in requisition the means which before had always availed them—the political weight of slavery. A Presidential election was approaching. He alone, who was willing to receive this new light, and surrender his conscience to its illumination, could receive their support. Among the most prominent of the aspirants to that high office was a gentleman of distinguished talents, of great scientific and legal attainments, who had reached the mature age of nearly three score years and ten. He was particularly versed in the Constitution and laws which regulate the Territories. He had grown up with them. He had filled several offices, and among them the highest in Territorial Governments established by Congress. He acknowledged the exclusive power of Congress over them, and its power to exclude slavery from them. He was prepared to vote for the Wilmot Proviso, and expressed great regret that he was deprived of the opportunity, by a debate which was protracted to the end of the session of 1816. There seemed but little hope, that his judgment, thus matured, his opinion formed with care, and consolidated by the action of a long life, could ever be so changed as to entitle him to Southern support. But miracles have not ceased in the moral, whatever may be the case in the physical world. Southern alchemy was applied; straightway a shaking was seen among the dry bones, and he stood up, regenerated, illuminated, and transformed. The scales fell from his ancient eyes, and he saw bright visions. He now denies to Congress the least power over the Territories! To vindicate, not his consistency, for that is hopeless, but his honesty, he has devoted thirty odd mortal pages of a speech, to show the error in-

indulged in for the last sixty years, by Congresses, by Presidents, by Supreme Courts, by constitutional writers, and by himself.

I shall not attempt to follow his labored argument, especially as very few of his Southern allies now endorse it. All, however, must feel sincere regret that he changed his opinions under such peculiar circumstances.

My opinion as to the extent of the power of Congress in legislating for the Territories differs somewhat from those who admit the general and exclusive power.

The Supreme Court, the ultimate arbiter fixed by the People finally to decide all questions arising under the Constitution and laws of Congress, have, by repeated decisions, derived the exclusive power of Congress to legislate for the Territories from the clause in the Constitution which says—“*The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory and other property of the United States.*”

I do not suppose that any branch of this Government is at liberty practically to disregard these decisions. It would be as improper in the President, Congress, or any other functionary of the Government, as it would be in an individual. In him it would be a misdemeanor. If it were now on open question, I should hesitate to rest it wholly on that part of the Constitution. There is much weight in the argument that “*Territory*” is used in the singular number, and coupled with the phrase “*or other property belonging to the United States.*” It seems to have been intended to apply to a single Territory and the Government property therein. At the adoption of the Constitution, the United States owned but one Territory (the Northwestern.) Nor did the Constitution provide for the acquisition of any other. Clearly, no such power is given to Congress, either expressly or by necessary implication. It is to be found, if it exists anywhere in the Government, in the treaty-making power alone. The Supreme Court have fortified their opinion of the power of Congress over the Territories, as the necessary consequence of the right to acquire by treaty. If I were allowed to indulge my own judgment, I should place the right of Congress to legislate for the Territories acquired from foreign nations wholly in the consequences resulting from the right of acquisition.

By the law of nations, when a nation acquires Territory, either by conquest or treaty, it becomes subject to the will of the acquiring Power. The laws of such Power, however, do not spread over it until some express legislation. In the mean time, their own laws remain in full force. Not unfrequently such subject provinces are for a long time governed by very different laws from the country to which they become attached. Canada, and other British provinces, are to this day. But the very fact of acquisition gives to the sovereign power of the acquiring State all power to legislate for such acquisitions. It requires no constitutional or treaty provision. Wherever the legislative power of the new sovereign is placed, whether in King, Parliament, or Congress, there is the whole and only power to govern them.

Our Constitution places the legislative power in Congress. Consequently, Congress has exclusive power over the Territories newly acquired.

The Constitution itself does not extend to them, and can have no influence upon them, except so far as it creates and defines the legislative organ of the sovereign will of the nation. None of the officers in the Territories hold by a constitutional tenure. No law of the United States was ever supposed to be extended to any of the Territories by the mere force of the Constitution. The provision for the return of fugitive slaves does not extend to the Territories. Any slave escaping or being taken into New Mexico or California, would be instantly free. Hence, by the act of 1793, express provision for the subject was made with regard to the Territories which we then had.

It follows that Congress alone has the exclusive power to legislate for the Territories; and that any action by the inhabitants in forming Governments for themselves, until authorized by Congress, is irregular, and, as is justly argued by the gentleman from Virginia, [Mr. SENNOR.] and other Southern gentlemen, mere usurpation. I do not think, however, it is such usurpation as is to be treated as criminal; but may be either sanctioned or disallowed, as Congress may deem most conducive to the general welfare.

But it is contended, that although Congress has exclusive, it has not unlimited, jurisdiction. That it may and is bound to legislate to protect slavery, but cannot prohibit it.

