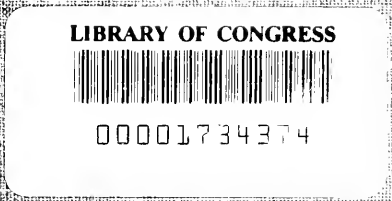

SPEECH

OF

HON. JEFFERSON DAVIS,

OF MISSISSIPPI,

ON HIS RESOLUTIONS RELATIVE TO

THE RIGHTS OF PROPERTY IN THE TERRITORIES, ETC.

DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 7, 1860.

The Senate having under consideration the following resolutions, offered by Mr. DAVIS, of Mississippi:

1. *Resolved*, That in the adoption of the Federal Constitution, the States adopting the same acted severally as free and independent sovereignties, delegating a portion of their powers to be exercised by the Federal Government for the increased security of each against dangers, *domestic* as well as foreign; and that any intermeddling by any one or more States, or by a combination of their citizens, with the domestic institutions of the others, on any pretext whatever, political, moral, or religious, with a view to their disturbance or subversion, is in violation of the Constitution, insulting to the States so interfered with, endangers their domestic peace and tranquillity—objects for which the Constitution was formed—and, by necessary consequence, tends to weaken and destroy the Union itself.

2. *Resolved*, That negro slavery, as it exists in fifteen States of this Union, composes an important portion of their domestic institutions, inherited from their ancestors, and existing at the adoption of the Constitution, by which it is recognized as constituting an important element in the apportionment of powers among the States; and that no change of opinion or feeling on the part of the non-slaveholding States of the Union, in relation to this institution, can justify them, or their citizens, in open or covert attacks thereon, with a view to its overthrow; and that all such attacks are in manifest violation of the mutual and solemn pledge to protect and defend each other, given by the States respectively on entering into the constitutional compact which formed the Union, and are a manifest breach of faith, and a violation of the most solemn obligations.

3. *Resolved*, That the Union of these States rests on the equality of rights and privileges among its members; and that it is especially the duty of the Senate, which represents the States in their sovereign capacity, to resist all attempts to discriminate either in relation to persons or property in the Territories, which are the common possessions of the United States, so as to give advantages to the citizens of one State which are not equally assured to those of every other State.

4. *Resolved*, That neither Congress nor a Territorial Legislature, whether by direct legislation or legislation of an indirect and unfriendly character, possess power to annul or impair the constitutional right of any citizen of the United States to take his slave property into the common Territories, and there hold and enjoy the same while the territorial condition remains.

5. *Resolved*, That if experience should at any time prove that the judicial and executive authority do not possess means to insure adequate protection to constitutional rights in a Territory, and if the territorial government should fail or refuse to provide the necessary remedies for that purpose, it will be the duty of Congress to supply such deficiency.

6. *Resolved*, That the inhabitants of a Territory of the United States, when they rightfully form a constitution to be admitted as a State into the Union, may then, for the first time, like the people of a State when forming a new constitution, decide for themselves whether slavery, as a domestic institution, shall be maintained or prohibited within their jurisdiction; and "they shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

7. *Resolved*, That the provision of the Constitution for the rendition of fugitives from service or labor, without the adoption of which the Union could not have been formed, and that the laws of 1793 and 1850, which were enacted to secure its execution, and the main features of which, being similar, bear the impress of nearly seventy years of sanction by the highest judicial authority, should be honestly and faithfully observed and maintained by all who enjoy the benefits of our compact of union; and that all acts of individuals or of State Legislatures to defeat the purpose or nullify the requirements of that provision, and the laws made in pursuance of it, are hostile in character, subversive of the Constitution, and revolutionary in their effect.

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Mr. DAVIS, of Mississippi, said:

Mr. PRESIDENT: Among the many blessings for which we are indebted to our ancestry, is that of transmitting to us a written Constitution; a fixed standard to which, in the progress of events, every case may be referred and by which it may be measured. But for this the wise men who formed our Government dared not have hoped for its perpetuity; for they saw floating down the tide of time, wreck after wreck, marking the short life of every Republic which had preceded them. With this, however, to check, to restrain, and to direct their posterity, they might reasonably hope the Government they founded should last forever; that it would secure the great purposes for which it was ordained and established; that it would be the shield of their posterity equally in every part of the country, and equally in all time to come. It was this which mainly distinguished the formation of our Government from those confederacies or republics which had preceded it; and this is the best foundation for our hope of a perpetuity to the peace, power, and prosperity our Union has conferred. The resolutions which have been read, and which I had the honor to present to the Senate, are little more than the announcement of what I hold to be the clearly expressed declarations of the Constitution itself. To that fixed standard it is sought, at this time, when we are drifting far from the initial point, and when clouds and darkness hover over us, to bring back the Government, and to test our present condition by the rules which our fathers laid down for us in the beginning.

