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HON. JOHN SHERMAN, OF OHIO,

ON

EMANCIPATION

AS A COMPENSATION FOR MILITARY SERVICE RENDERED
BY SLAVES.

DELIVERED IN THE SENATE OF THE UNITED STATES,

FEBRUARY 2, 1864.



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S P E E C H .

The Senate, as in Committee of the Whole, having under consideration the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes—

Mr. SHERMAN said :

Mr. PRESIDENT, the bill now before the Senate presents not only the question of the employment of negroes in the military service of the United States, but also the question of the emancipation of the whole negro race in this country. The second section of the bill provides that all persons of African descent who have been or may hereafter be employed in the military or naval service shall receive the same uniform, pay, arms, and equipments as other soldiers of the regular or volunteer forces of the United States other than bounty. The third section provides that "when any person of African descent, whose service or labor is claimed in any State under the laws thereof, shall be mustered into the military or naval service of the United States, he, his mother, his wife, and children, shall forever thereafter be free." It is manifest that if a slave is employed in the military service, the inevitable result of that employment is emancipation. It would appear to be just, when a slave renders military service and exposes his life in a civil war like this, that it should inure to the benefit of his wife, his mother, and his children. It is equally clear that if by the laws of war all slaves who enter into the military service in the southern States, and all who are connected with them by the ties of blood, shall be emancipated, the tenure of slavery in this country would become so uncertain as to result in universal emancipation. I will, therefore, treat this proposition according to its logical effect, and as involving the emancipation of the negro race in this country.

EFFECT OF MILITARY SERVICE BY A SLAVE.

Has Congress or the President power to employ slaves in the military service? Can we emancipate them, either as a punishment of

rebels or as a reward for military service? If these powers exist, to what extent and in what way should we exercise them? These questions present the most difficult problem of the war, which requires in its solution more than human wisdom. I certainly would not engage in the discussion did not the responsibility of my position require me to meet them as practical questions of legislation. For many years this Senate Chamber has rung with angry discussions on the slavery question. The most eloquent, the most gifted, the wise, the learned, each and all of the great names that have adorned American history in Convention and in either House of Congress, have expended their eloquence, their learning, all the artillery of excited debate on the slavery question as it affected a single slave or an unpopulated Territory. It devolves upon us now to pass upon a guarantee, a pledge, which if made, honor and public faith will never hereafter allow the nation to withdraw; and which, if redeemed, will directly emancipate a majority of the slaves in this country, and in its logical consequence within a short time will make every human being within our limits free, unless he forfeits his freedom by his crime. In the discussion of such a question it becomes vital that we carefully examine our powers. The race whose military service we require has yielded forced labor, unrequited toil, to ours for generations. If we induce them to incur the risk of death and wounds in war upon the promise of emancipation, and do not redeem that promise, we add perfidy to wrong. The soldier who has worn our uniform and served under our flag must not hereafter labor as a slave. Nor would it be tolerable that his wife, his mother, or his child should be the property of another. The instinctive feeling of every man of generous impulse would revolt at such a spectacle. The guarantee of freedom for himself, his mother, his wife, and his child is the inevitable incident

of the employment of a slave as a soldier. If you have not the power, or do not mean to emancipate him and those with whom he is connected by domestic ties, then in the name of God and humanity do not employ him as a soldier. Let him in his servitude at least be free from the danger incident to a free man. If I had doubts about the power to emancipate the slave for military service, I certainly would not vote to employ him as a soldier.

And so vast a subject as this deserves the dignity of a separate bill. The Military Committee have unwisely incumbered this bill with provisions about adjutants, quartermasters, and other minor details of legislation. The guarantee of freedom has annexed to it no provision to secure it. No details are given. We know that the relation of husband and wife is not recognized with slaves, and yet this relation is spoken of as a measure of emancipation. Who is the wife of a slave? If reference is had to local law it declares that a slave can have no wife, and if you mean to make this guarantee effective you must define who shall be considered the wife of the slave. It is one of the worst features of the system of slavery that a man who will render you military service under this bill is not recognized by the law as the father of children; but the children follow the condition of their mother. Who will be held to be the children of the slaves who may fight and die in your service? This bill does not define them. A great act of emancipation like this, intended to have effects upon future generations, certainly should have more ample provisions to secure its execution, and should be clothed in such language as to show that we appreciate the dignity and importance of such legislation. The principal difference between this bill and the law as it stands is that this bill includes the slaves and their relatives of loyal masters in adhering States, and yet contains no provision for their compensation.

In the view I shall take of this matter, it is indispensable that in adhering States where slaves of loyal citizens are taken for the public services, provision must be made for their compensation. Heretofore in practice, the Secretary of War has appropriated the bounty paid in for substitutes to the purchase of negro slaves; but this has been done in the absence of legislation from the necessity of the case. Surely in treating so vast a subject we ought to make the laws simple, plain, effective, and complete, that executive legislation should not be required.

PRESIDENT'S PROCLAMATION.

Now, ought we to leave the question of the emancipation of slaves who serve in our armies to rest solely on the President's proclamation. Some of the ablest lawyers in this county have declared that the President has no power to proclaim the emancipation of the slaves. This power has not been settled by any court or tribunal, and has been denied not only by political parties, but by able lawyers who are friends of the administration. It is difficult to per-

ceive in the Constitution of the United States where he derives this power. In his recent message he casts doubts upon the subject, and invites interference by the courts. This proclamation was never sanctioned by Congress, and can only have effect so far as it is executed. It cannot have effect upon slaves who are brought within its operation during actual hostilities. The exceptions contained in this proclamation make it partial and ineffective. If executed in the seceding States it impairs the value of slaves in loyal States, and yet leaves slavery an existing institution.

If the negroes of the southern States, who are now gathering about our banners, fight for us nobly and well, and prove by their courage that they are capable of being freemen, they should be free. They are now on trial. My sympathies are not necessarily with the negro race; but if the negro now shows by his courage, by his capacity, by his endurance, by his bravery, that he is able to win his freedom and maintain it, then I wish to secure him that freedom by all the sanctions of law, and not to rest it upon the uncertain tenure of a President's proclamation. We are here independent of the President; it is our duty to examine critically the question of his powers and effect of his acts.

And, sir, we must not forget that the President who issued this proclamation may abrogate it; he may modify it, or extend the exceptions by a new amnesty. We know that he entered upon this path of emancipation only after the country became wearied and almost exhausted under the unnatural protection extended by his officers to slavery. We know that when General Fremont, early in the war, refused to surrender slaves to their rebel masters and by proclamation emancipated slaves who came within his lines, the President set aside his proclamation and extended his confidence only to those who protected the property, even of open public enemies, in their slaves. When General Hunter issued his proclamation in South Carolina, where if any where, such a proclamation could be justified, in the presence of the enemy, in the nest of secession, in the sight of the worst rebels of the country, the President set aside that proclamation. When we were legislating here in anxious deliberation, and finally concluded that it was our duty to emancipate the slaves of the leading rebels in the southern States, those who held high offices, and not only to emancipate their slaves but to confiscate their land and other property, our legislation was suspended, and we were compelled to change it and modify it at the desire of the President, and in that way to destroy the vitality of our legislation. We must also remember that within one month before the first proclamation of emancipation was issued the President ridiculed his power to emancipate slaves, and a common remark was attributed to him that such a proclamation on his part would amount to nothing more than the Pope's bull against the comet.