A distinguished Senator from Kentucky [Mr. CLAY,] controverts this doctrine, and holds that Congress can abolish, prohibit, or establish slavery in the Territories.

I can agree to neither of these propositions. In support of the first, it is argued that the prohibition of slavery would violate the provision of the Constitution which says that “*The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States.*” I can see no force in the argument. This article simply provides that the law shall not discriminate between citizens of the several States. Now, a law which prohibits every person from holding slaves in the Territories does not discriminate, but grants to all equal “*privileges*” and “*immunities.*”

But such law is said to be partial, because a portion of our citizens cannot take their property with them. This is not true in point of fact. Every man may take his property, conforming to the local law when he gets there. If any of them possess property which by the law of nature or of man would be worthless, of course he will leave it behind. A large capital, in Pennsylvania, is invested in stock, tools, and implements for smelting and manufacturing iron. If it turns out, as I believe is likely to be the fact, that most of our newly-acquired territory has neither coal nor iron ore, what right had the General Government to expend the common treasure to purchase territory to which the Pennsylvania iron masters could not take their property without rendering it worthless? The argument is quite as cogent, and more just, than that used by the slaveholder.

The only fair inquiry is, do the same laws operate on all, without regard to the quantity or quality of their property, or the section from whence they come?

But it is said that such a law would violate the rights of the slaveholder, by depriving him of his property—his vested rights.

To divest him of property in slaves in free Territories, it must be first shown that he has such property. It is a principle of the common law, quite as sacred as the doctrine of vested rights, that by the *general* law man is not the subject of property; that he can be held in bondage only by express local law; and that, wherever the slave is beyond the jurisdiction of such local law, no matter how he gets there, he is free. This has never been doubted since the celebrated decision by Lord Mansfield, in the case of the negro *Summersett*. Nor does it make any difference whether the slave jurisdiction and the free jurisdiction belong to the same or different Governments. By the *common law*, if a slave escapes from a slave State into a free State, he is free. That principle of the common law, however, is prevented from operating in the States by a clause in the Constitution. But it is in full force in the Territories, to which that provision does not extend. The master, therefore, who takes his slave into free Territories, has no vested rights or property in him which can be impaired. The slave becomes a man, and has a vested and inalienable right to liberty.

While it is thus found that Congress has the right to prohibit and abolish slavery in the Territories, it does not follow that it has the power to *establish* it.

I admit that Congress has all legislative power over the Territories necessary for the legislation of a free Government, except when expressly restrained by the provisions of the Constitution, or *the fundamental principles of the Government*. It is not bound by the article which reserves to the States all powers not expressly granted to the United States.

Still, there are general principles restraining the power of Congress wherever it extends. There are certain other principles, not mentioned in the Constitution, which Congress cannot annul or violate, because they are the foundation of our Government. They are enumerated in the Declaration of Independence. Wherever those principles are not altered or overruled by express compact in the Constitution, they potentially control the action of the General Government. I admit that, in forming the organic law, they might have been repudiated. Some of them unfortunately were.

At first it was supposed that they controlled the State Governments also. It was decided by the judicial tribunals of some of the States, Massachusetts for one, that the Declaration of Independence abolished slavery without any legislative enactment. But it came to be more reasonably considered that the Declaration was not made by the States, but by the National Government, and that the principles of State rights and legislation must be sought for in State documents.

This Bill of Rights of the American nation declares liberty to be an inalienable right. Nor does the Constitution give Congress any power to restrain or take away this right, except in the case of fugitives from labor into other States. The legislative power of the several States is controlled by similar principles. They have generally formed a Declaration or Bill of Rights of their own.

I find that every free State has adopted a Bill of Rights similar to the following, which are to be

found in those of Massachusetts and New Hampshire: "All men are born free and equal, and have certain natural, essential, and inalienable rights; among which are the right of enjoying and defending their lives and liberties; and that of acquiring, possessing, and protecting property."

Those Constitutions nowhere prohibit their Legislatures from establishing slavery, or violating vested rights. Yet I suppose that no sound statesman would contend that they could do either, because it would be inconsistent with the fundamental principles of their Government, as expressed in their Bill of Rights. It would, in my judgment, be equally preposterous to assert that Congress possessed such power, when the Bill of Rights of the nation declares liberty to be "inalienable."

I think it follows inevitably, that Congress may abolish or prohibit slavery wherever it has exclusive jurisdiction, but can establish it nowhere.

I should not have deemed it necessary to give any reasons now for such exclusion, had it not been lately repeatedly contended on this floor, and in the Senate, that slavery is a *blessing*. Northern gentlemen have here said that they do not view it with much horror; and my colleague from Luzerne [Mr. BUTLER] looks upon it as a religious or divine institution, if I rightly understood him. This seems to render it proper again to examine the character of the institution. This, I am aware, will bring down upon me all its venom.

