SPEECH

OF

HON. GEORGE E. PUGH, OF OHIO,

ON

THE PRESIDENT'S ANNUAL MESSAGE,

DELIVERED

IN THE SENATE OF THE UNITED STATES, DECEMBER 10, 1856.

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THE PRESIDENT'S MESSAGE.

The Senate having under consideration the motion to print the Annual Message from the President of the United States—

Mr. PUGH said:

Mr. PRESIDENT: It is a new position for me to occupy here or elsewhere, that I should attempt a defense of the present Chief Magistrate against personal imputations. I do not stand in the relation of confidence to him. I never received a favor at his hands, and never solicited one in which I had any immediate or individual interest. I rise only to defend him as I would defend the humblest citizen of the Republic against a concerted, and, as it seems to me, unfounded series of accusations.

My colleague [Mr. WADE] asserts that the President has employed libelous terms in speaking of a large number of our common constituents who voted for Colonel Frēmont at the last election. If this charge were true in any sense, I should unite with my colleague in the condemnation he has pronounced; for, although I would have deplored the election of Colonel Frēmont as the greatest calamity that could befall the American people, I feel bound to render my tribute of respect to those honest, patriotic, but as I think misguided, citizens of Ohio who voted for him. The paragraph upon which my colleague based this accusation is one which I now send to the Secretary's desk.

The Secretary read it, as follows:

"Our institutions, framed in the spirit of confidence in the intelligence and integrity of the people, do not forbid citizens, either individually or associated together, to attack by writing, speech, or any other methods short of physical force, the Constitution and the very existence of the Union. Under the shelter of this great liberty, and protected by the laws and usages of the Government they assail, associations have been formed in some of the States of individuals who, pretending to seek only to prevent the spread of the institution of slavery into the present or future inchoate States of the Union, are really inflamed with desire to change the domestic institutions of existing States. To accomplish their objects, they dedicate themselves to the odious task of depreciating the Government organization which stands in their way, and of calumniating, with indiscriminate invective, not only the citizens of particular States, with whose laws they find fault, but all others of their fellow-citizens throughout the country who do not participate with them in their assaults upon the Constitution, framed and adopted by our fathers, and claiming for the privileges it has secured, and the blessings it has conferred, the steady support and grateful reverence of their children. They seek an object which they well know to be a revolutionary one. They are perfectly aware that the change in the relative condition of the white and black races in the slaveholding States, which they would promote, is beyond their lawful authority; that to them it is a foreign object; that it cannot be effected by any peaceful instrumentality of theirs; that for them, and the States of which they are citizens, the only path to its accomplishment is through burning cities, and ravaged fields, and slaughtered populations, and all there is most terrible in foreign, complicated with civil and servile war; and that the first step in the attempt is the forcible disruption of a country embracing in its broad bosom a degree of liberty, and an amount of individual and public prosperity, to which there is no parallel in history, and substituting in its place hostile governments, driven at once and inevitably into mutual devastation and fratricidal carnage, transforming the now peaceful and felicitous brotherhood into a vast permanent camp of armed men, like the rival monarchies of Europe and Asia. Well knowing that such, and such only, are the means and the consequences of their plans and purposes, they endeavor to prepare the people of the United States for civil war by doing everything in their power to deprive the Constitution and the laws of moral authority, and to undermine the fabric of the Union by appeals to passion and sectional prejudice, by indoctrinating its people with reciprocal hatred, and by educating them to stand face to face as enemies, rather than shoulder to shoulder as friends."

Mr. PUGH. Mr. President, it is impossible that this paragraph should apply to the members of the Republican party, if, as now asserted, they do not aim at the abolition by Congress of slavery within the States. It is directed against those who hold that doctrine. It refers to the men whom the Senator from Massachusetts, [Mr. WILSON,] and the Senator from Maine, [Mr. FESSENDEN,] themselves have denounced on this floor.

The President proceeds, however, to speak of another class of our citizens, with which class these gentlemen claim fellowship:

"It is by the agency of such unwarrantable interference, foreign and domestic, that the minds of many, otherwise good citizens, have been so inflamed into the passionate condemnation of the domestic institutions of the southern States, as at length to pass insensibly to almost equally passionate hostility towards their fellow-citizens of those

States, and thus, finally, to fall into temporary fellowship with the avowed and active enemies of the Constitution. Ardently attached to liberty in the abstract, they do not stop to consider practically how the objects they would attain can be accomplished, nor to reflect that, even if the evil were as great as they deem it, they have no remedy to apply, and that it can be only aggravated by their violence and unconstitutional action."

That paragraph immediately follows the one which was read from the Secretary's desk. But the President does not pause there; he proceeds to a third paragraph, in these words:

"I confidently believe that the great body of those who inconsiderately took this fatal step are sincerely attached to the Constitution and the Union. They would, upon deliberation, shrink with unaffected horror from any conscious act of disunion or civil war. But they have entered into a path which leads nowhere, unless it be to civil war and disunion, and which has no other possible outlet. They have proceeded thus far in that direction in consequence of the successive stages of their progress having consisted of a series of secondary issues, each of which professed to be confined within constitutional and peaceful limits, but which attempted indirectly what few men were willing to do directly; that is, to act aggressively against the constitutional rights of nearly one half of the thirty-one States."

In effect, therefore, the President expresses his opinion that, although these gentlemen were actuated by honest motives, although they were attached to the Constitution and the Union—and he pronounces upon them as high a eulogium as they have pronounced upon themselves—yet, as believes, there is no outlet from the path which they now pursue, and into which they have incautiously been led, except through disunion and civil war. Senators may find fault with the President's argument; they may find fault with his conclusion; they may allege that it is not warranted by the premises; but I appeal to any candid mind—I appeal to these Senators themselves, upon reconsideration—where is the pretext for asserting that the President has employed libelous epithets toward them, or called in question their motives or good intentions?

The Senator from New York [Mr. SEWARD] took occasion, in his brief observations, to declare that passages of this description were without precedent in our executive messages. He represented General Pierce as the first President of the United States who had ever, in official communications to Congress, spoken of the conduct of any considerable number of the American people. The Senator seems to be as little acquainted with the language, as with the principles and sentiments of George Washington. In the sixth annual address to Congress, dated the 19th of November, 1794, I find this paragraph, speaking of the citizens of western Pennsylvania, who had, by associations, obstructed the execution of the laws of the United States, but whose insurrection had been suppressed by the military forces of the United States:

"And when, in the calm moments of reflection, they shall have traced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who can rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations of the whole Government."