So far was this conservatism carried—for I will call it by the name its friends chose for it—that the political party to which the President belongs lost every election that fall. Ohio is now represented in the other House of Congress by thirteen gentlemen who certainly do not represent the opinion of the majority of her people, and who owe their seats entirely to the discouragement caused by the mode in which the war was then conducted. The whole of this state of feeling grew out of the backwardness of the President in meeting this question of emancipation and employment of negroes in this war. We must also remember that the exceptions contained in the President's proclamation very much impair the value of the proclamation, even if it should be sustained by the courts. It has never yet been attested in a single tribunal; no judge has ever yet pronounced in favor of his validity. Men have doubts about it. Under these circumstances, can you expect the negroes of the southern States who are informed upon the subject to rally around your banner; or if, as I know they are, they are ignorant and take your promise for your power, I ask you whether you are willing to let them risk their lives upon the basis of a proclamation on the validity of which you yourselves have doubts, especially if you have the power by law to sanction that proclamation and to give it validity.

We must remember that the President is but one branch of the Government. His powers are defined by the Constitution. They are simply executive. He can neither make nor suspend the operation of a law. In time of war he is Commander-in-Chief of our Army and Navy; but is this power sufficient to change the laws of States and communities, does it extend beyond the lines of our armies, or into the future peaceful times which we hope may soon come upon us? I shall hereafter endeavor to show that Congress is invested with clear power to guaranty emancipation to slaves who enter our armies; but where can such a power be found for the President? Even if, in the opinion of Senators, the proclamation is effective, if it has the power and efficiency of law, it is our duty to give to that proclamation the sanction of the legislative authority. If you have the power to arm slaves, and if they fight for you, you must make them free, and if you guaranty their freedom you must adhere to that guarantee to the bitter end. The idea of getting these poor ignorant Africans into our service, calling upon them to risk their lives for us, to be slaughtered in our civil war, and then not securing them emancipation, would be the height of injustice. I would never authorize a single slave to be employed in this civil war unless I had the power to emancipate him. If you put him in your ranks, and make him fight for you, and then do not give him liberty, you treat him worse than the meanest slaveholder that ever lived. The slave owners only rob him of his wages; they only take from him the sweat of his brow; but if you take his life and then do

not secure to him and to his children their freedom, you do him a still greater wrong.

POWER OF CONGRESS—WHENCE DERIVED.

Have we this power, and if so whence is it derived and to what extent can we execute it? The power to emancipate a slave by Congress or the President certainly does not exist in time of peace. This is an axiom in American politics. The second Congress, upon the petition of Benjamin Franklin, declared that the national Legislature had no power over slavery in the States. The declaration has been repeated by almost every Congress since that time. No political party that has ever been organized in this country has claimed the power of interfering with slavery in the States. At the very last session of Congress before this war broke out the House of Representatives, by a unanimous vote, declared that Congress had no power to emancipate slaves, and no power over the subject of slavery in the States. It was so declared by the President; it was so declared in the Chicago platform; it is, as I have said, an axiom in American politics that Congress has no power over slavery in the slaveholding States, that slavery is simply a local institution protected by local law, having existence commensurate only with that local law, that Congress has no power whatever over it except as the power grows out of the enforcement of the provision of the Constitution of the United States for the capture of fugitive slaves. This, I believe, is admitted on all hands. If, therefore, we have power to emancipate, we must derive it from some other source, and not from the ordinary powers of Congress in time of peace.

It is equally clear that the existence of a mere insurrection in our country will not justify interference with slavery. This has been settled now by many cases in our courts. I have listened very often to the arguments made by the Senator from Kentucky [Mr. DAVIS] on this point, but the difficulty with him—and I submit it to his judgment, for I intend to appeal to his candor to-day—is that he does not distinguish between insurrection and war. The line is broad and deep. We have had some insurrections in this country, but we have never before had a civil war. There was an insurrection in Massachusetts, Shay's rebellion, before the formation of the Constitution, growing out of the depressed condition of industry. That was simply an insurrection, a rising of ignorant men against the authorities of the State of Massachusetts. It was put down partially by judicial proceedings and partly by mild force. Then we had an insurrection in western Pennsylvania, called the whiskey insurrection. A large body of armed men were called out, but it was finally put down rather by marshals and constables than by military force.

My friend from Kentucky says they had one in Massachusetts in the Burns case; and he has arraigned the Senator from Massachusetts for some complicity in that matter. The Burns case was a mere mob, a mutiny, if you please, but

suppose it was an insurrection, what then? Insurrection is not war, as I shall show by the authorities; very far from it. We had an insurrection, or what I may call an insurrection, in Kansas when the people of Missouri invaded the Territory of Kansas. Armed men marched over from that State into an infant Territory, seizing upon their ballot-box, and controlling the operations of their government. That was an insurrection, and none the less an insurrection because the executive authorities of the country sustained and sanctioned it, to their dishonor. It was an insurrection against the laws, but it was not war; very far from it. We had a kind of insurrection, an *emeute*, in Utah; but it never rose to the dignity of war. It was simply a dissatisfaction on the part of the people there with the acts of certain executive authorities, and resistance to those acts; but the resistance disappeared on the approach of a military force. It was at most insurrection. To show that this distinction is laid down in the law-books, I will refer to Mr. Lawrence's recent edition of Wheaton's International Law. In a note on page 522 it is said:

"Publicists distinguish between popular commotion (*emotion populaire*) or tumultuous assemblage, which may be directed against the magistrates or merely against individuals; sedition, (*sedition*), applying to a formal disobedience particularly directed against the magistrates or other depositaries of public authority; and insurrection, (*soulevement*), which extends to great numbers in a city or province, so that even the sovereign is no longer obeyed; and civil war.

"A civil war is when a party arises in a State which no longer obeys the sovereign and is sufficiently strong to make head against him, or when, in a republic, the nation is divided into two opposite factions, and both sides take up arms. The common laws of war are in civil wars to be observed on both sides.

DISTINCTION BETWEEN INSURRECTION AND WAR.

It will be necessary for Senators to keep in view these distinctions, because upon them rests the whole argument in this case. Civil war is where an insurrection has assumed such power and strength as to invoke armies, when victories and defeats alternate, when the matter ceases to be a mere insurrection or a rising against the civil authority, and when marshals and constables are no longer necessary, but armies must be called upon to decide the conflict. The law of 1795 defines what an insurrection is. In such cases, the President must call out the militia of the State, through its Governor, the riot act must be read, and various precautions are prescribed. But when the insurrection assumes the magnitude of civil war, other laws must govern; the law of 1795 ceases to apply; and THE LAWS OF WAR as recognized among the civilized and Christian nations of the world must then decide the contest.

It is sometimes difficult to ascertain when an insurrection melts into rebellion, or when a rebellion assumes the proportions of civil war: but in the present case, the character of the struggle in which we are engaged has been definitively settled by every department of the Government. The Supreme Court of the United States has already declared that this is no longer an insurrection, but a civil war. Every depart-

ment of the Government concurs that this is a civil war and not an insurrection. When the President of the United States originally called out seventy-five thousand volunteers he treated it partly as an insurrection and partly as a civil war—a kind of incongruous condition not easily understood; but Congress, as soon as it convened, treated it as a civil war, authorized the employment of half a million men, and called it war. The President issued a proclamation declaring a blockade, a thing not known as against insurgents. Finally the decision of the Supreme Court in the prize cases during the December term, 1862, declared that it was civil war and not insurrection. I will read a short extract from that decision; and I shall have occasion to refer to it frequently:

"This greatest of civil wars was not gradually developed by popular commotion, tumultuous assemblies, or local unorganized insurrections. However long may have been its previous conception, it nevertheless sprang forth suddenly from the parent brain, a Minerva in the full panoply of war. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptise it with a name; and no name given to it by him or them could change the fact.