When I ventured some time since to give my opinion freely of the real condition and evils of slavery, I expected to be assailed by the defenders of the institution. While that greatest, most honest, and most fearless, of modern statesmen, who was stricken down by death in this Hall, was, almost unaided, defending human rights, and denouncing the horrors of slavery, we saw him, from year to year, the object of the bitterest personal abuse in this House, and by the slave press everywhere. No motives were too foul to impute to him; no crimes too atrocious to charge upon him. It was sought to expel him from this body; and it was prevented only by his own gallant defence. Sir, I trust it will not be supposed that I have the vanity to expect to be touched by any of the rays of that glory which will forever surround his name, on account of the calumnies, the insults, and the persecutions, which he endured in this high and holy cause. But if I could indulge such hopes, gentlemen from the South, and those who are no gentlemen from the North, are kindly contributing to my ambitious aspirations. My late speech has been deemed of sufficient importance to attract attention, not to it, but to its author. Sir, our acts and our remarks here are legitimate subjects of comment and rigid examination; and when any humble effort of mine shall receive such notice in the only way which gentlemen will pursue, it will give me pleasure to retract what I am convinced is wrong, and calmly to defend the rest, however severe may be the criticism.

I do not remember one of the numerous gentlemen who have referred to my remarks, who has attempted to deny one of the facts, or refute one of the arguments; they have noticed them merely to vituperate their author. To such remarks there can be no reply by him who is not willing

to place himself on a level with blackguards. I cannot enter that arena. I will leave the filth and the slime of Billingsgate to the fish-women, and to their worthy condutors, the gentlemen from Virginia, [Mr. MILLERON,] from North Carolina, [Mr. STANLEY,] from Kentucky, [Mr. STANTON,] from Tennessee, [Mr. WILLIAMS,] and all that tribe. With them I can have no controversy. When I want to combat with such opponents and such weapons, I can find them any day by entering the fish market, without desiling this Hall.

I beg those respectable fish-ladies, however, to understand that I do not include my colleague from Bucks county among those whom I deem fit to be their associates. I would not so degrade them.

There is, in the natural world, a little, spotted, contemptible animal, which is armed by nature with a fetid, volatile, penetrating virus, which so pollutes whoever attacks it, as to make him offensive to himself and all around him for a long time. Indeed, he is almost incapable of purification. Nothing, sir, no insult shall provoke me to crush so filthy a beast!

Mr. Chairman, I crave your pardon for this unprofitable digression. I trust I shall never again be betrayed into a similar one, even to brush off these invading vermin.

When I turned off into this episode, I was stating that gentlemen on this floor, and in the Senate, had repeatedly, during this discussion, asserted that slavery was a moral, political, and personal blessing; that the slave was free from care, contented, happy, fat, and sleek. Comparisons have been instituted between slaves and laboring freemen, much to the advantage of the condition of slavery. Instances are cited where the slave, after having tried freedom, had voluntarily returned to resume his yoke. Well, if this be so, let us give all a chance to enjoy this blessing. Let the slaves, who choose, go free; and the free, who choose, become slaves. If these gentlemen believe there is a word of truth in what they preach, the slaveholder need be under no apprehension that he will ever lack bondsmen. Their slaves would remain, and many freemen would seek admission into this happy condition. Let them be active in propagating their principles. We will not complain if they establish societies in the South for that purpose—abolition societies to abolish freedom. Nor will we rob the mails to search for incendiary publications in favor of slavery, even if they contain seductive pictures, and cuts of those implements of happiness, handcuffs, iron yokes, and cat-o'-nine-tails.

If these Southern gentlemen and their Northern sycophants are sincere and correct, then I must admit that they have just cause of complaint:—the only real aggression which the North ever inflicted on them. For it cannot be denied that for two centuries the North has mainly contributed to secure to a particular race the whole advantages of this blissful condition of slavery; and, at the same time, have imposed on the white race the cares, the troubles, the lean anxieties of freedom. This is a monopoly inconsistent with republican principles, and should be corrected. If it will save the Union, let these gentlemen introduce a "compromise," by which these races may change condition; by which the oppressed master may slide into that happy state

where he can stretch his sleek limbs on the sunny ground without fear of deranging his toilet; when he will have no care for to-morrow; another will be bound to find him meat and drink, food and raiment, and provide for the infirmities and helplessness of old age. Impose, if you please, upon the other race, as a compensation for their former blessings, all those cares, and duties, and anxieties.

It may be objected that the white man is not fitted to enjoy that condition like the black man. Certainly, at first, it will be so. But let not that discourage him. He may soon become so.