It would really seem as if the line of argument adopted by General Pierce in this message had been taken from the line of argument pursued by General Washington upon that occasion.

But the same Senator, as well as the Senators from New Hampshire and Massachusetts, declared that there was no other case in which a President of the United States had referred to the results of a presidential election in any official communication. Without inquiring to much extent, I have found two cases, the example of two Presidents, either of whom would be sufficient authority with me. In the second inaugural address of Thomas Jefferson, delivered on the 4th of March, 1805, he spoke in distinct terms of the charges which had been made against his administration in the newspapers, and of the result:

"During this course of administration, and in order to disturb it, the artillery of the press has been leveled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science are deeply to be regretted, inasmuch as they tend to lessen its usefulness and to sap its safety; they might, indeed, have been corrected by the wholesome punishments reserved and provided by the laws of the several States against falsehood and defamation; but public duties more urgent press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation.

"Nor was it uninteresting to the world that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and protection of truth—whether a Government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation. The experiment has been tried; you have witnessed the scene; our fellow-citizens have looked on, cool and collected; they saw the latent source from which these outrages proceeded; they gathered around their public functionaries, and, when the Constitution called them to the decision by suffrage, they pronounced their verdict—honorable to those who had served them, and consolatory to the friend of man, who believes he may be intrusted with his own affairs."

If Mr. Jefferson had lived to our times, he would have learned that the falsehoods of the press increase rather than diminish as our Government proceeds.

There is another precedent. I will not read it, but only refer to it. Do we not all remember that, in his celebrated protest addressed to this body, as well as throughout his annual message of the next year, Andrew Jackson referred to the fact of his reëlection as an indorsement of his policy towards the Bank of the United States?

It may be suggested, however, that the present Chief Magistrate was not himself reëlected, as Jefferson and Jackson were. That distinction, for the purposes of this argument, amounts to naught. Those Senators declared here, at the last session—they declared throughout the country, in all imaginable forms—that the election of Mr. Buchanan would be a continuation of the policy which General Pierce's administration had inaugurated. The question whether a particular man was or was not renominated by the Democratic party, is a question with which, I submit, they have no concern. It has always been a favorite maxim of that party to elect their President for a single term. General Jackson taught the doctrine, and only departed from it in consideration of very peculiar circumstances. I do not speak of the personal conduct of this

Administration; of its choice of officers; of its management of details; whether this might have been done better, or that should have been left undone. I speak of the general principles professed by General Pierce, and professed, as I understand, by the convention which nominated Mr. Buchanan, and by Mr. Buchanan himself.

The Senator from New Hampshire declared that the President had no authority, under the Constitution, to discuss these topics in an executive message. The President himself has answered that suggestion in a brief paragraph, so clearly expressed, that I will quote it as a conclusive argument:

"The Constitution requires that the President shall, from time to time, not only recommend to the consideration of Congress such measures as he may judge necessary and expedient, but also that he shall give information to them of the state of the Union. To do this fully involves expositions of all matters in the actual condition of the country, domestic or foreign, which essentially concern the general welfare."

The Senator from Maine [Mr. FESSENDEN] charges the President with having asserted what he knew to be untrue; or, in other words, with deliberate falsehood in asserting that the citizens of the North, as a body, claim for Congress the power to abolish slavery within the States. Sir, the President made no such assertion. I have already shown that in answering some observations of my colleague; but I will quote another paragraph in order to silence the accusation forever. The President says:

"While, therefore, in general, the people of the northern States have never at any time arrogated for the Federal Government the power to interfere directly with the domestic condition of persons in the southern States, but, on the contrary, have disavowed all such intentions, and have shrunk from conspicuous affiliation with those few who pursue their fanatical objects avowedly through the contemplated means of revolutionary change of the Government, and with acceptance of the necessary consequences—a civil and servile war—yet many citizens have suffered themselves to be drawn into one evanescent political issue of agitation after another, appertaining to the same set of opinions, and which subsided as rapidly as they arose when it came to be seen, as it uniformly did, that they were incompatible with the compacts of the Constitution and the existence of the Union."

The President declares, in so many words, that the citizens of the North generally have made no such claim.

The Senator from Illinois [Mr. TRUMBULL] accuses the President of having falsely said that the Supreme Court of the United States had, in a long series of decisions, declared that Congress had no power to legislate upon the subject of slavery in the Territories. The President has not said that. With reference to the state of the question in September, 1850, when the compromise measures were adopted, the President has said:

"In the progress of constitutional inquiry and reflection, it had now at length come to be seen clearly that Congress does not possess constitutional power to impose restrictions of this character upon any present or future State of the Union. In a long series of decisions, on the fullest argument, and after the most deliberate consideration, the Supreme Court of the United States had finally determined this point in every form under which the question could arise, whether as affecting public or private rights—in questions of the public domain, of religion, of navigation, and of servitude."

The President did say that, in his opinion, the eighth section of the act approved March 6, 1820, which the Senator calls the Missouri compromise, was null for unconstitutionality; but he did not say that the Supreme Court had ever so decided. Is it a thing unprecedented for the President to express in a message to Congress his opinion of the constitutionality or unconstitutionality of any measure? Why, sir, the Journals are full of such precedents.

The Senator from Illinois was not satisfied with this. He asserted that the Supreme Court had decided exactly otherwise; and that assertion has been reiterated by the Senator from Vermont, [Mr. COLLAMER,] and several of his political associates. They all refer to the case of the American Insurance Company *vs.* Canter, (1 Peters, 546.) It is upon that rock they have built their faith, and they can stand nowhere else. The Senator from Illinois represented the court as having there decided that, in the exercise of its jurisdiction over the Territories, Congress employed *all* the powers of the Federal and of a State Government. That was not the language of the court; nor did the court intend any such proposition. What was the question? It is easily stated. A vessel had been driven ashore at Key West, in Florida Territory, and seized as a wreck. The case was then brought before a territorial court, with five or six jurors, according to the Spanish law. An inquest was held on the vessel, and she was condemned as derelict, and ordered to be sold, and the proceeds paid to the salvors. The master of the vessel, when he left her on the high seas, thus abandoned her to the underwriter, to wit, the American Insurance Company; and the underwriter brought an action of trover against the purchaser under the judicial sale, claiming that the territorial court had no jurisdiction in admiralty, and could not take cognizance of a case of wreck; and, therefore, the judicial proceedings were entirely void.