"It is not the less a civil war, with belligerent parties in hostile array, because it may be called an 'insurrection' by one side, and the insurgents be considered as rebels or traitors."—2 *Black's Reports*, p. 669.

The decision rests upon that basis, treats these rebels, as we commonly call them, these enemies, as enemies in war, open war, to be put down according to the laws of war. That point was, however, previously settled by another tribunal. We are one of the family of nations. Great Britain, with a hasty indecency, before the facts were known, when our minister was on his way to take his place at that court—a minister whose very name should have commanded the respect of Great Britain—recognized the insurgents as belligerents; and France followed her example. By that fact we are bound, as one of the family of nations; and after that acknowledgment by Great Britain and France we dared not treat the rebels as simple insurgents, but we were bound to wage the war against them according to the laws of war. Each nation must decide this question of belligerent for itself. Great Britain did decide it; France decided it; and we have concurred in that decision. Every department of this Government has held the insurgents to be belligerents, entitled to the benefits of the laws of war, and the war must be waged against them according to the laws of civilized nations.

I have heard in this Senate Chamber very often the ridiculous idea that these people are our erring brethren, insurgents, whom it is our duty to conciliate with kindness. That is no longer their condition. They are enemies, and we are bound to treat them as enemies. We are bound to wage war against them according to the laws of war. We dare not treat them as insurgents. If Jefferson Davis should be captured to-morrow he would be a prisoner of war, and we dare not, according to the laws of war, until we put down all opposing force, hang him as a traitor. That principle was decided early in this war in the case of General Buckner.

Buckner was not only a traitor to his country, the United States at large, but he was a traitor to Kentucky. He had inveigled the young men of that State into an organization, and finally led them off into the armies of the rebels. The authorities of Kentucky demanded him for trial, but the national authorities very properly said that he was no longer an insurgent, and could not be treated by them according to the laws of Kentucky, but he must be treated as an enemy, a prisoner of war, according to the laws of war, to be exchanged in due time; and he was exchanged.

We can no longer, then, consider these men as insurgents; and Senators who talk about them as erring brethren who must be coaxed or brought back to their old place in the Union by anything but force of arms, misunderstand the legal relation that exists between us and these enemies. They are no longer erring brethren. We, as members of a common community, owe that community obedience, allegiance, love, and affection, and we are bound as citizens to treat the open enemies of our country as our personal enemies.

The Constitution of the United States now furnishes no guide. There are no rules prescribed in the Constitution pointing out how we shall treat public enemies. The Constitution only deals with people in a state of peace, or, at most, in a state of insurrection. It does not define our relations or our duties to enemies. When these people assumed the power and position of enemies, you could no longer look to the Constitution of the United States, or to the laws made in pursuance thereof, for the mode and manner in which you should treat them. This principle is clearly laid down in the laws of nations. By their unity, by their vigor, by their strength, they have won the position of enemies, and you cannot treat them as insurgents. Civilized society would not allow you to treat enemies, who by their vigor and courage have held you at bay for nearly three years, as common insurgents or traitors and felons. You must treat them as enemies. The legal consequences that grow out of this relation I shall follow up hereafter.

This doctrine is laid down not only in Vattel but in Wheaton's International law, a work of more modern date; but I will not read the quotation. It is also laid down by the Supreme Court in the decision to which I have already referred. The counsel for the defendants insisted that these people in the South were simply insurgents, and that, therefore, the blockade, which was the matter in controversy, was not legal. The Supreme Court, after repeating the argument of the counsel, go on to say:

"This argument rests on the assumption of two propositions, each of which is without foundation on the established law of nations. It assumes that where a civil war exists, the party belligerent claiming to be sovereign cannot, for some unknown reason, exercise the rights of belligerents, although the revolutionary party may. Being sovereign, he can exercise only sovereign rights over the other party."

This is an argument I have heard adduced over and over again, in the Senate:

"The insurgent may be killed on the battle-field, or by the executioner; his property on land may be confiscated under the municipal law; but the commerce on the ocean, which supplies the rebels with means to support the war, cannot be made the subject of capture under the laws of war, because it is 'unconstitutional.' Now, it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights. (See 4 Cr. 272.) We have shown that a civil war such as that now waged between the Northern and Southern States is properly conducted according to the humane regulations of public law as regards captures on the ocean."

The doctrine is here laid down distinctly that an insurgent may be killed on the battle-field or by the executioner, that his property on land may be confiscated under the municipal law, and his property on the ocean may be seized and taken as that of a public enemy. The particular case was one of seizure on the ocean, and the seizure was held to be legal, and the property was divided among the captors according to our law for the distribution of captures taken from the public enemies.

OUR RIGHT TO EMANCIPATE.

Now, Mr. President, let us apply these principles to the bill before us. We are in war. Have we the right in war as against public enemies to emancipate their slaves? Have we a right according to the laws of war to employ the slaves of our own citizens in arms against the public enemy? Have we a right in accordance with the laws of war to emancipate them and their families, those that are connected with them by domestic ties? These are the questions. I have already passed over the principal difficulty in the way, and that is the argument so often made that we are restrained from doing this because these enemies are our fellow-citizens. I have shown you that the men in rebellion have won a position beyond the reach of your Constitution; that our war with them must be tested by the laws of war; and these questions must be decided by the laws of war as recognized and practiced among civilized nations in ancient and modern times. That is the position which I hold.

Then, by the laws of war, have we a right to arm our own slaves, and to arm the slaves of our enemies and emancipate them? Now, sir, I say that there never was a country in the world, in ancient or modern times, which held slaves, that did not at some period of its history arm them, and employ them against the common enemy; and there never was a case where, when those slaves were so employed, they were not emancipated. This proposition, I think, will be sustained by the most careful examination of history. Slaves fought for the Greeks on the battle-field of Marathon; and to the credit of the Athenians they were emancipated for their services. The Spartans marched with their Helots into the battle-field. The Thessalian mounted Penestæ were bond-servants. There were many slaves on board of the Athenian fleet at the successful naval engagement before the island Arginuse, and as the honor of the victory belonged to them, it is

to the credit of the Athenians that they emancipated them and invested them with all the rights of Platæan citizenship. The Helots attended the Spartans as light-armed troops, and on the battle-field of Platæa there were thirty-five thousand Helots to five thousand Spartans. The warlike habits of the Thessalians imposed upon their slaves the duty of following them to the army. During the Peloponnesian war a single citizen of Thessaly put twelve thousand of them at the disposal of Athens. And when Jason of Phæra strove to gain the ascendancy over Greece, he counted upon the slaves to equip the vessels with which he disputed the empire of the seas with the Athenians.

The right of emancipation denied to individuals was exercised by the State. The supreme authority and traces of its exercise pervade the entire history of Sparta. Seven thousand Helots were raised to the rank of Hoplites and placed under Brasidas as general, who employed them to aid in the conquest of the cities of ^{the} ^{tr} ^{ace}. Three or four hundred Athenians were, a little later, sent to the succor of Syracuse, and when Epaminondas threatened the Spartans at their own hearthstones, they brought out as auxiliaries a thousand recently emancipated Helots. According to Xenophon, liberty was offered to all those who volunteered to defend the republic, and in an instant more than six thousand were enrolled. During the protracted and often renewed wars between the Spartans and the Athenians, slaves were much employed as help to one belligerent or hinderance to another. Thus we learn from Xenophon that when the Spartan general Callictridas had captured the town of Methymna, in Lesbos, the whole of the property there was plundered by the soldiers, but all the slaves Callictridas collected into the market-place, and when his allies urged him to sell the Methymneans also, he said that while he was commander none of the Greeks should be enslaved so far as he could prevent it. The next day he set at liberty the freemen and the Athenian garrison, and sold all the slaves that were of servile origin.