I will not go into a discussion as to the original equality and identity of the human race. I am not learned in those things, nor, unfortunately, in any other. But I appeal to the learned men of this House, the gentleman from Alabama, [Mr. HILLIARD,] from Massachusetts, [Mr. MANN,] from Vermont, [Mr. MEACHAM,] to say if the ethnological researches of the past and present age—whether drawn from the physiology or the philology of tribes and nations of men—do not all corroborate the recorded fact that "*He hath made of one blood all nations of men*;" and that their present great variety in color, form, and intellect, is the effect of climate, habits, food, and education. Let not the white man therefore despair on account of the misfortune of his color. Homer informs us that the moment a man becomes a slave, he loses half the man; and a few short years of apprenticeship will expunge all the rest except the faint glimmerings of an immortal soul. Take your stand, therefore, courageously in the swamp, spade and mattock in hand, and uncovered, and half-naked, toil beneath the broiling sun. Go home to your hut at night, and sleep on the bare ground, and go forth in the morning unwashed to your daily labor, and a few short years, or a generation or two at most, will give you a color that will pass muster in the most fastidious and pious slave market in Christendom. Your shape also will gradually conform to your condition. Your parched and swollen lips will assume a chronic and permanent thickness of the most approved style. Your feet, unconfined by shoes, and accustomed to a marshy soil, will shoot out behind and sideways until they will assume the most delightful symmetry of slavery. Deprived of all education, cut off from all ambitious aspirations, your mind would soon lose all foolish and perplexing desires for freedom; and the whole man would be sunk into a most happy and contented indifference. And all these faculties, features, and color, would descend to your fortunate posterity; for no fact is better established than that the accidental or acquired qualities of body and mind are transmissible, and become hereditary. True, your descendants will be black, stupid, and ugly. But they would oziy be so many incontestable evidences of their natural right and fitness for the enjoyment of this state of moral, political, and personal happiness!

Among others, numerous clergymen are found defending this institution, and praising its *comforts and advantages*. The same spirit which induced them to defend tyranny in the time of the Charleses, and the Jameses; to maintain the divine right of Kings; to inculcate the duty of passive obedience and non-resistance; and to anathematize those who resisted the tyranny of

the "Lord's anointed"—prompt them now to take the side of the oppressor against the oppressed. They find the same kind of argument in the Scriptures to uphold slavery, that they then found to justify the despotism of profligate Kings. I shall not answer their absurd and blasphemous position. That has been effectually done by the honorable gentleman from Massachusetts, [Mr. FOWLER.] But I will say that these reverend parasites do more to make infidels than all the writings of Hume, Voltaire, and Paine. If it were once shown that the Bible authorized, sanctioned, and enjoined human slavery, no good man would be a Christian. It contains no such horrible doctrine. But if it did, it would be conclusive evidence, to my mind, that it is a spurious imposition, and not the word of the God who is the Father of men, and no respecter of persons.

I have before me a work by clergymen who maintain the above doctrine. They descend largely on the comforts of slavery. One of the heads of this pious discourse is, "*Slavery is a beneficent institution!*"

I know there are many degrees in the miseries of slavery. Some masters treat their servants with great kindness; others more severely; others with merciless cruelty, according to their dispositions, for that alone governs their conduct. But, notwithstanding this diversity in suffering, he must have a callous heart who can speak of the *beneficence* of slavery.

Dante, by actual observation, makes hell consist of nine circles, the punishments of each increasing in intensity over the preceding. Those doomed to the first circle are much less afflicted than those in the ninth, where are tortured Lucifer and Judas Iscariot—and I trust, in the next edition, will be added, the Traitors to Liberty. But notwithstanding this difference in degree, all from the first circle to the ninth, inclusive, is hell—cruel, desolate, abhorred, horrible hell! If I might venture to make a suggestion, I would advise these reverend perverters of Scripture to devote their subtlety to what they have probably more interest in—to ascertaining and demonstrating (perhaps an accompanying map might be useful) the exact spot and location where the most *comfort* might be enjoyed—the coolest corner in the Lake that burns with fire and brimstone!

But not only by honorable gentlemen in this House, and right honorable gentlemen in the other, but throughout the country, the friends of Liberty are reproached as "transcendentalists and fanatics." Sir, I do not understand the terms in such connection. There can be no fanatics in the cause of genuine Liberty. *Fanaticism is excessive zeal.* There may be, and have been, fanatics in false religion; in the bloody religion of the heathen. There are fanatics in superstition. But there can be no fanatics, however warm their zeal, in true religion, even although you sell your goods, and bestow your money on the poor, and go and follow your Master. There may be, and every hour shows around me, fanatics in the cause of false liberty—that infamous liberty which justifies human bondage; that liberty whose cornerstone is slavery." But there can be no fanaticism, however high the enthusiasm, in the cause of rational, universal Liberty—the liberty of the Declaration of Independence.