This question came to the Supreme Court for determination. Mark you, sir, it was a question of admiralty jurisdiction. If the territorial court had jurisdiction in admiralty under the Constitution, there was an end of the underwriter's case, because the judgment in admiralty being, as lawyers say, a judgment *in rem*, bound all parties interested in the vessel, and extinguished the claim of the underwriter as well as of the owner. The argument was, that the admiralty jurisdiction of the United States could only be exercised by courts the judges of which had been appointed by the President and confirmed by the Senate. The jurisdiction of the United States in admiralty was admitted to be unlimited as well as exclusive, and, in fact, that has since been decided in so many words. But the proposition was, that the judges of the territorial court had never been appointed by the President and confirmed by the Senate. What did the court answer? The admiralty jurisdiction of the United States can be exercised within the States only by courts whose judges are thus constituted; but as to the Territories, Congress, in the exercise of its general authority to establish and promote a territorial organization, can confer this unlimited

admiralty jurisdiction, which is exclusive in the United States, upon any court it may choose to establish or adopt. Mr. Chief Justice Marshall said:

"It has been contended, that by the Constitution the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction; and that the whole of this judicial power must be vested 'in one Supreme Court, and in such inferior courts as Congress shall from time to time ordain and establish.' Hence it has been argued, that Congress cannot vest admiralty jurisdiction in courts created by the Territorial Legislature."

That was the argument. What was the answer?

"We have only to pursue this subject one step further to perceive that this provision of the Constitution does not apply to it"—

the provision for the organization of courts.

"The next sentence declares, that 'the judges, both of the supreme and inferior courts shall hold their offices during good behavior.' The judges of the superior courts of Florida hold their offices for four years. These courts, then, are not constitutional courts, in which the judicial power conferred by the Constitution on the General Government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general right of sovereignty which exists in the Government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States. The jurisdiction with which they are invested is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress, in the execution of those general powers which that body possesses over the Territories of the United States. Although admiralty jurisdiction can be exercised in the States in those courts only which are established in pursuance of the third article of the Constitution, the same limitation does not extend to the Territories. In legislating for them, Congress exercises the combined power of the General and of a State Government."

Not that Congress exercises *all* the powers of the General and a State Government over the Territories; but that, in reference to admiralty jurisdiction—a jurisdiction exclusively and unlimitedly conferred on the United States by the Constitution—Congress, when providing territorial courts, employ the *combined* power of the General and a State Government. The Supreme Court, in fact, has never considered the general question, or, at least, has never decided it; but if I understand the principles established by that court in a number of decisions, there can be no conclusion except that which the President has indicated. We must understand first what is the authority of each State over the relations of persons within its jurisdiction. That is admirably expressed in a case which possesses some local interest as connected with the State of Kentucky and the State which I represent. I refer to the case of Strader *vs.* Graham, (10 Howard, 93.) It was of this nature: Certain negroes, musicians, who were held as slaves in the State of Kentucky, had been allowed by their master to frequent the State of Ohio, for the purpose of giving exhibitions of their musical attainments; but always returned, after a limited period, to the residence of their master. Afterwards, a boat navigating the Ohio river between Louisville and Cincinnati, permitted these negroes to come on board, and thus they finally escaped from servitude. An action was brought for their value. The court of appeals in Kentucky gave judgment in favor of the master. The case was brought hither to the Supreme Court, upon the proposition that the negroes, having once been allowed to visit the State of Ohio, where slavery did not exist, thereby became free, and could not afterwards be reduced to slavery. What said the court to that?

"Every State has an undoubted right to determine the *status* or domestic and social condition of the persons domiciled within its territory, except in so far as the powers of the States, in this respect, are restrained, or duties are imposed upon them, by the Constitution of the United States. There is nothing in the Constitution of the United States that can in any degree control the law of Kentucky upon this subject. And the condition of the negroes, therefore, as to freedom or slavery, after their return, depended altogether upon the laws of that State, and could not be influenced by the laws of Ohio. It was exclusively in the power of Kentucky to determine for itself, whether their employment in another State should or should not make them free on their return."

Now, sir, let us begin with this proposition, to wit: each State of the Union has an absolute and undoubted right to prescribe the domestic and social condition of all persons within its limits. What is the condition of a new State which presents itself for admission? When Congress shall have admitted it, confessedly, the State will be invested with all the rights and powers of the old States. There cannot be two degrees of States in this Union. It cannot be that some States have greater privileges than others. It must be that, in order to support the Federal Government, each State, new or old, has the same undoubted and absolute right to prescribe the domestic and social condition of all persons within its limits. If such be the attitude of a State just admitted, with what propriety—by what authority under the Constitution, can Congress require, upon the eve of admission as a sovereign constituent of the Union, that a Territory shall submit to conditions which cannot be imposed on a State?

This point was somewhat considered with reference to the State of Alabama; and since it has been debated so much I will endeavor to ascertain what views the Supreme Court does entertain. You will recollect, sir, that the Territory of Alabama was subjected to the ordinance of July 13, 1787, by act of Congress, with an exception of the anti-slavery clause. All other provisions of the ordinance, all the articles of compact except one—for there were six articles, and that in relation to slavery was one of the six—were extended over it. The question was identical, therefore, although the case related to what are called riparian titles. I read from the opinion in Pollard's Lessee *vs.* Hagan, (3 Howard, 212:)

"Taking the legislative acts of the United States, and the States of Virginia and Georgia, and their deeds of cession to the United States, and giving to each separately, and to all jointly, a fair interpretation, we must come to the conclusion that it was the intention of the parties to invest the United States with the eminent domain of the country ceded, both national and municipal, for the purposes of temporary Government, and to hold it in trust for the performance of the stipulations and conditions expressed in the deeds of cession and the legislative acts connected with them. To a correct understanding of the rights, powers, and duties of the parties to these contracts, it is necessary to enter into a more minute examination of the rights of eminent domain, and the right to the public lands. When the United States accepted the cession of the territory, they took upon themselves the trust to hold

the municipal eminent domain for the new States, and to invest them with it, to the same extent, in all respects, that it was held by the States ceding the Territories."

That is to say: Congress, in taking upon itself the control of a Territory, acts as a trustee for specified trusts; and what are those trusts? To invest the new State, when admitted, with all the powers and privileges of an original State of the Union. If that be so—if such be the trust which Congress must discharge toward a Territory, it would be a flagrant violation of its duty as trustee if Congress should, during the territorial form of government, impose any regulation which it has not power to impose on a State at the time of admission.

Again, sir, the court said:

"The right which belongs to the society, or to the sovereign, of disposing, in case of necessity, and for the public safety, of all the wealth contained in the State, is called the *eminent domain*. It is evident that this right is, in certain cases, necessary to him who governs, and is, consequently, a part of the empire, or sovereign power. This definition shows that the eminent domain, although a sovereign power, does not include all sovereign power, and this explains the sense in which it is used in this opinion. The compact made between the United States and the State of Georgia was sanctioned by the Constitution of the United States; by the third section of the fourth article of which it is declared, that 'new States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress.'"