I know that many denominated slaves among the Greeks were not strictly slaves, according to our meaning of that term, but they were servitors. I cannot stop to define the various kinds of servitude known to Greece in ancient times, but it appears that all the grades of slaves or servitors fought for or against their masters, and in all cases won their freedom by so doing. I shall not stop now to discuss the difference between the slaves of Greece and our own slaves, because I shall be able to quote more pertinent examples. My purpose is only to show that among the Greeks in all their wars, civil and foreign, on land and at sea, slaves were employed as soldiers, and were always emancipated as the result of their employment.

The Romans did the same from the very foundation of their Government. In the palmist

days of the Roman republic they employed their slaves as soldiers. There are many cases which I might adduce; but there is one to which I will take the liberty of referring particularly. In one of the wars between the Romans and the Carthaginians, and which was a desperate war for life or death, things assumed that position after the battle of Cannæ that the Romans had either to submit to the Carthaginians or the Carthaginians to the Romans. There was no longer room enough in this little world of ours for these two rival nations, very much the same condition in which we are now placed. Livy tells us:

“The urgent necessity and the scarcity of men of free condition occasioned their adopting a new mode of raising soldiers, and in an extraordinary manner. They purchased with the public money eight thousand stout young slaves, asking each whether he was willing to serve in the wars, and then gave them arms.”

And they did serve, and were emancipated. In the same war, at a later period, under Tiberius Sempronius:

“In the mean time Tiberius Sempronius, the Roman consul, after performing the purification of his army at Sinuessa, where he had appointed them to assemble, crossed the river Vulturnus and encamped at Litemum. As he had in this post no employment for his arms, he obliged the soldiers frequently to go through their exercise, that the recruits, of whom the greatest part were *volunteer slaves*, might learn from practice to follow the standards and to know their own centuries in the field. In the midst of these employments the general's principal care was, and he accordingly gave charges to the lieutenants general and tribunes, that ‘no reproach cast on any one on account of his former condition should sow discord among the troops; that the veteran soldier should be satisfied at being put on a level with the recruit, the free man with the volunteer slave; that they should account every one sufficiently honorable and well-born to whom the Roman people intrusted their arms and standards, observing that, whatever measures fortune made it necessary to adopt, it was equally necessary to support these when adopted.’”

I think this is very wise and pregnant advice even to the people of our own time. Still another case, to show how these soldiers fought in battle when the idea of liberty was held out to them. In the same war, under Quintus Fabius:

“The legions which he had with him consisted mostly of volunteer slaves, who had chosen rather to merit their liberty in silence, by the service of a second year, than to request it openly. He had observed, however, as he was leaving his winter quarters, that the troops on their march began to murmur, asking whether ‘they were ever to serve as free citizens?’ He had, however, written to the Senate, insisting not so much on their wishes as on their merits, declaring that ‘he had ever found them faithful and brave in the service, and that, excepting a free condition, they wanted no qualification of complete soldiers.’ Authority was given him to act in that business as he himself should judge conducive to the good of the public. Before he resolved upon coming to an engagement, therefore, he gave public notice that the time was ‘now come when they might obtain the liberty which they had so long wished for; that he intended next day to engage the enemy in regular battle, in a clear, open plain, where, without any fear of stratagems, the business might be decided by the mere dint of valor. Every man, then, who should bring home the head of an enemy he would instantly, by his own authority, set free; and every one who should retreat from his post he would punish in the same manner as a slave.’

“The soldiers, exulting with joy, especially those who were to receive liberty as the price of their active efforts for one day, spent the rest of their time until night in getting their arms in readiness.”

I intend to follow out this occasion, and show the effect of the promise of emancipation on

those slaves, who were blacks, as will appear in the course of the narrative :

"Next day, as soon as the trumpets began to sound to battle, the above-mentioned men, the first of all, assembled round the general's quarters, ready and marshaled for the fight. At sunrise Gracchus led out his troops to the field, nor did the enemy hesitate to meet him. Their force consisted of seventeen thousand foot, mostly Bruttians and Lucanians, and twelve thousand horse, among whom were very few Italians. Almost all the rest were *Numidians and Moors.*"

If there is any distinction on account of color, we here have the case of Numidians and Moors fighting for their liberty.

A SENATOR. They were not negroes.

Mr. SHERMAN. The distinction between them and negroes I leave to others whose sight is very refined.

"The conflict was fierce and long; during hours neither side gained the advantage, and no circumstance proved a greater impediment to the success of the Romans than from the heads of the enemy being made the price of liberty; for when any had valiantly slain an opponent he lost time, first in cutting off the head, which could not be readily effected in the midst of the crowd and tumult, and then his right hand being employed in securing it, the bravest ceased to take part in the fight, and the contest devolved on the inactive and dastardly. The military tribunes now represented to Gracchus that the soldiers were not employed in wounding any of the enemy who stood on their legs, but in maiming those who had fallen, and instead of their own swords in their hands they carried the heads of the slain. On which he commanded them to give orders with all haste that they should throw away the heads and attack the enemy; that their courage was sufficiently evident and conspicuous, and that such brave men need not doubt of liberty." The fight was then revived, and the cavalry also were ordered to charge; these were briskly encountered by the Numidians, and the battle of the horse was maintained with no less vigor than that of the foot, so that the event of the day again became doubtful, while the commanders on both sides vilified their adversaries in the most contemptuous terms, the Roman speaking to his soldiers of the Lucanians and Bruttians as men so often defeated and subdued by their ancestors, and the Carthaginians of the Romans as slaves, soldiers taken out of the workhouse. At last Gracchus proclaimed that his men had no room to hope for liberty unless the enemy were routed that day and driven off the field.

"These words so effectually inflamed their courage that, as if they had been suddenly transformed into other men, they renewed the shout and bore down on the enemy with an impetuosity which it was impossible long to withstand. First the Carthaginian vanguard, then the battalions were thrown into confusion; at last the whole line was forced to give way; they then plainly turned their backs and fled precipitately into their camps, in such terror and dismay that none of them made a stand, even at the gates or on the rampart."—*Baker's Livy's Rome*, vol. 3.

The Romans gained a complete victory, and Tiberius Gracchus, in an imposing spectacle, which is here described at great length, gave them their freedom. There are many cases of this kind in Roman history. It is full of examples where slaves fought for their freedom. Cato used them at the defense of Utica, and required their masters to emancipate them. Plutarch is full of examples of the kind. Tacitus, in the later periods of Roman history, recites many familiar examples. In the republic, in the empire, in their civil wars, in their foreign wars, slaves were used, and in every case they were emancipated. The distinction in the character of the slaves, whether white or black, was never made. The Romans held different degrees of slaves, and of various nations. Some of the Germans, many of the Asiatic nations, and many of the African tribes were held as

slaves. There was no distinction ever made between them on account of their color. Their condition, not their color, fixed their slavery.

HISTORICAL EXAMPLES.