This is the same censure which the Egyptian

tyrant cast upon those old abolitionists, Moses and Aaron, when they "agitated" for freedom, and, in obedience to the command of God, bade him let the people go.

But we are told by these pretended advocates of Liberty in both branches of Congress, that those who preach Freedom here and elsewhere are the slave's worst enemies; that it makes the slaveholder increase their burdens, and tighten their chains; that more cruel laws are enacted since this agitation began in 1835. Sir, I am not satisfied that this is the fact. I will send to the Clerk, and ask him to read a law of Virginia, enacted more than fifty years before this agitation began. It is to be found in the 6th volume of Henning's Statutes at Large of Virginia, published in 1819, "*pursuant to an act of the General Assembly of Virginia, passed on the 5th day of February, 1805.*"

Sec. xxiv. "*And that when any slave shall be notoriously guilty of going abroad in the night, or running away and laying out, and cannot be reclaimed from such disorderly courses by common methods of punishment, it shall be lawful for the County Court, upon complaint and proof thereof to them made by the owner of such slave, to order and direct such punishment by DISMEMBERING, or any other way, not touching life, as the Court shall think fit. And if such slave shall die by means of such DISMEMBERING, no forfeiture or punishment shall be thereby incurred.*"

I have had that law read, to see if any gentleman can turn me to any more cruel laws passed since the "agitation." I did not read it myself, though found on the pages of Old Virginia's law books, lest it should make the modest gentleman from Virginia [Mr. MILLSON] and the gentleman from North Carolina [Mr. STANLEY] and his gray-headed negro blush!

[Mr. BAYLY of Virginia. That law is repealed, or not now in force.]

Mr. STEVENS. Then I am glad that the agitation has produced some amelioration of your laws, although I still find it on your statute-book.*

But suppose it were true that the masters had become more severe; has it not been so with tyrants in every age? The nearer the oppressed is to freedom, and the more hopeful his struggles, the tighter the master rivets his chains. Moses and Aaron urged the emancipation of the enslaved Jews. Their master hardened his heart. Those fanatical abolitionists, guided by Heaven, agitated anew. Pharaoh increased the burden of the slaves. He required the same quantity of brick from them without straw, as when the straw had been found them. They were seen dispersed and wandering to gather stubble, to make out their task. They failed, and were beaten with stripes. Moses was their worst enemy, according to these philanthropic gentlemen. Did the Lord think so, and command him to desist, lest he should injure them? No; he directed him to agitate again, and demand the abolition of slavery from the King himself. That great slaveholder still hardened his heart, and refused. The Lord visited him with successive plagues—lice, frogs, locusts, thick darkness—until, as the agitation grew higher, and the chains were tighter drawn, he smote the first-born of every house in Egypt; nor did the slaveholder relax the grasp

* I do not find that this law is repealed. But it is most probably not often executed, since, as shown by the Hon. Mr. Meade, Virginia has become a breeding State.

on his victims, until there was wailing throughout the whole land, over one dead in every family, from the King that sat on the throne to the captive in the dungeon. So I fear it will be in this land of wicked slavery. You have already among you what is equivalent to the locust and the locusts, that wither up every green thing where the foot of slavery treads. Beware of the final plague. And you, in the midst of slavery, who are willing to do justice to the people, take care that your works testify to the purity of your intentions, even at some cost. Take care that your door-posts are sprinkled with the blood of sacrifice, that when the destroying angel goes forth, as go forth he will, he may pass you by.

Aside from the principle of Eternal Right, I will never consent to the admission of another slave State into the Union, (unless bound to do so by some constitutional compact, and I know of none such,) on account of the injustice of slave representation. By the Constitution, not only the States now in the Union, but all that may hereafter be admitted, are entitled to have their slaves represented in Congress, five slaves being counted equal to three white freemen. This is unjust to the free States, unless you allow them a representation in the compound ratio of persons and property. There are twenty-five gentlemen on this floor who are virtually the representatives of slaves alone, having not one free constituent. This is an outrage on every representative principle, which supposes that representatives have constituents, whose will they are bound to obey, and whose interest they protect.

The slave representation should not be increased, for it already possesses a power dangerous to the Constitution. In the Senate, slavery has the power to reject all nominations to office who are not obedient to the institution. That power is exercised. The real leader of that body, a Senator from Mississippi, not long since, frankly declared in debate, that he would vote for no nominee who was tinctured with anti-slavery doctrines, or who had active friends that were. This power was notoriously and successfully brought to bear, several years since, against a distinguished and worthy gentleman, who was nominated to an office far below his merits, because he had spoken evil of the "dark spirit of slavery." Thus are Northern men held in duress!