The differences which exist between distinct portions of the country, the rivalries and the jealousies of to-day, though differing in degree, are exactly of the nature of those which preceded the formation of the Constitution. Our fathers were aware of the conflicting interests of the navigating and planting States, as they were then regarded. They sought to compose those difficulties, and, by compensating advantages given by one to the other, to form a Government equal and just in its operation; and which, like the gentle showers of heaven, should fall twice blessed, blessing him that gives and him that receives. This beneficial action and reaction between the different interests of the country constituted the bond of union and the motive of its formation. They constitute it still, if we are sufficiently wise to appreciate our interests, and sufficiently faithful to observe our trust. Indeed, with the extension of territory, with the multiplication of interests, with the varieties increasing from time to time of the products of this vast country, the bonds which bind the Union together should have increased. Rationally considered, they have increased, because the free trade which was established by the Union of the States has now become more valuable to the people thus united than their trade with the rest of the world.

I do not propose to argue questions of natural rights and inherent powers; I plant my reliance upon the Constitution; that Constitution which we have all sworn to support; that Constitution which, as the civil supreme, we have solemnly pledged ourselves to maintain while we hold the seats we now occupy in the Senate; to which we are bound in its spirit and in its letter, not grudgingly, but willingly, to render our obedience and support; as long as we hold office under the Federal Government; neither in conscience or in conduct can there be for us a higher authority. When the tempter entered the garden of Eden to taint its purity, to blight its peaceful happiness, and induced our common mother to offend against the law which God had given to her through Adam, he was the first teacher of that "higher law" which sets the will of the individual above the solemn rule which he is bound, as a part of every community, to observe. From the effect of the introduction of that teaching of the higher law in the garden of Eden, and the fall consequent upon it, came sin into the world; and from sin came death and banishment and subjugation, as the punishments of sin, the loss of life, unfettered liberty, and perfect happiness followed from that first great law which was given by God to fallen man.

Why, then, shall we talk about natural rights? Who is to define them? Where is the judge that is to sit over the courts to try natural rights? What is the era at which you will determine the breadth, the length, and the depth of those called the rights of nature? Shall it be after the fall, when woman had been made subject, when the earth was covered with thorns, and man had to earn his bread in the sweat of his brow? or shall it be when there was equality between the sexes, when he lived in the garden, when all his wants were supplied, and when thorns and thistles were unknown on the face of the

earth? Shall it be after the flood, when, for the first sin committed after the waters had retired from the face of the earth, the doom of slavery was fixed upon the mongrel descendants of Ham? If it be after the flood, after those decrees, how idle is this prating about natural rights as though still containing all that had been forfeited, as being, in the present condition of man, above the obligations of the civil government? The Constitution is the law supreme of every American. It is the plighted faith of our fathers; it is the hope of our posterity. Then, I come not to argue questions outside of or above the Constitution, but to plead the cause of right, of law and order under the Constitution, and to plead it to those who have sworn to abide by its obligations.

One of the fruitful sources, as I hold it, of the errors which prevail in our country, is the theory that this is a Government of one people; that the Government of the United States was formed by a mass; and therefore it is taken that all are responsible for the institutions and policies of each. The Government of the United States is a compact between the sovereign members who formed it; and if there be one feature common to all the colonies planted upon the shores of America, it was the steady assertion of, and uncompromising desire for, community independence. It was for this the Puritan, the Huguenot, the Catholic, the Quaker, the Protestant, left the land of their nativity, and, by the fires of European persecution, whose shadows pointed to an American refuge of civil and religious freedom. They did not, however, come here with the enlarged idea of no established religion. The Puritans drove out the Quakers; the Church of England men drove out the Catholics. Persecution reigned through the colonies, except, perhaps, that of the Catholic colony of Maryland; the rule was persecution for individual non-conformity. Therefore, I assert the common idea, and the only common idea, was community independence—the right of each independent people to do as they pleased in their domestic affairs.