This affords a complete answer to the proposition advanced by the Senator from Vermont yesterday, that, because the United States hold the right of eminent domain in the public lands during the territorial form of government, they are therefore invested with universal legislative power. The court declared that, although the right of eminent domain is a sovereign power, it does not include all sovereign powers, and, among others, does not include legislative authority. Again:

"When Alabama was admitted into the Union, on an equal footing with the original States, she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain, which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession, and under the control, of the United States, for the temporary purposes provided for in the deed of cession, and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands; and if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted."

Yet further:

"By the sixteenth clause of the eighth section of the first article of the Constitution, power is given to Congress 'to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.' Within the District of Columbia, and the other places purchased and used for the purposes above mentioned, the national and municipal powers of government, of every description, are united in the Government of the Union. And these are the *only* cases, within the United States, in which all the powers of government are united in a single Government, except in the cases already mentioned of the temporary territorial governments, and there a local government exists. The right of Alabama, and every other new State, to exercise all the powers of government which belong to, and may be exercised by, the original States of the Union, must be admitted, and remain unquestioned, except so far as they are, temporarily, deprived of control over the public lands."

In the same opinion, the court said:

"We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama or any of the new States were formed, except for temporary purposes, and to execute the trusts created by the acts of the Virginia and Georgia Legislatures, and the deeds of cession executed by them to the United States, and the trust created by the treaty with the French Republic, of the 30th of April, 1803, ceding Louisiana."

Again:

"Whenever the United States shall have fully executed these trusts, the municipal sovereignty of the new States will be complete throughout their respective borders, and they and the original States will be upon an equal footing in all respects whatever."

Once more:

"Alabama is, therefore, entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law, to the same extent that Georgia possessed it before she ceded it to the United States. To maintain any other doctrine is to deny that Alabama has been admitted into the Union on an equal footing with the original States—the Constitution, laws, and compact to the contrary notwithstanding."

That is not the only decision. It is the most elaborate, and, in my judgment, is perfectly conclusive. In in the case of Strader *vs.* Graham, (10 Howard, 95,) to which I have already alluded, the court said:

"But the whole question upon the ordinance of 1787 and the acts of Congress extending it to other territory afterwards acquired, was carefully considered in Pollard *vs.* Hagan, 3 Howard, 212. The subject is fully examined in the opinion pronounced in that case, with which we concur; and it is sufficient now to refer to the reasoning and principles by which that judgment is maintained, without entering again upon a full examination of the question."

Accordingly, the court decided in this case (Strader *vs.* Graham) that the ordinance of July 13, 1787, articles of compact and all, became nugatory and void, as to the State of Ohio, when she was admitted into the Union; and, of course, the same principle applies to Indiana, Illinois, Michigan, and Wisconsin.

These are some of the decisions undoubtedly to which the President referred.

The Senator from Illinois [Mr. TRUMBULL] declares that the Republican party acknowledges the right of a Territory, when it is about to form a State government, to determine whether it will tolerate or exclude slavery. He agrees to the decisions of the Supreme Court in that respect. I have listened with great attention to my colleague on several occasions, but I do not yet understand whether he consents to the proposition. Be that as it may, sir, what will become of that ominous paragraph in the platform of the Republican party of Ohio, to the effect that no more "SLAVE STATES" shall be admitted into this Union? What

becomes of the loud, but as it would now seem entirely delusive, assertion, that the act of March 6, 1820, consecrated Nebraska and Kansas to freedom for all time? How can my predecessor (Governor Chase) and the Senator from Massachusetts, [Mr. SUMNER,] not now in his seat, justify their pronunciamiento against the first Kansas-Nebraska bill, which did not propose to repeal the act of March 6, 1820, but merely declared that those two Territories (when they came to be admitted, *as States*, into the Union) should be admitted "with or without slavery" as their people might determine?

Sir, it seems to me that this dilemma is perfectly fatal. Either the Republicans do claim that Congress shall dictate terms of admission in this particular to a new State—which the Senator from Illinois admits, and which the Supreme Court has decided to be unconstitutional—or else the Republican orators have misled their people into the belief that the Missouri act of 1820 had the character of a *permanent* regulation; whereas it was temporary, and must soon have lost all its effect.

But all these Senators insist that the doctrines of the Republican party must be ascertained from its platform. The Senator from New Hampshire has never seen a man anywhere who advocates the power of Congress to legislate on the subject of slavery within the States. The Senator from Massachusetts has seen several such, and supposes they amount in all to some thousands. The Senator from Illinois says that doctrine has been repudiated distinctly in the Philadelphia platform. The Senator from Maine says the Republicans disavow all connection with men who profess that doctrine.

Mr. FESSENDEN. All connection with their principles.

Mr. PUGH. I accept the qualification. It does not affect the argument. When questioned closely, however, he acknowledges that this disavowal is not contained in the Philadelphia platform; but then he says, it was made in *all* the Republican newspapers. When referred to the New York Tribune, however, he admits that all the Republican newspapers did not pursue that course—but only some of them; which, to be sure, he does not tell us—none that I remember.

Mr. FESSENDEN. I take it that the Senator recollects my explanation. It was that a party in making its platform does not undertake to assert what it does not hold—what it does not agree to—but what are its positive principles; and there was no necessity for the Republican party to set forth in detail what doctrines it did not maintain, but only those which it did hold. That party does not deal in negatives.

Mr. PUGH. It seems to me, with all due respect to the Senator, that proposition cannot avail him. The Cincinnati platform is full of resolutions denying the power of Congress to do this, that, and the other. The platform of the old Whig party was full of such negative resolutions; and, in fact, the Philadelphia platform contains one resolution of that sort. A party is just as much bound to declare its opinion against a particular measure as for it—against a particular course of legislation or a particular claim of power as for it.

Mr. FESSENDEN. Does the Cincinnati platform disclaim all connection with the principles of those men? Does that deny them?

Mr. PUGH. Yes, sir.

Mr. FESSENDEN. Where?

Mr. PUGH. I will show the Senator the difference between the platforms presently.

Mr. FESSENDEN. I do not ask for the difference; I ask where the Cincinnati platform distinctly disavows its disbelief in the principles of the ultra-Abolitionists?

Mr. PUGH. It declares that Congress has no power, directly or indirectly, to interfere with slavery in the States. That resolution is at least twelve years old.