This power demands from Congress "compromises" which shall increase its influence. Sir, this word "compromise," when applied to human rights, and constitutional rights, I abhor. We are not asked, but *commanded*, to compromise away the Constitution. It is well known that, when Congress assembled here, a large majority of its members, as well as a large majority of the people, were in favor of prohibiting slavery in all the Territories, and admitting no new slave States into the Union. It is a vital principle of the Constitution, that the will of a majority shall govern. But terror, treason, threats, are used to compel the majority to yield to a turbulent minority. The violence of passion, the recklessness of ambition, and the corruption of party, are all used to bring about this "compromise" of constitutional right. He who regards his oath to support the Constitution cannot thus surrender.

I shall not now particularly refer to the features of the most extraordinary conspiracy against liberty in the Senate, called the Compro-

mise bill. If it should survive its purportful fever, we shall have another opportunity of knocking the monster in the head. I pass over what is familiarly known as the "ten million bribe," which was evidently inserted for no other purpose than to create public opinion on 'change, and carry the bill.

But it is proposed to propitiate Virginia by giving her \$200,000,000 out of the public Treasury, the proceeds of the public lands. If this sum were to be given for the purpose of purchasing the freedom of her slaves, large as it is, it should have my hearty support. It is, I think, at least fifty millions more than would pay for them all at a fair market price. But it is designed for no purpose of emancipation. The cool-headed, cool-hearted, philosophic author had no such "transcendental" object. It is to be specifically appropriated to exile her free people of color, and transport them from the land of their birth to the land of the stranger! Sir, this is a proposition not "fit to be made."

[Mr. AVERETT of Virginia here asked, Did not New England sell slaves?]

Mr. STEVENS. Yes, she sold, she imported slaves; she was very wicked; she has long since repented. Go ye and do likewise.

It is my purpose nowhere in these remarks to make personal reproaches; I entertain no ill-will towards any human being, nor any brute, that I know of, not even the skunk across the way to which I referred. Least of all would I reproach the South. I honor her courage and fidelity. Even in a bad, a wicked cause, she shows a united front. All her sons are faithful to the cause of human bondage, because it is *their* cause. But the North—the poor, timid, mercenary, drivelling North—has no such united defenders of her cause, although it is the cause of human liberty. None of the bright lights of the nation shine upon her section. Even her own great men have turned her accusers. She is the victim of low ambition—an ambition which prefers self to country, personal aggrandizement to the high cause of human liberty. She is offered up a sacrifice to propitiate Southern tyranny—to conciliate Southern treason.

We are told that she has not done her duty in restoring fugitive slaves, and that more stringent laws must be passed to secure that object. A distinguished Senator from Kentucky [Mr. CLAY] says it is the duty, not only of officers in the free States, but of all the people who happen to be present, to give active aid to the slave-owner to run down, arrest, and restore the man who is fleeing from slavery. An equally distinguished Senator from Massachusetts [Mr. WEBSTER] unites with him in denouncing the aggressions of the North in this particular; and they both declare their determination to vote for the bill, with its amendments, now on file, and which has become a part of the "Compromise."

It may be well to look a little at the law as it now stands on the subject, and then at the cue which has enlisted such powerful support. By the Constitution alone, without any legislation, the slaveholder may go into a free State, take with him such force as he pleases, and take his slave and carry him back. If the fact of his slavery is disputed either by the alleged slave or any one for him, the claimant may issue his writ *de homine replegiando*, and unless the defendant

gives ample bail for his forthcoming on the final issue, and for the payment of all costs and damages, (which include the value of his services in the mean time,) the plaintiff may take him into his possession, and retain him until final trial by a court and jury. Is not this sufficient? It is all the right which he would have if he claims property in a horse, or other property which he might allege had strayed over the line. Why should he have any greater right when he claims property in man? Is a man of so much less value than a horse, that he should be deprived of the ordinary protection of the law? Sir, in my judgment, the remedy ought to be left where the Constitution places it, without any legislation; that the odious law of 1793 ought to be repealed.

By that law, the slaveholder may not only seize his slave and drag him back, but he may command the aid of all the officers of the United States Court; take his alleged slave before the judge, and after summary examination, without trial by jury, may obtain a certificate of property; which, for the purpose of removal, is conclusive of his slavery, takes away the writ of *habeas corpus*, and the right of trial by jury, and sends the victim to hopeless bondage. If an inhabitant of a free State sees a wretched fugitive, who he learns is fleeing from bondage, and gives him a meal of victuals to keep him from starving, and allows him to sleep in his out-house, although his master is not in pursuit of him, he is liable to the penalty of five hundred dollars. A judge in Pennsylvania lately held that a worthy citizen of Indiana county incurred such penalty by giving a cup of water and a crust of bread to a famishing man whom he knew to be fleeing from bondage. A slave family escaped from Maryland; went into Cumberland county, Pa., and obtained the reluctant consent of a worthy farmer to sleep in his hay-loft. Their owner did not pursue them for a week afterwards. It was held by a State court that the farmer was liable for the full value of the slaves, beside the \$500 penalty, and a jury returned a verdict for \$2,000 and costs. Such are some of the provisions of the law of 1793 now in force, which these great expounders of constitutional freedom hold to be too mild! And more stringent laws are to be passed to punish Northern men who have a heart!