The declaration of independence was made by the colonies, each for itself. The recognition of their independence was not for the colonies united, but for each of the colonies which had maintained its independence; and so when the Constitution was formed, the delegates were not elected by the people *en masse*, but they came from each one of the States; and, when so formed, it was referred, not to the people *en masse*, but to the States severally, and by them severally ratified and adopted; and this separate, independent action is palpably manifest in the different dates at which it received this approval of the States. From first to last, nearly two years and a half elapsed; and the Government went into operation something like a year, before the last ratification was made. Is it, then, contended that, by this ratification and adoption of the Constitution, the States surrendered that sovereignty which they had previously gained? Can it be that men who braved the perils of the ocean, the privations of the wilderness, who fought the war of the Revolution for community independence, should, in the hour of their success, when all was sunshine and peace around them, come voluntarily forward to lay down that boon for which they had suffered so much and so long? Reason forbids it; but if reason did not furnish a sufficient answer, the action of the States, when making the ratification, disproves it. The great State of New York—great, relatively, then, as she is now—manifested her wisdom in not receiving merely that implication which belongs to the case, and which was accepted as a sufficient assurance by the other States, but she entered her positive assertion of that retention of her sovereignty and power as the condition on which she ratified the Constitution. I read from Elliott's Debates, page 327. Among her resolutions of ratification is the following:

"That the powers of government may be reassumed by the people whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the people of the several States, or to their respective State governments to whom they may have granted the same."

North Carolina, with the Scotch caution which subsequent events have so well justified, in 1788 passed this resolution:

"*Resolved*, That a declaration of rights, asserting and securing from encroachments the great principles of civil and religious liberty, and the inalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of Government, ought to be laid before Congress and the convention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid on the part of the State of North Carolina."

And in keeping with this, North Carolina withheld her ratification; she allowed the Government to be formed by the number of States which was required to put it in operation, and still she remained out of the Union, asserting for herself and recognised as separately possessing the independence which she had maintained against Great Britain, and which she had no idea of surrendering to any other power. The last State which ratified the Constitution, long after it had in fact gone into effect, Rhode Island, in the third of her resolutions, says:

"III. That the powers of Government may be reassumed by the people whensoever it shall become necessary to their happiness. That the rights of States respectively to nominate and appoint all State officers, and every other power, jurisdiction, and right which is not by the said Constitution clearly delegated to the Congress of the United States, or to the departments of Government thereof, remain to the people of the several States, or their respective State governments to whom they may have granted the same."

Here the use of the phrase "State governments" shows how utterly unwarrantable the construction that the reference was to the whole people of the States—to the people of all the States—and not to the people of each of the States severally.

I have spoken of the difference of policies, products, population, constituting the great motive of the Union. It, indeed, was its necessity. Had all the people been alike—had their institutions all been the same—there would have been no interest to bring them together; there would have been no cause for commercial regulation or necessity for restraint being imposed upon them. It was the fact that they differed which rendered it necessary to have some law governing their intercourse. It was the fact that their products were opposite—that their pursuits were various—that rendered it the great interest of the people that they should have free trade; such free trade, said Dr. Franklin, between the States as existed between the counties of England.

Since that era, however, a fibre then unknown in the United States, and the production of which is dependent upon the domestic institution of African slavery, has come to be cultivated in such amounts, to enter so largely into the investments of manufacturers, into the productive wealth of the world, so greatly to add to the employment of the industrious and contribute to the comfort of the poor, that it may be said that little fibre, cotton, wraps the commercial world and binds it to the United States in bonds to keep the peace with us which no government of Europe would likely break. It has built up the great manufacturing cities of the western States. It supports their shipping, the foreign as well as the coast-wise trade. It enables them to purchase in the market of China, when the high premium to be paid on the milled dollar would otherwise exclude them from that market. These are a part of the blessings resulting from that increase and variety of product which could not have existed if our domestic institutions had all been alike; and which would have been lost unless free trade between the United States had been granted and preserved.