Besides, Mr. President, the second resolution of the Philadelphia platform, if it has *any* signification, affirms that Congress can and should refuse to admit new States into the Union, except upon the condition that slavery shall be forever excluded from their borders; and furthermore, shall so legislate as to abolish slavery in the States which now tolerate it. I have that resolution before me; I will read it:

"2. *Resolved*, That, with our republican fathers, we hold it to be a self-evident truth that all men are endowed with the inalienable right to life, liberty, and the pursuit of happiness; and that the primary object and ulterior design of our Federal Government were to secure those rights to all persons within its exclusive jurisdiction; that as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty, or property, without due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it, to prevent the establishment of slavery in the Territories of the United States by positive legislation prohibiting its existence therein. And we deny the authority of Congress, of a Territorial Legislature, of any individual or association of individuals, to give legal existence to slavery in any Territory of the United States while the present Constitution shall be maintained."

Now, if neither Congress, nor a Territorial Legislature, nor any individual or association, not even a convention of delegates to form a State constitution, can give legal existence to slavery under the Constitution of the United States, as here asserted, there certainly can never be another slaveholding State admitted into the Union.

Mr. FESSENDEN. If the Senator will allow me, I will call his attention to one of the articles of the Philadelphia platform, which reads in this way:

"*Resolved*, That the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, is essential to the preservation of our republican institutions; and that the Federal Constitution, the rights of the States, and the Union of the States, shall be preserved."

Mr. PUGH. It seems to me, with all deference, that nothing is gained by that suggestion. The question, what are the rights of the States, remains to be decided. The Senator and his associates profess to be in favor of the Union. I do not call in question their sincerity; but during the last summer I was astonished, and ashamed, as an American citizen, to read the declaration made, or reported as having been made, by one of their prominent leaders—I mean the present Speaker of the House of Representatives—that he

could look forward to a time when the whole of this country should be consolidated under a central military despotism! That would not be the Union of our fathers; I desire no such Union as that.

But I was endeavoring to state, exactly, two deductions from this paragraph in the Philadelphia platform:

1. If neither Congress, nor a Territorial Legislature, nor any individual or association, not even a convention of delegates to form a State constitution, can "give legal existence to slavery" under the Constitution of the United States, (as here asserted,) there certainly never can be another slaveholding State established or admitted.

2. The resolution does not content itself with a denial of the power of Congress to establish slavery; but declares that a *duty* is imposed on Congress to prohibit "its existence" forever in the Territories, by virtue of a clause of the Constitution particularly specified. That clause (the fifth amendment) applies to the States and the Territories in equal degree; and if it imposes the duty here asserted in respect to the Territories, it can impose no less duty in respect to the States.

That this second resolution was intended to have a larger operation than merely to affirm the power of Congress over the Territories—to prohibit or abolish slavery in them—is evident from the fact, that another and separate resolution (the third) has been devoted to that subject. Here it is:

"That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government, and that in the exercise of this power it is both the right and the duty of Congress to prohibit in its Territories those twin relics of barbarism, polygamy and slavery."

And the platform expressly invites (resolution ninth) the coöperation of those very men whom the Senator from Maine says it repels. Allow me to read one sentence:

"That we invite the affiliation and coöperation of the men of all parties, however differing from us in other respects, in support of the principles herein declared."

If we turn from the platform of the Republican party to the conduct of its members, we shall have equal occasion to be astonished at the declarations which have been made here. I understand the Senators to assert that the Republican party opposes all interference with slavery in the States. Why, sir, there is no question connected with the institution of slavery in the States of more vital concern, than the provision of some effectual method for the redelivery of fugitives to their masters. I have before me an act passed on the 6th of April, 1856, by the Legislature which has reëlected my colleague to this body, the purpose, the inevitable effect of which is to obstruct, and indeed altogether defeat, the execution of the several acts of Congress for the redelivery of fugitive slaves. Similar statutes have been passed by the Legislatures of Vermont, Massachusetts, Connecticut, Michigan, and Wisconsin—bodies which as clearly express the sentiments of the Republican party as did the Philadelphia Convention itself.

It may be objected, however, that the act of September, 1850, is odious. Odious in what particular? Odious, as you all know, because it redelivers the fugitive to his master. That is the odious feature. That it is against which these Senators here protest. I have a resolution, presented by my colleague at the last session, from the Legislature of Ohio, instructing him and me to use our best exertions to procure the repeal of that act at the earliest practicable moment—not its amendment—not the alteration of any objectionable detail—not its reconstruction, but its utter and total repeal, so that the Constitution may remain altogether unsupported by legislation. I have often propounded the question—I will propound it now, probably with no better success than heretofore—what fugitive slave act will these Senators agree to? Why, in the course of all his public career, either as a member of this body, or as a member of his State Legislature, has no one of those Senators ever proposed a bill, unobjectionable in its details, to render effectual the Constitution of the United States in this particular?

If a persistent refusal in every shape and form to render obedience to such a plain provision of the Constitution—and not merely a neglect of duty, but a positive attempt to prohibit and obstruct its performance—if this be not a direct and palpable assault on the relation of slavery within the States, I confess myself unable to understand the English language. What does the Constitution require? The second section of the fourth article provides:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from any such service or labor, but *shall be delivered up* on claim of the party to whom such service or labor may be due."

And yet, as I have said, the present Legislature of Ohio has passed an act arming its probate judges, officers irresponsible in degree, with the power, and commanding all sheriffs and constables under heavy penalties, to wrest from the custody of the marshal of the United States every fugitive slave arrested in obedience to the law which Congress has passed. That the enactment of April 6, 1856, and every one like it, will be declared unconstitutional and void by the Supreme Court on final appeal, I have not the least doubt; but meanwhile what will be the effect? To embroil the States in angry controversies; to give countenance to the ten thousand schemes which have been set on foot by unprincipled and dishonest men, to interfere with the property of others; to renew those disorders and commotions which have done so much to alienate the South and the North for years past.

The Senator from Maine says that the Republicans only object to the extension of slavery into Territories *now* free. The Philadelphia platform contains no such qualification; but declares that slavery is to be excluded from *all* Territories. The platform denies the power of a Territorial Legislature, or even of a constitutional convention, when the Territory is on the eve of admission as a State into the Union, to establish or otherwise tolerate slavery. The Senator from Illinois affirms that such a convention can estab-

lish it; and so in effect the Supreme Court has repeatedly decided.

The platform contradicts itself; for whereas it declares that Congress cannot establish, but must prohibit slavery in the Territories, it also declares that Congress has been clothed with "sovereign power" over them (the Territories) by the Constitution.