The law which they propose to support doubles all these penalties. But that is not its most obnoxious feature. It expressly recognises slavery in the Territories.

In section 1 it provides, "That when a person held to service or labor in any *State* or *Territory* shall escape into any other of said *States* or *Territories*," &c.

We have no Territories except New Mexico and California, both of which are free by their present laws. This bill recognises slaves capable of fleeing from "Territories," and extends the fugitive laws to them. This settles the Wilmot Proviso most effectually, and seems to render it necessary somewhat to strengthen and "re-enact the will of God."

It provides that the claimant may arrest such alleged fugitive, "and take him or her before any judge of the Circuit or District Court of the United States, or before any marshal, commissioner, or clerk of such court, or any postmaster of the United States, or collector of the customs residing or *being* within such State where such

seizure or arrest shall be made; and upon proof to the satisfaction of such judge, commissioner, clerk, marshal, postmaster, or collector, as the case may be, either by oral testimony or *affidavit taken before and certified by any person authorized to administer an oath*, that the person so seized owes service or labor, &c., it shall be the duty of such judge, marshal, postmaster, &c., to give a certificate to such claimant, his or her agent or attorney, which shall be sufficient warrant for removing such fugitive to the State or *Territory* from which he or she may have fled."

An amendment proposed by the Committee of Thirteen provides, that the claimant may make up a record before a court in his own State, without notice to the alleged fugitive, proving his slavery and absconding; and, on producing this before the High Court of Tide Waiters or Postmasters, it shall be taken to be conclusive evidence of the facts; and on the production of which, those officers are *required* to give the certificate of slavery. These are most extraordinary tribunals. These are awful trials. Clerks of courts, marshals, collectors, and township postmasters, are transformed into high justiciaries, whose signature to a prepared certificate is to be conclusive of the liberty of human beings! They are the sole judges of the law and the evidence; and from their judgment there is no appeal. The *habeas corpus* is annulled; the trial by jury denied. The evidence, which they are bound to hold conclusive, may be made up *ex parte*, by affidavit or record, a thousand miles from the party whose safety is involved in it. If, on his arrest, he should be able to prove that he was born free, and had resided in a free State all his life, he is not permitted to do it. These *ex parte* records close his mouth, and stop up judicial ears. These learned judges—these tide waiters and country postmasters, who make no pretensions to legal learning, are compelled, not to judge, but to decide without judging, that the affidavit of a distant soul-dealer is evidence of slavery, which cannot be gainsaid. The slave-hunter may bring his postmaster-judge, as well as his proof, with him: for the law gives jurisdiction not only to one residing but *being* in the State where the arrest is made. Behold this court and jury to pass on human liberty!—an overseer, with a power of attorney; the affidavit of a professional slave-trader: an itinerant postmaster from Virginia signing judgment in a bar-room: the defendant, a hand-cuffed negro, without counsel, witnesses, or judge. Verily, a second Daniel has come to judgment.

A decree thus obtained, without a jury to pass on the facts, is to conclude the rights of man, and silence the law.

The distinguished Senator from Kentucky [Mr. CLAY] wishes further to make it the duty of all by-standers to aid in the capture of fugitives; to join the chase and run down the prey. This is asking more than my constituents will ever grant. They will strictly abide by the Constitution. The slaveholder may pursue his slave among them with his own foreign myrmidons, unmolested, except by their frowning scorn. But no law that tyranny can pass will ever induce them to join the hue and cry after the trembling wretch who has escaped from unjust bondage. Their fair land, made by nature and their own honest toil as fertile and as lovely as the vale of Tampe, shall never become the hunting-ground on which

the bloodhounds of Slavery shall course their prey, and command them to join the hunt.

Sir, this tribunal would be more odious than the Star Chamber—these officers more hateful than the Familiars of the Inquisition.

Can the free North stand this? Can New England stand it? Can Massachusetts stand it? If she can, she has but one step further to take in degradation, and that is to deliver her own sons in chains to Southern masters! What would the bold Barons of Runnymede have said to such defenders of Liberty? What would the advocates of English freedom, at any time, have said to those who would strike down the writ of *habeas corpus* and the right of trial by jury, those vital principles of *Magna Charta* and the Bill of Rights? They would have driven them forth as enemies in disguise.