But, sir, this employment of slaves in the military service was not confined to ancient times. At the present day they are used by many nations. On a recent occasion, in the Spanish colony of Cuba, with a population of one half slaves, a militia of free blacks and mulattoes was directed by General Pezuela to be organized in 1854 throughout the island, and it was put upon an equal footing with regard to privilege with the regular army. This measure was not rescinded by Governor General Concha in 1855, but the black and mulatto troops have been made a permanent corps of the Spanish army in this slaveholding island. So with the Portuguese. Slaves have been used by the Portuguese in their wars; and now in the Portuguese colonies on the coast of Africa the regiments are composed chiefly of black men. So at Prince's Island, St. Thomas, Loando, and many other places where they hold colonies, their soldiers are negroes. In the Dutch colony on the gold coast of Africa, with a population of one hundred thousand, the garrison of the fortress consists of two hundred soldiers, whites, mulattoes, and blacks, under a Dutch colonel. In the capital of the French colony in the Senegal, on the same coast, at St. Louis, the defense of the place is in the hands of eight hundred white and three hundred black soldiers. In the Danish island of St. Croix, in the West Indies, for more than twenty-five years past, there have been employed two corps of colored soldiers in the presence of slaves. So in Brazil, so in Turkey. Our English friends, who were so eager to recognize the belligerent powers of the confederacy, also employ manumitted slaves. The British army stationed in the West Indies consists of four regiments. These regiments, the last of which was raised in 1862, were formerly recruited exclusively from liberated Africans, that is, from negroes captured on the slave-traders voyaging to Sierra Leone. These slaves generally belonged to different tribes, who supplied the creole negroes. When the slave trade was prohibited there were no more liberated Africans to be had, and the regiments are now recruited among the population of the islands themselves, and they are composed of negroes and creoles in the proportion of sixty per hundred soldiers of the former and forty per hundred of the latter. There is one European sergeant to each company.

It is equally clear that in our own country in the revolutionary war and in the war of 1812, colored soldiers were employed on both sides. We are of course all familiar with the ordinary incidents of the revolutionary war; and we know that Lord Dunmore issued his proclamation in 1776 inviting the slaves to leave their masters, and he organized them into regiments. He formed two regiments near the site of Fortress Monroe. It is a remarkable fact that our revolutionary fathers feared the arming of the

negroes more than anything else; and what tended to defeat the general arming of them was the fact that a large portion of the loyalists in the Southern States owned slaves. In the works of John Adams he gives the reason why the negroes were not more generally employed by the British. He says:

"All the king's friends and tools of Government have large plantations and property in negroes, so that the slaves of the Tories would be lost as well as those of the Whigs."

When Lord Dunmore's proclamation was issued, it was answered on our side by a manifesto, from which I will read a short extract to show how far the men who now justify and sustain slavery have departed from the teachings of their fathers. It is addressed to the negro slaves in Virginia, and uses this language:

"Let them further consider what must be their fate should the English prove conquerors. If we can judge of the future from the past, it will not be much mended. Long have the Americans, moved by compassion and actuated by sound policy, endeavored to stop the progress of slavery. Our assemblies have repeatedly passed acts laying heavy duties upon imported negroes, by which they meant altogether to prevent the horrid traffic. But their humane intentions have been as often frustrated by the cruelty and covetousness of a set of English merchants, who prevailed upon the king to repeal our kind and merciful acts, little, indeed, to the credit of his humanity. Can it, then, be supposed that negroes will be better used by the English, who have always encouraged and upheld this slavery, than by their present masters, who pity their condition; who wish in general to make it as easy and comfortable as possible; and who would, were it in their power or were they permitted, not only prevent any more negroes from losing their freedom, but restore it to such as have unhappily lost it."

Mr. President, remember this was a manifesto issued in Virginia to the slaves to show them why they ought not to join the English; and in that very manifesto they were told that the English had always been their enemies; that the English had insisted upon the continuance of the slave trade; that the English could not better their condition; but that they themselves had always pitied their condition; had always opposed the slave trade, and earnestly wished, as soon as the measure could be effected, that those who were then held as slaves should be made free. I have no doubt that such was the language held out by nearly all the great men of the Revolution. I have before me an extract from a letter of Mr. Jefferson on that subject. Lord Cornwallis, in the course of the revolutionary war, occupied the plantation of Mr. Jefferson and took some thirty of his slaves. Mr. Jefferson said that if it had been done for the purpose of making them free it would have been right; but that was not the purpose. I have no doubt that if during our revolutionary war the English had treated the negroes as they might have done if they had not been cut off by their being tied to the loyalists of South Carolina, who were large owners of slaves, if the negroes themselves had not been impressed with the conviction that it was better for them to adhere to the present masters, who were kind and wished them freedom, the negroes would have thrown their weight into that contest probably at a doubtful period, and might have changed the result. It is remarkable that the opinions then held by the people of Virginia

should be so changed that within less than a century the very descendants of those men who promised their negroes freedom in the Revolution should be supporting and sustaining a government based solely on negro slavery, and intended to perpetuate and extend it.

Mr. President, I wish to show the action of the different States on this subject, because my argument depends on the fact that at all times, in all ages, by our own countrymen as well as by others, negroes have been employed in the military service. If so, we, in this terrible war, entered upon for the purpose of perpetuating the institution of slavery, ought surely to be able and willing to arm the negro slaves to secure their own freedom. I find that slaves and negroes fought in the New England States during the Revolution. I read an extract from Bancroft's History of the United States, volume seven, page 421:

"Nor should history forget to record that as in the army at Cambridge, so also in this gallant band"—

That is, at the battle of Bunker Hill—

"the free negroes of the colony had their representatives. For the right of free negroes to bear arms in the public defense was, at that day, as little disputed in New England as their other rights. They took their place, not in a separate corps, but in the ranks with the white man; and their names may be read on the pension rolls of the country, side by side with those of our soldiers of the Revolution."

There are many cases that I might cite. Salem, who killed Major Pitcairn at the battle of Bunker Hill, was a negro.

In Virginia, slaves were employed as substitutes for white soldiers, and here is an act of the General Assembly of the Commonwealth of Virginia, passed in 1783:

"An act directing the emancipation of certain slaves who have served as soldiers in this State, and for the emancipation of the slave Aberdeen.

"1. Whereas it has been represented to the present General Assembly that, during the course of the war, many persons in this State had caused their slaves to enlist in certain regiments or corps raised within the same. * * *

"2. And whereas it appears just and reasonable that all persons enlisted as aforesaid, who have faithfully served agreeable to the terms of their enlistment, and have thereby of course contributed towards the establishment of American liberty and independence, should enjoy the blessings of freedom as a reward for their toils and labors."

Here then it appears that the Legislature of Virginia emancipated all the slaves who had served in the revolutionary Army. So in South Carolina, one of the most interesting incidents of the war was the earnest effort made by Colonel Laurens to arm the negro population in the southern States upon the promise of emancipation. I will read one or two extracts to show the opinion of several distinguished revolutionary leaders as to the employment of slaves even in South Carolina, and to show that they were defeated in that project by the very motive that now holds from us the service of thousands of able-bodied men. Here is a letter from Henry Laurens, dated March 16, 1779, to General Washington:

"Our affairs in the southern department are more favorable than we had considered them a few days ago; nevertheless the country is greatly distressed, and will be more so unless further reinforcements are sent to its relief. Had

we arms for three thousand such black men as I could select in Carolina, I should have no doubt of success in driving the British out of Georgia and subduing East Florida before the end of July."

A committee of Congress, consisting of Mr. Burke, Mr. Laurens, Mr. Armstrong, Mr. Wilson, and Mr. Dyer, appointed to take into consideration the circumstances of the southern States, and the ways and means for their safety and defense, on the 29th of March, 1779, reported to Congress this resolution:

"Resolved, That it be recommended to the States of South Carolina and Georgia, if they shall think the same expedient, to take measures immediately for raising three thousand able-bodied negroes."

General Lincoln, who was in command at Charleston, in a letter to Governor Rutledge, dated March 13, 1780, says:

"Give me leave to add once more that I think the measure of raising a black corps a necessary one; that I have great reason to believe if permission is given for it that many men would soon be obtained. I have repeatedly urged this matter, not only because Congress have recommended it, and because it thereby becomes my duty to attempt to have it executed, but because my own mind suggests the utility and importance of the measure, as the safety of the town makes it necessary."