In fact, sir, the right of Congress to legislate upon the subject of slavery in the Territories is claimed under this pretense of sovereign power in Congress. *Sovereign power!* Whence is it derived? Not from the Constitution of the United States. There is no such phrase in it—no clause from which any power of that description could reasonably be inferred. What is sovereign power? Here is one of Blackstone's definitions:

"Legislature, as was before observed, is the greatest act of superiority that can be exercised by one being over another. Wherefore it is requisite to the very essence of a law, that it be made by the supreme power. Sovereignty and legislature are, indeed, convertible terms; one cannot subsist without the other."

If Senators only mean to declare that Congress has power to establish, and within the limitations of the Constitution to control a territorial government, I have no serious objection; but such is not their idea at all. The expression "sovereign power" is used in the Philadelphia platform to signify a right to bind, absolutely and arbitrarily, against their will, the inhabitants of the Territories. In other words, it is the power claimed for the English Parliament. Blackstone (1 Black. Com., 160) defines the phrase "sovereign power" in this sense:

"The power and jurisdiction of Parliament, says Sir Edward Coke, is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds."

That is what is claimed in the Philadelphia platform for Congress, as respects the Territories.

"It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal—this being the place where that absolute despotic power, which must in all Governments reside somewhere, is intrusted by the constitution of these kingdoms. All mischiefs and grievances, operations and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal. It can regulate or new model the succession to the crown, as was done in the reign of Henry VIII. and William III. It can alter the established religion of the land, as was done in a variety of instances in the reigns of King Henry VIII. and his three children. It can change and create afresh even the constitution of the kingdom, and of Parliaments themselves, as was done by the act of union, and the several statutes for triennial and septennial elections. It can, in short, do everything that is not naturally impossible; and, therefore, some have not scrupled to call its power, by a figure rather too bold, the omnipotence of Parliament. True it is that what the Parliament doth, no authority on earth can undo."

Mr. Christian adds in a note:

"The omnipotence of Parliament signifies nothing more than the supreme sovereign power of the State, or a power of action uncontrolled by any superior."

The assertion is, that the Constitution has conferred upon Congress sovereign, that is to say, arbitrary, unlimited, absolute power over the citizens of the United States inhabiting the Territories. This claim of "sovereign power" in Congress over the Territories cannot be derived from the Constitution. It is copied, almost literally, from the acts and resolutions of the British Parliament and the speeches of British ministers in the days of George III. That Parliament claimed "sovereign power" over the thirteen American Colonies. Charles Townshend said, in the House of Commons, May 13, 1767:

"It became Parliament not to engage in controversy with its Colonies, *but to assert its sovereignty.*"

It is urged, sometimes, that Congress should govern the Territories as an absolute sovereign, because the territorial organizations are maintained, to a limited extent, by the Federal revenue. The answer (and a conclusive one) is, that the Government of the United States owns an immense public domain in the Territories, and prefers to charge itself with a portion of the territorial expenses rather than to pay its reasonable share of taxes as a landed proprietor.

But the same argument exactly was employed in support of the claim for sovereign power in Parliament over the American Colonies:

"Our interests (it was said) are sacrificed to their interests; we are to pay infinite taxes, and they none; we are to be burdened that they may be eased."—*Bancroft's United States*, vol. 6, p. 64.

The third resolution of the Philadelphia platform finds its original in the resolution proposed by the Duke of Grafton, in the British House of Peers, February 3, 1766:

"That the King in Parliament has full power to bind the Colonies and people of America in all cases whatsoever."

Listening to the speech of the Senator from Vermont yesterday, I was reminded of the famous debate upon this resolution. Senators on the other side will find their speeches aptly counterfeited, or rather anticipated, by one or another of King George's supporters.

Lord Lyttelton said:

"If you exempt the American Colonies from one statute or law, you make them independent communities. If opinions of this weight are to be taken up and argued upon, through mistake or timidity, we shall have Lycurguses and Solons in every coffee-house, tavern, and gin-shop in London."

It was extremely distasteful to his lordship that common people, "squatters," "border ruffians," and the like, should presume to discuss political questions, or even to understand their own interests, much less to decide the nature and character of their own institutions. The Chancellor, Lord Northington, said:

"I cannot sit silent, upon doctrines being laid down so new, so unmaintainable, and so unconstitutional. In every State there must be a supreme dominion; every Government can arbitrarily impose laws on all its subjects, by which all are bound; and resistance to laws that are even contrary to the benefit and safety of the whole is at the risk of life and fortune."

Our historian (Bancroft) remarks in this connection that

"Benjamin Franklin stood listening below the bar, while the highest judicial magistrate of Great Britain was asserting the absolute, unconditional dependence of the Colonies on Parliament, and advising radical changes in their constitutions."

Lord Mansfield also delivered his opinion:

"The colonists, by the condition on which they migrated, settled, and now exist, are more emphatically subjects of Great Britain than those within the realm; and the British Legislature have, in every instance, exercised their right of legislation over them without any dispute or question, till the fourteenth of January last."

As it has been asserted on this floor, that the citizens of your State, Mr. President, and of mine owe but a limited degree of allegiance to the Federal Government, but that when they have passed beyond our borders into the Territories they become subject to an absolute and uncontrollable authority in Congress. And I was reminded of Lord Mansfield by the air of self-complacency with which the Senator from Vermont assured us that this "sovereign" power of Congress over the Territories had never been questioned until within a few years. He, like Lord Mansfield, was amazed at the impudence of new propositions. It was enough for his lordship that the power of Parliament had never been denied; and, like the Senator from Vermont, he scorned to argue such a proposition.

But, sir, there were men even in those days imbued with the spirit of public liberty, to denounce all such doctrines. On the 7th of March, 1766, in the House of Commons, "on the third reading of the bill declaratory of the absolute power of Parliament to bind America," William Pitt, the elder, moved to leave out the claim of right in all cases whatsoever. The historian says:

"The amendment was rejected, and henceforward America would have to resist, in the Parliament of England, as France in its King, a claim of absolute, irresponsible, legislative power."—5 *Bancroft*, p. 444.