Sir, I am aware of the temerity of these remarks. I know how little effect they will have, coming from so obscure a quarter, and being opposed by the mighty influences that create public opinion. I was struck with the sound sense of the remark made to-day by the gentleman from Tennessee [Mr. GENTRY.] He said that the "Compromise" bill was winning favor with the People, most of whom had never read it, merely because it is advocated by great names in whom they are accustomed to confide.

Late events have convinced me that it were better in republican, representative Governments, where the People are to judge and decide on every measure, if there were no great, overshadowing names, to give factitious force to their views, and lead the public mind captive. If the People were to put faith in no man's argument, they would examine every question for themselves, and decide according to their intrinsic merit. The errors of the Small do but little harm; those of the Great are fatal. Had Lucifer been but a common angel, instead of the Chief of the morning stars, he had not taken with him to perdition the third of the heavenly hosts, and spread disunion and discord in celestial, and sin and misery in earthly places.

Sir, so long as man is vain and fallible: so long as great men have like passions with others and, as in republics, are surrounded with stronger temptations, it were better for themselves if their fame acquired no inordinate height, until the grave had precluded error. The errors of obscure men die with them, and cast no shame on their posterity. How different with the Great!

How much better had it been for Lord Bacon, that greatest of human intellects, had he never, during his life, acquired glory, and risen to high honors in the State, than to be degraded from them by the judgment of his peers. How much better for him and his, had he lived and died unknown, than to be branded through all future time as the

"Wiseest, brightest, meanest of mankind!"

So now, in this crisis of the fate of liberty, if any of the renowned men of this nation should betray her cause, it were better that they had been unknown to fame. It need not be hoped that the brightness of their past glory will dazzle the eyes of posterity, or illumine the pages of impartial history. A few of its rays may still linger on a fading sky; but they will soon be whelmed in the blackness of darkness. For unless progressive civilization, and the increasing love of freedom

throughout the Christian and civilized world, are fallacious, the SUN of LIBERTY, of *universal liberty*, is already above the horizon, and fast coursing to his meridian splendor, when no advocate of slavery, no apologist of slavery, can look upon his face and live.

NOTE.—Since this speech was delivered, I have read a very able work by Rev. Moses Stuart, lately theological professor at Andover. He speaks of the "*blessings and comforts*" of slavery. He says, "Christ doubtless felt that slavery might be made a very tolerable condition—*nay, even a blessing to such as were shiftless and helpless.*"—Page 46. This is flattering to the poor! His work is able, and contains a very glowing eulogy on the Hon. Daniel Webster, and rather a faint one on the Bible. His object seems to be to prove from Scripture the lawful and just; and the unlawful and unjust character of slavery. He proves that as soon as Moses and his people had got out of bondage, they turned kidnappers. The first hundred pages of the book prove, by numerous Scriptural texts, that slavery being instituted by God in old times, and sanctioned by Paul and the Apostles, is not sinful—not *malum in se*: and he lectures the North, and exhorts them to forbearance towards their Southern brethren, many of whom he knows to be true Christians, as he once visited Charleston, and was treated with great kindness, respect, and hospitality.

After having fully proved the divine nature of slavery, and the unchristian character of those who revile Mr. Webster and the South, and send *him* anonymous letters, he takes a look at the other side, and addresses himself to slaveholders; and with great clearness and ability, (though in a short space,) demonstrates from the New Testament that slavery is a most sinful and wicked institution, *malum in se*, and opposed to the fundamental law of God! He clearly proves, not only from Scripture, but *alimds.* that "all men are of one blood," and equal. Page 103, he says of slavery, "It is a glaring contradiction of the first and fundamental principle, not only of the Bible, which declares that all men are of one blood, but of our Declaration of Independence, which avers that all men are born with an *inherent and unalienable* right to life, liberty, and property. The South have universally subscribed to this, as well as the North."

Same page—"And if all this be true, then for one part of mankind to enslave another, stands on the single ground of *might prevailing over right*—neither the law of love, nor doing as we would be done by, permits any man to act on such ground and be *guiltless before God.*" (*Malum in se*)

He speaks of the immoral tendency of slavery; declares it to be a virtual state of concubinage, which is encouraged for the sake of increasing slave property. He proceeds to illustrate this from what he saw in the South, the mixed colors &c. Says it pervades *married* as well as single life; and, turning sharp upon his Southern friends, exclaims—"Retribution begins here in this life; but, O! what will it be in the life to come!" "*Whoremongers and adulterers, God will judge.*"—Heb. xiii, 4.

Fie! friend Stuart! "SPEAK EVIL OF NO MAN," as you say to Northern Abolitionists. How impartial! Verily, *this* Moses is a fair man.