I find a letter from Mr. Madison, written November 20, 1780, to Joseph Jones:

"Yours of the 18th came yesterday. I am glad to find the Legislature persist in their resolution to recruit their line of the army for the war; though, without deciding on the expediency of the mode under their consideration, would it not be as well to liberate and make soldiers at once of the blacks themselves as to make them instruments for enlisting white soldiers?"

James Madison makes the very recommendation that we now propose—to free them first and then enlist them afterwards always connecting the two ideas together. He says further:

"It would certainly be more consonant with the principles of liberty, which ought never to be lost sight of in a contest for liberty, and, with white officers and a majority of white soldiers, no imaginable danger could be feared from themselves."

I read from Colonel Laurens again, to show how persistently he adhered to this idea of arming the negro population of South Carolina, he being a native of South Carolina, in a letter to General Washington, dated May 17, 1782:

"The plan which brought me to this country was urged with all the zeal which the subject inspired, both in our Privy Council and Assembly, but the single voice of reason was drowned by the howlings of a tripple-headed monster, in which prejudice, avarice, and pusillanimity were united."

This is the indignant language used by Colonel Laurens.

Here is the reply of General Washington to Colonel Laurens:

"I must confess that, I am not at all astonished at the failure of your plan. That spirit of freedom which, at the commencement of this contest, would have gladly sacrificed everything to the attainment of its object, has long since subsided, and every selfish passion has taken its place."

General Greene had this same subject brought to his attention while in command of the southern department. In a letter to Washington, dated January 24, 1782, he said:

"I have recommended to this State to raise some black regiments. To fill up the regiments with whites is impracticable, and to get reinforcements from the northward precarious, and at least difficult, from the prejudice respecting the climate. Some are for it; but the far greater part of the people are opposed to it."

I might go on at some length with details, but I will not. It is sufficient to say that nearly all the leading men of the Revolution, Washington, Jefferson, Hamilton, Madison, Laurens, Green, and Lincoln, were in favor of using slaves, and at the same time emancipating them as the result of the service, and it was resisted in the southern States partly from a fear that the British would arm them, and partly from the fear of losing their own property in slaves.

Mr. President, I will go further. Slaves and negroes, especially free negroes, were used by us in the war of 1812. You are all familiar with the proclamation of General Jackson issued at Mobile to the free negroes. When white men faltered, when they involved him in judicial controversy, when the danger was imminent that the English would bombard the city of New Orleans, the free negroes, at the proclamation of General Jackson, rallied to his standard. What did Old Hickory do? Did he turn his back on them and say, "You are negroes, and are beneath me in the social scale?" That was not his answer. Old Hickory enrolled them in his ranks; they were mustered into the service, and they bravely aided to beat back the waves of the British army. General Jackson, with a manly heroism that does him credit, issued his proclamation giving them especial thanks for their services. I am afraid that some of those gentlemen who are so fastidious if negroes, whether free or slave, should come up and offer their lives in the service of their country, if they were willing to assume all the burdens of war, if they were willing to risk wounds and pains and death, would answer them with contempt, and would spit upon them. That was not the example set by the great men of the Revolution or of the war of 1812.

Commodore Perry used negroes on the lakes. A considerable portion of the force employed by him at the battle of Lake Erie were free negroes; and he regarded them as good soldiers. They aided him in repelling the British in their very formidable attack on our northern frontier. I am not ashamed to acknowledge that the people of Ohio, in the war of 1812, owed their safety from further invasion from the British, not only to the bravery of white soldiers, but also to the larger number of negroes who enlisted in the service. In our naval service, I am informed that they have been always used. I believe that in every vessel of war over which our flag now floats, in whatever country it may be found, the negro fights side by side with the white man; and our tars do not consider themselves degraded because a man of a different race and a different color can show bravery and courage as well as themselves.

The State of New York, in the war of 1812, organized negro regiments. I find among the statutes of New York, "An act to authorize the raising of two regiments of color," passed October 24, 1814.

But not only did we use negro soldiers in that war, but the British employed them against us. They organized a negro force within one hundred miles of Washington, and if they had made extensive inroads into our country, no doubt they would have employed more.

I have thus, Mr. President, perhaps at the risk of being wearisome, shown that in ancient and in modern times, by all civilized nations, by our own country and by our enemies, in all of our wars, negro soldiers both free and slave have been used in the military service, and in every case where slaves have been so used, their liberty has been secured to them. It would be an intolerable injustice, to which no people would ever submit, to serve in the military service without securing that greatest of boons. My answer, then, to the main question whether the employment of negroes, free or slave, is justified by the laws of war is, that by the practice of all nations it is justified.

CONSTITUTIONALITY OF OUR POWER.

I come then to another question that it is necessary for me briefly to refer to, and that is whether there is anything in the Constitution forbidding the employment of free negroes or slaves in our army? On that point there can be no doubt. The only restraint upon the law of war contained in the Constitution is in article three of the Amendments, which provides that "no soldiers 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 prescribed by law." With this exception, all the practices of civilized nations may be used in this war. There is nothing in the Constitution of the United States prescribing the mode and manner of dealing with an enemy; nothing which affects the power of the President or of Congress over the army or navy.

By the Constitution, Congress is invested with all legislative power, and some of the powers usually conferred upon the Executive. Congress may declare war. No such power is given to the President.

There is no reference in the Constitution to the power of the President in time of war, except that he is commander-in-chief of the army and navy; but Congress is empowered to "raise armies." Congress may "make rules and regulations for their government." Congress alone has all those powers which are called war powers in other countries. In England, in France, in all monarchies, the executive authority embraces all the war power; but under our Constitution the President has no war power except simply to command the army and navy according to the laws. Congress must pass rules and regulations; Congress must raise armies. By the Constitution the President has no power to enlist a single soldier, black or white, bond or free, except as is authorized by law, or, as is said by the Supreme Court, in the decision to which I have already referred, in a case of public exigency, he may anticipate at his peril the action of Congress, and if his action is subsequently ratified and approved by

Congress, it then becomes operative from the beginning. But as an original question, the President does not possess any war powers. They are all vested in Congress. Congress alone can raise armies, and make rules and articles for their government.

Now, sir, is there any limitation in the Constitution as to our power to raise armies? Where is the clause limiting our army to free men, to white men, to aliens, or to any other class of people? The power to raise armies is as high as Heaven, as broad as our own country, and includes every man within it. We may muster in the whole population. We may by conscription laws force our whole population into the army. We alone can do it. Congress, by a law sanctioned by the President, can exercise this power, and no other authority can.

Why is it that we are called upon every day to fix the price of service, to fix the pay of the soldier? Why is it that we are now called upon to raise the pay of the soldier from thirteen dollars to sixteen dollars a month. Why does not the President do it? Simply because Congress alone has the power to prescribe the mode of raising an army and the pay of an army. If the President cannot raise the pay of a private soldier from thirteen dollars to sixteen dollars a month, where does he find the power to offer as pay to the black soldier his liberty—the highest reward? Remember, I do not object to the exercise of this power; I am in favor of it. I believe the war has been protracted so long because we have feared, through prejudice and probably on account of old party relations, to exercise the great powers that are invested in us. I believe that from the beginning, when the rebels assumed the position of enemies, we should have armed against them the whole negro population of their country. They need not tell me that if we arm the negroes they will arm them. They cannot arm their negroes unless they promise them their freedom. If they promise them their freedom their whole confederacy crumbles into dust. Their confederacy is built, as Mr. Stephens said, on the idea that man should own property in man; that the negro is inferior and must be held subordinate to the white race; that he must be held as a slave. If they arm the slaves and promise them freedom their cause is lost. I do not fear any empty threats of that kind. I say from the beginning we should have armed the slaves; but before doing so, in my judgment, we ought to secure them by law, by a great guarantee, in which you and I and all branches of the Government, co-operating with the States and the people, would unite in pledging the faith of the United States that forever thereafter they should hold their freedom against their old masters.