And in the House of Lords, Camden—immortal name!—thus delivered his sentiments:

"The declaratory bill now lying on your table is absolutely illegal; contrary to the fundamental laws of this Constitution—a Constitution grounded on the eternal and immutable laws of nature—a Constitution whose foundation and center is liberty—which sends liberty to every subject that is, or may happen to be, within any part of its ample circumference. Nor, my lords, is the doctrine new; it was as old as the Constitution; it grew up with it; indeed, it is its support; taxation and representation are inseparably united; God hath joined them; no British Parliament can separate them; to endeavor to do it is to stab our very vitals. My position is this—I repeat it—I will maintain it to my last hour—taxation and representation are inseparable. Whatever is a man's own is absolutely his own; no man hath a right to take it from him without his consent, either expressed by himself or his representative; whoever attempts to do it attempts an injury; whoever does it commits a robbery."

Our colonial ancestors agreed with Pitt and Camden. For what did Washington, Adams, Jefferson, Hancock, and their illustrious associates, appeal to arms? I will tell you: *because the people of the colonies had no representation in Parliament, and for a legislature to exercise absolute authority—"sovereign power" over a community thus deprived of all influence in its deliberations—was a despotism not to be endured.* Here is what was said by a distinguished Virginian of that day, Richard Bland, in the House of Delegates:

"The Colonies are not represented in Parliament; consequently no new law made without the concurrence of their representatives can bind them; every act of Parliament that imposes internal taxes upon the Colonies is an act of power, and not a right; and power abstracted from right cannot give a just title to dominion."

Our fathers spoke for themselves on this subject. They published to the world a plain and distinct declaration of the causes which drove them to revolution. They arraigned King George upon specific accusations. Here is one of them:

"He has combined with others" [the English Parliament] "to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws—giving his assent to their acts of *pretended* legislation."

Some of these "acts of pretended legislation" were specified:

"For abolishing the free system of English laws in a neighboring province," [Canada] "establishing therein an arbitrary Government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies." * * "For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever."

Our ancestors declared, in the same instrument, as a fundamental proposition, that all Governments derive "*their just powers from the consent of the governed.*"

Now, sir, the inhabitants of the Territories are not represented in Congress; and yet the Republican platform declares that Congress shall exercise absolute, "sovereign," arbitrary power over them. And my colleague says that the Republican party bases itself upon the Declaration of Independence!

My colleague declares that it is not because slavery is inhuman, or immoral, that he will vote for an act of Congress to restrain its extension. Not at all; but only because it is inexpedient. Well, then, he has the less excuse for an unauthorized intervention—an assumption of power not delegated to Congress by the Constitution. One might almost be pardoned for adopting such a course in order to restrain inhumanity or immorality; but when it comes to a mere question of expediency, and nothing else, there can be no justification.

The Senator from Maine would have slavery prohibited in the Territories by act of Congress, because that institution (as he claims) has weakened the States in which it is already established, and he will have no more such States in the Union. And yet he admits that what Congress cannot do directly it ought not to attempt indirectly; and admits, also, that Congress has no power to dictate whether slavery shall or shall not exist within a State. Is it possible for any man to involve himself in a more palpable contradiction than this?

The Senator from Vermont avows, openly, that the object of prohibiting African slavery in the Territories by act of Congress is to prevent its ever being established by the people when those Territories come to be admitted as States; and yet that Senator and the Senator from Maine abuse the President for his conclusion, that the prohibition of slavery in the Territories by act of Congress is but a scheme for dictating, indirectly, the domestic institutions of the new States.

The Senator from Vermont also asserted that citizens of the northern States could not live in relations of domestic peace and quiet in the same

community with citizens of the southern States. The Senator from Mississippi [Mr. ADAMS] attempted to correct him in this particular, but the correction was not accepted. It is a remarkable fact, for which I am indebted to the Senator from Mississippi, that nearly half a million more persons born in the northern States are now actual residents—not sojourners, but actual residents—in the slaveholding States, than there are persons born in slaveholding States residing in the northern States. It appears from the returns of the last census, that

"No less than seven hundred and twenty-six thousand four hundred and fifty were living in slaveholding States who were natives of non-slaveholding States, and two hundred and thirty-two thousand one hundred and twelve persons living in non-slaveholding States who were natives of slaveholding States."

It seems that we have a greater proclivity toward emigration than our southern friends.

Mr. President, it has been charged in the course of this discussion, that the Democratic party in the northern States avoided the real issue during the late presidential canvass. What was the real issue? The Senator from Illinois says it was, whether a Territorial Legislature has or has not power to abolish slavery? I find no such issue propounded in either the Republican or the Democratic platform. The former declares, to be sure, that a Territorial Legislature cannot establish slavery, but fails to declare whether it can or cannot exclude it.

I find that the Republican platform asserts an absolute power in Congress over the Territories: I find that denied in the Democratic platform.

I find the Republican platform insisting upon legislation by Congress to exclude slavery from all the Territories of the United States; I find in the Democratic platform a declaration that Congress has no authority, under the Constitution, to enact such laws.

I find in the Republican platform a substantial assertion of the power of Congress to "prevent" slavery within the States; I find that repudiated, in the strongest terms, by the Democratic platform.

Lastly, sir, I find in the Republican platform an exhortation to the disunionists—whom the Senator from New Hampshire has never seen, but whom the Senator from Massachusetts has seen, and now denounces, and whom the Senator from Maine denounces also, whether he has seen them or not—an exhortation to these and all other factionists, of every sort and hue,

"Black spirits and white,
Red spirits and grey,"

to join a crusade to be prosecuted against the southern States; and, upon the other hand, I find in the Democratic platform an earnest appeal, both to the southern States and the northern States, by all they have attained and all they can hope, by the memories of our heroic age, by the argument of ancient concord, by the adjuration of a common ancestry, a common history, a common glory, and a common destiny, to rise above the squabbles of sectionalism, the arts of demagogues, and all the cant of these distempered times, that they, TOGETHER, in Union and in peace, may run their great careers, and fill the world with fame.

The issue thus joined by the two parties in their platforms has gone to the country; and upon it, after much argument and deliberation, the country has pronounced a final verdict.

The President has clearly interpreted that verdict in one admirable sentence:

"They have asserted the constitutional equality of each and all of the States of the Union as States; they have affirmed the constitutional equality of each and all of the citizens of the United States as citizens, whatever their religion, wherever their birth, or their residence; they have maintained the inviolability of the constitutional rights of the different sections of the Union, and they have proclaimed their devoted and unalterable attachment to the Union and the Constitution, as objects of interest superior to all subjects of local or sectional controversy, as the safeguard of the rights of all, as the spirit and the essence of the liberty, peace, and greatness of the Republic."

The question to which the Senator from Illinois adverts did not enter into the issue; nor is it of the least consequence. What a Territorial Legislature can do, or cannot do, in respect of slavery, is no question for us. If it should exclude slavery, or tolerate slavery, whichever you please, the man who wishes to contest its power, one way or another, can betake himself to the judicial tribunals and have his case decided. The issue is not what a Territorial Legislature can do; the issue is what *Congress* can do; and that, in my opinion, is nothing at all.

If Congress will leave this whole question to the inhabitants of the several Territories, to be decided in each case without its intervention, and when, and as the inhabitants may choose, or may be able, to decide it, we shall have no further occasion of controversy and schism. And Congress must do that, or the Union will totter to destruction.

I do not declare this in a factious spirit; I express only the deliberate convictions of my judgment; and I express them not in anger, but in sorrow.

It is also charged that the Democratic party has not dared, in some of the northern States, to defend the principles and policy of the Kansas-Nebraska act. I should not allude to this at all but for a statement in the Globe newspaper yesterday, purporting to have been made by two of the Representatives from Ohio in the other House of Congress. I have great personal regard for those gentlemen, and do not believe they would intentionally misrepresent the position of their political opponents. Nor can I undertake, at this late hour, to controvert the various details which they have related. The Democratic party of Ohio will be defended in that House at the next session by its own able and gallant champions. Suffice it, for the present, to declare that I do not know a Democrat in the State—and my acquaintance is an extensive one—who dissents from the principles expressed in the Cincinnati platform and embodied in the Kansas-Nebraska bill. There may be such a man: I cannot say that there is none such; but I can say, and will say, that I have not been able to find him. In all the speeches which I heard, and upon all the banners which I saw, during the late canvass, there

was no sentiment I should hesitate to affirm in this presence, or before the Union at large.

Why, sir, we could not have avoided that issue if we had chosen. Besides the Cincinnati platform, which was printed in all the newspapers, and was the theme of incessant discourse, there is the platform of the Democratic State Convention, which assembled at Columbus in January last. It declared

"That slavery is a domestic institution, and that Congress has neither the power to legislate it into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

This is the very language of the Nebraska bill. The platform then adds:

"That the right of the people of each particular State and Territory to establish their own constitution or form of government, to choose and regulate their own domestic institutions of every kind, and to legislate for themselves, is a fundamental principle of all free government; and that it is the self same right to secure which our ancestors waged the war of the Revolution—a right lying at the very foundation of all our free institutions, recognized in the Declaration of Independence, and established by the Constitution of the United States; and we hereby indorse and reaffirm this *now* disputed principle."

These resolutions only assert what the Democratic State Convention of Ohio asserted in January, 1848, upon the issue as then presented. After expressing the opposition of the entire "people" of Ohio, without any distinction of parties, to the institution of slavery, "as an evil, and unfavorable to the development of the spirit and practical benefits of free institutions," the Convention declared:

"*But be it further resolved*, That the Democracy of Ohio do, at the same time, fully recognize the doctrine held by the early fathers of the Republic, and still maintained by the Democratic party in all the States, that to each State belongs the right to adopt and modify its own municipal laws, to regulate its own internal affairs, to hold and maintain an equal and independent sovereignty with each and every State, and that upon these rights the National Legislature can neither legislate nor encroach."

The resolutions of 1856 are but in amplification of this.

I might complain, on the other hand, if it were worth while, as to the course of our opponents. We were charged, and are to this day, with desiring, and in fact designing, to extend the institution of slavery into Territories where it does not now exist. The only pretext upon which this accusation could be founded at all is, that we refuse to vote for any act of Congress to prevent its extension. Well, sir, we believe that Congress has no constitutional authority to pass an act of this description; and that, as it is for the inhabitants of each State, new and old, to exclude or admit slavery at discretion, Congress ought not to usurp their rights and privileges as American citizens during the territorial form of government. To charge us with desiring or promoting the extension of slavery because we cannot vote for a *congressional* prohibition, is quite as illogical and absurd as the accusation, made three or four years ago, that we were in favor of intemperance, vice, and crime, because we would not vote for a law to imprison every man who drank a mouthful of ardent spirits or a glass of wine.

The Senator from Virginia [Mr. MASON] is entitled to his opinion as to the effect of the Constitution upon territorial organizations. I am not bound to agree with him in that opinion, and I do not agree. But that question, as I have said, never can come before us. We have, in the Nebraska bill, disclaimed all jurisdiction on the part of Congress over the subject. I am under no more obligation to have a controversy with him on those questions, than if he should declare the opinion that Indian corn can be cultivated with more advantage by the labor of African slaves than by the labor of hired men, in which opinion I should certainly disagree with him.

I said, sir, that the country had decided between the Republican and Democratic parties. My own State, which I love and cherish with all the affection of a son, did not give her electoral votes for Mr. Buchanan; but 170,903 of her patriotic, honest, and industrious citizens indicated him as their preference. Colonel Frémont received 187,497 votes, and Mr. Fillmore 28,125 votes. This, practically, is a drawn battle; and yet the Senators from New Hampshire and Illinois talk to me of the "overwhelming sentiment" of Ohio in favor of the Republican party and its candidate. I have discovered no such sentiment in my neighborhood. One fact, at least, is beyond question. I shall have eight, and probably nine, Democratic Representatives from Ohio to assist me in the next Congress.

The Senator from New York postpones the further argument of these questions until the next presidential campaign; and my colleague, as well as the Senator from Massachusetts, feels perfectly confident of success then. We have heard all this before. I believe that my colleague prophesied one hundred thousand majority in Ohio for Colonel Frémont; at least if he did not, one of his political friends promised as much in a speech at the Philadelphia Convention.

The Senator from Massachusetts was not only certain of success, as he told us during the last session of Congress, but he assured us, upon one occasion, that the Republican party would soon have a majority in the Senate. That he prophesied on the subject whenever he took the floor is indisputable. Sir, they did not frighten us then—not even when the circumstances were such as to prevent a favorable consideration of this question in the minds of the northern people; and I can assure them, if the contest must be renewed, that we will be as ready to meet them in November, 1860, as we have been heretofore.

For my own part, Mr. President and Senators, I desire and hope that the sectional contest in which we have indulged for almost three years will soon be hushed and forgotten. There are many topics of vital interest to the American people, and to the world, related in this message: of vital interest as connected with foreign affairs, with commerce, and arts, and agriculture, with the colonization of our Pacific domain, with the development of our mighty physical resources and untamed spirit of enterprise. Let us turn from the constant jealousies of the North toward

the South, and the South toward the North, to proceed in that path of national achievement which now invites our care, and challenges our ambition—as the imperial bird of the Republic lifts his proud pinions to soar above the defilements of earth, and the midway clouds, in order to bask in the undimmed glory of the central sphere.