It is not that I object to the proclamation of the President. I simply want to give it the form and sanction of law. I have doubts about his power to issue this proclamation, or that it will be of any validity. I fear 'tis as the great

injustice of the times; that when this war shall be over, if Congress allows this matter to rest solely on the President's proclamation, and a negro comes up and shows that proclamation in a court of law as his charter of freedom, your court of law will turn him adrift, and tell him it was a mere piece of parchment issued by a man who had no authority to guaranty it. That is what I fear. I wish to guard against that contingency by clothing this promise of emancipation with all the guarantees and sanctions of law; and with my view of the powers of Congress, I have not the slightest doubt that we can do it as to all who enter our military service. I have not a doubt that we may declare that we will enlist into the army of the United States negroes, whether bond or free, in the southern States, and that, as wages or as pay for their services, we may decree their emancipation.

Mr. President, we give bounties to soldiers; we give land to soldiers. By what authority do we do this? I ask you, if we can induce white men to enter the service by a promise of one hundred and sixty acres of land and by \$300 bounty, why can we not induce a negro to enter the military service for the highest of all compensations—the emancipation of himself? Why, sir, we take your son, who owes you service for a short period; we take him under age; we enlist him in the service; we induce him to enter that service by bounties, by the promise of lands, and by the liberal inducements held out to our soldiers; and by that very act we deprive you of the labor of your son. Under what authority of law do we do this? Under the simple authority to raise armies. That authority overrides all your rights.

I agree with the sentiment expressed by the Senator from Maryland [Mr. Johnson] the other day, if I understood him correctly, that Congress in the exigencies of the country may arm the negro population of this country and muster them into service. The only question on which he and I would differ would be as to the measure of compensation that ought to be held out to these negroes for that service. He admits that we have the power to use their physical force; and in the face of the historical cases I have quoted no man can doubt our power to muster these blacks into our service. The only question is whether, as a compensation for their services, we can promise them emancipation; and upon this point I see no limit to our power. Why, sir, you are about to confer the highest honor upon General Grant as a reward for his services. You make our white soldiers generals, and give them the star, the garter of our republican form of government. You give them honor, name, that for which men fight and struggle more than anything else. You give them all these. I ask you, when you can take money, lands, honor, property, everything, and give them to your white soldiers, can you not give to the negro who is put into your service his own liberty and secure

it to him forever? It is a narrow view of the powers of Congress to say we have no right to give a negro freedom as the result of military service.

What is the consequence of this doctrine? It is this: in prosecuting war against these rebellious States we may exercise against them the powers of war. But, sir, in dealing with another class of people we are restrained by certain constitutional obligations. Upon this point I shall probably differ with many of my political friends; but I am here to speak my earnest convictions. As against the rebels of the South, I say, you can seize their slaves; you can put them in your armies; you can make them serve you; you can emancipate the whole race as a measure of war, because by the laws of war emancipation and the employment of slaves are proper incidents of war. Therefore in the seceding States there is no difficulty in the way; and even as to the loyal men in those States the decision of the Supreme Court is that as those States have attained the position of belligerents, you may prosecute, even against your loyal citizens in those States, the laws of war. States as communities have acted, and the Supreme Court have decided in the very case to which I have referred that the laws of war obtain against all loyal citizens in the seceding States. I will read an extract from that decision:

“All persons residing within this territory whose property may be used to increase the revenues of the hostile power are, in this contest, liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors.”

Therefore it is that if a loyal man in the seceding States loses his property it is not by our act, it is by the act of the enemy. By a well-recognized principle of international law the government of a State is not responsible for the acts of the enemy. The destruction of slavery in the seceding States is the act of the enemy necessarily growing out of the state of war; and if our own loyal citizens are affected by the operations of the laws of war in the seceding States they have no right to complain against the United States. If my house is burned over my head by a public enemy I have no right to reclaim the value of that house from the United States. The Government is never responsible for the act of the enemy. It is bound to use all necessary force, so far as it can, to protect its citizens; but if it cannot do so, or if, in the course of the war, the private property of a citizen is destroyed, that citizen has no right to reclaim the property from the Government. This is a clear principle of international law. Therefore, as to the loyal people in the seceding States, they take the fortune and chances of war. It may be hard on them. I confess it is. I pity them from the bottom of my heart. I have seen brave and true and loyal men from those States who have lost all their property, who have been dragged into unwilling servitude in the Southern States; but that is the fortune of war. We cannot pro-

fect them. If their property is destroyed and their slaves emancipated as the result of this war, it is not the act of the Government, it is the act of the rebels with whom it was their misfortune to be associated.

Now, sir, you come to another class of citizens in the adhering States, as they are called, in the loyal States. I ask you whether they are not entitled to certain constitutional privileges which you are sworn to give? You cannot use against these loyal men in the adhering States the laws of war. As against all the enemies of the Government, those who do anything whatever to contribute to overthrow the Government, living in the adhering States, you have a right to prosecute the laws of war. The people of Ohio decided that in a very mild case in our own State. They believed that a certain gentleman who was very prominent had committed such acts as indicated him as a public enemy. The military authorities seized him and expelled him beyond the limits of the State of Ohio. His friends endeavored to excite a great deal of compassion for him on that account. On what ground was it justified? If any true friend of his country had been seized in Ohio, had been deprived of his liberty, had been expatriated, the whole people of that gallant State would have risen in arms to defend him, although he was the humblest of their citizens; but they believed he had taken such a course in this war that he was a public enemy; that he had done all he could to aid the public enemy; that he was regarded by them as their friend, and by us as an enemy. Therefore the act of the Government in seizing him and forcing him beyond our lines was justified by an overwhelming vote of the people of Ohio; but upon what ground? On the ground that he was a public enemy. Therefore, as to all those men who in the adhering States have been false to the Government, who have by acts—not by mere words, because I would not hold a man responsible for his words—done anything to aid and contribute to the success of the rebels in this war, they may be treated according to the laws of war. If they lose their slaves so much the better. If they lose their property so much the better. No one ought to complain of it. They have taken the chances of the success of this war; let them enjoy them.

COMPENSATED EMANCIPATION.

But now, sir, you come to another class of people; and I ask my political friends this plain question: when there are loyal men in the adhering States—I do not speak of that class who live in southern States—but when there are loyal men in the adhering States who have been true to your country and true to your flag, I ask you whether you do not owe them the application of a different rule? I say you have the right to take the slaves of those loyal people. You have the right to take the slave of my friend from Kentucky, [Mr. DAVIS;] you have the right to take the free negro in his neighborhood; you have the right to take his son; you have the right to take him, if it is necessary to

crush the rebellion; and I believe he would be as ready to respond, if his personal services were needed to put down the rebellion, as any man in the Senate. Although I do not agree with many of his opinions, I believe him to be patriotic, courageous, and brave. I know he has in the hour of danger stepped forward and been mustered under our flag and carried a musket by the side of the common soldier. This Government has the right to his slave if they want him. They have the right to a free man. They have the right to use them in the military service. I ask you, when the slave of a loyal man is taken in the adhering States are you not bound to give him fair and legitimate compensation? It is not a sufficient answer for you to say to me that you do not recognize property in slaves. The answer to that is that by the local law of the State which has remained true to the Government he is recognized as property, and the master is protected in the enjoyment of that property within the limits of that State. If you deprive him of that property you are bound in honor and conscience to share with him the loss.

Here is a feature of the bill introduced by the Committee on Military Affairs that I cannot approve. I do not think it will take very much money to pay for such slaves. I am in favor of using the slaves of the people of Missouri, of Kentucky, and West Virginia, and Maryland, wherever they can be mustered into our service; but, sir, I think when you take the slave of a loyal master you should pay a fair and reasonable compensation for the labor of that slave. It is true, as my friend from Maryland said the other day, that the value of the slave is very small in Maryland. I would only pay the master that depreciated value. That depreciated value is caused by the rebellion. That depreciation which has been brought upon his property by the act of the rebels he is not entitled by the laws of war to have compensation for. My property may be depreciated. The property of all loyal citizens may be depreciated. I have no right to complain of this. I have no right to ask compensation for this. Therefore, to the extent his property is depreciated by the rebellion in Maryland, he should not be paid; but to the extent his property is of value in Maryland at the time we take it, we ought in justice and honor and good conscience to give him a reasonable compensation.

That is my view; and I believe the people of the State of Ohio, who in this war have certainly shown their willingness to meet all the sacrifices that have been put upon them; who have done their full share in furnishing you officers and men to fight your battles, will not begrudge the small pittance that may be paid under this system of compensated emancipation to the people of the border States who have been true to the flag of our country in the hour of its great danger. By these principles in the further discussion of this bill I shall be guided.

I think, therefore, to conclude, we ought, by a wise, carefully prepared law, to enroll the

negroes of this country into the armed service of the United States so far as they can be properly used. I believe they will fight well. We ought to secure freedom to all who fight for us. To all the slaves in all the rebel States I would secure freedom to the last man, woman, or child. I never would allow the men who have rebelled against the best Government God ever gave to man to own a slave, or, as I was about to say, to own any other property. They are outcasts. They have rebelled. Their rebellion was causeless. I have no pity for them in all the sufferings that may be heaped upon them in their own generation. For those men who domineered in this Senate, who domineered in the other House, who converted our political bodies into arenas for the defense of slavery, and degraded them by blustering violence, for those men who, when fairly beaten in a political contest, took up arms to overthrow the Government, I have not the slightest sympathy or respect. They are not only enemies, but they are traitors, and I will enforce against them not only the laws of war but the municipal laws of our own country as to treason. So as to all those men living in the northern States, slave or free, who in this hour of danger have been active in their opposition to the Government, who have not given what the Government has a right to have, a manly, generous, free support, I have no sympathy whatever. I do not speak of mere political opposition evinced in words or with a desire to have somebody else selected President rather than Mr. Lincoln; but for those men who have actually aided the rebels in the adhering States I have no sympathy. I do not care how many of their slaves you put into the service; how much of their property you take; how much you confiscate. I perhaps will go as far as the furthest. All I ask is that when you touch the local rights and local property of those brave and true men of the southern States who have been true to the country in this hour of danger, you ought to extend to them reasonable consideration for the circumstances by which they are surrounded.

In this war we are all called upon to make sacrifices. These men in the border States have suffered worst of all. Missouri has been trodden over by armed men in all directions. So to some extent has Kentucky; so to some extent has Maryland. Tennessee has been ridden over with the hoof of war. These people have suffered. We cannot help that. We cannot spare them all suffering. All the property of all the people of the United States could not redress the wrongs of this war. All we have got to do is to fight it through. But I say, for one, I never will consent to deprive true and loyal men of the adhering States, who have been true and have rendered good service, not merely lip service, but have rendered good service in the hour of the country's peril—I will not take from him even his own local rights without giving him a fair and honest compen-

sation. That, I believe, is the true theory of this whole difficulty.

On the subject of emancipation I am ready now to go as far as any one. Like all others, I hesitated at first, because I could not see the effect of a general system of emancipation. I think the time has now arrived when we must meet this question of emancipation boldly and fearlessly. There is no other way. Slavery is destroyed, not by your act, sir, or mine, but by the act of this rebellion. I think, therefore, the better way would be to wipe out all that is left of the whole trouble, the dead and buried and wounded of this system of slavery. It is obnoxious to every manly and generous sentiment. The idea that one man may hold property in the life of another, may sell him like cattle, is obnoxious to the common sentiment of all. Now, when the power is in our hands, when these rebels have broken down the barriers of the Constitution, when they must be treated by the laws of war, when we dictate those laws let us meet this question of emancipation boldly and fearlessly. I am prepared to do it, and to vote to-day, to-morrow, or any day for a broad and general system of emancipation based upon the consent of the people of the States. Then, sir, I would couple with that idea, fair, honest compensation to those loyal men, who, in the adhering States, own this class of property. The amount paid to them would be insignificant compared to the cost of this war.

These sacrifices we must make. I know we are called upon to make more. What homestead in this country has not made a sacrifice? What family can you enter in this broad land where the drapery of mourning is not hung over the hearthstone, where there are not sons and brothers and kindred who have fallen in this war? Why, sir, if you tell the young widow who has lost her husband in this contest that she has not suffered as much as the slaveholder of Kentucky will suffer by the loss of his slaves she would consider you a fool or a madman. The mother who has seen her noble son depart from her side full of the lusty vigor of manhood and seen him again return broken by disease, ready almost to die—I ask you whether her sufferings and sacrifices are not greater than that of any slaveholder in the world?

I tell you, Mr. President, this war has in my judgment demonstrated the necessity in this republican form of Government of doing what our forefathers hesitated about doing, to wipe out with one bold and manly stroke the whole system of slavery in this country. Let us do what the framers of the Constitution might have done—place upon that instrument the broad declaration that all men are entitled to FREEDOM. Then, when this is done, for the good that it will bring upon us, for the honor it will bring upon our race, for the glory it will bring on our country, then free in every sense of the word, we can afford to deal generously

with those whose local interests we have sacrificed and whose property we have taken.

I see before me, then, a plain path of duty. I shall insist that, as the result and consequence of this rebellion, the system of slavery shall disappear from among the institutions of our people, and I shall desire to protect and compensate all I can the loyal slaveholders, to preserve unimpaired every feature of our Government, to preserve unimpaired the rights of all the States. I am willing to temper this system of compensation to the action of the States themselves. I am willing to move slowly, surely; and as I see movements are going on in Maryland, Missouri, West Virginia, and I trust soon in Kentucky and Tennessee, to wipe out this system by the action of those States, I shall not interfere with that action. But, sir, for one, while I hold a seat on this floor, I shall insist that, as the result of this war, as the great punishment of this rebellion, as the great good to be derived from it, the system of involuntary slavery shall disappear from among us. Although our generation may have made all the sacrifices of the war I believe the future will

reap all the benefit. Our nation, now thirty million, in fifty years will be an untold number. Throw open the South, throw open the West to emigration from all the countries of the world, and a single generation of men, free, industrious, and happy, will compensate our nation for all the losses and sacrifices of this great war.

But, sir, while you leave upon our national record a single spot of that institution which has created all our broils and all our controversies, which has lain at the root of all our troubles, we are not safe. The framers of the Government believed that this institution would pass gently away. It has not done so. Where it once gets a foothold it will extend itself. Therefore, I am for the broadest extirpation, the broadest eradication of this institution, so far as I can within the power contained in the Constitution of the United States. But, sir, in doing that I consider this nation rich enough and strong enough to deal generously and liberally with those who, while they owned this property, have yet been true to our country and true to our flag.

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