And here I will remark that it strikes me as more than wonderful, that a book recently issued has received the commendation of a large number of the representatives of the manufacturing and commercial States, though, apart from its falsification of statistics and low abuse of southern States, institutions, and interests, the feature which stands prominently out from it, is the arraignment of the South for using their surplus money in buying the manufactures of the North. How a manufacturing and commercial people can be truly represented by those who would inculcate such doctrines as these, is to me passing strange. Is it vain boasting which renders them anxious to proclaim to the world that we buy our buckets, our rakes, and our shovels from them? No, they have too much good sense for that; and therefore I am at a loss to understand the motive, unless it be that deep-rooted hate which makes them blind to their own interest when that interest is weighed in the balance with the denunciation and detraction of their brethren of the South.

The great principle which lay at the foundation of this fixed standard, the Constitution of the United States, was the equality of rights among the States. The recognition of this was essential; it was necessary; it was a step which had to be taken, before further progress could be made. It was the essential attribute of sovereignty in the State; the primary condition of a federal compact voluntarily entered into between sovereigns; and it is that equality of right under the Constitution on which we now insist. But more, when the

States united they transferred their forts, their armament, their ships, and their right to maintain armies and navies, to the Federal Government. It was the disarmament of the States, under the operation of a league which constituted a general agent and made the warlike operations, the powers of defence, common to them all. Then, with this equality of the States, with this disarmament of them, if there had been nothing in the Constitution to express it, I say the federal duty to afford protection to every constitutional right would follow as a necessary incident, and could not be denied by any one who could understand and would admit the true theory of such a Government.

We claim protection, first, because it is our right; secondly, because it is the duty of the General Government to ensure it; and, thirdly, because we have entered into a compact together, which deprives each State of the power of using all the means which it might otherwise employ for its own defence. This is the general theory of the right of protection. What is the exception to it? Is there an exception? If so, who made it? Does the Constitution discriminate between different kinds of property? Did the Constitution attempt to assimilate the institutions of the different States confederated together? Was there a single State in this Union that would have been so unfaithful to the principles declared and maintained in their colonial condition, and which had prompted them at a still earlier period, to brave the privations of the wilderness—is there one which would have consented to allow the Federal Government to control her domestic affairs or to discriminate between her institutions and those of her confederate States.

But if it be contended that this is only argument, and that you need authority, I will draw it from the fountain—from the spring before it had been polluted; from the debates in the formation of the Constitution, from the views of those who, it will be admitted, at least, understood what the convention designed to do. Mr. Randolph, it will be recollected, introduced a *projet* for a government, consisting of a series of resolutions. Among them was one which proposed to give Congress the power "to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof." That was, to give Congress the power to coerce the States; to bring the States into subjection to the Federal Government. Now, sir, let us see how that was treated; and first I will refer to one whose wisdom, as we take a retrospective view, seems to me marvellous. Not conspicuous in debate—at least not among the names which first occur when we think of that bright galaxy of patriots and statesmen—he was the man who, above all others, laid his finger upon every danger, and indicated the course which that danger was to take. I refer to Mr. Mason.

"Mr. Mason observed, not only that the present Confederation was deficient in not providing for coercion and punishment against delinquent States, but argued very cogently that punishment could not, in the nature of things, be executed on the States collectively; and, therefore, that such a government was necessary as could directly operate on individuals, and would punish those only whose guilt required it."—*Elliott's Debates*, vol. 5, page 133.

Mr. Madison, who has been sometimes called the father of the Constitution, upon the same question, said:

"A union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound."

Mr. Hamilton, who, to express a judgment by way of comparison, I would say was the master intellect of the age in which he lived—whose mind seemed to penetrate profoundly every question with which he grappled, and who seldom failed to exhaust the subject which he treated—Mr. Hamilton, enumerating the various powers necessary to maintain a Government, said:

"4. Force, by which may be understood *a coercion of laws, or coercion of arms*. Congress have not the former, except in few cases. In particular States, this coercion is nearly sufficient; though he held it, in most cases, not entirely so. A certain portion of military force is absolutely necessary in large communities. Massachusetts is now feeling this necessity, and making provision for it. But how can this force be exerted on the States collectively? It is impossible. It amounts to a war between the parties. Foreign powers, also, will not be idle spectators. They will interpose; the confusion will increase; and a dissolution of the Union will ensue."

The proposition was lost.

In support of universality of this idea of community independence, which I have suggested, the argument may be adduced which arose upon the proposi-

tion least likely to have exhibited it, that to give power to restrain the further importation of African slaves. On that occasion it appears that northern and southern men, arguing and presenting different views, resulting from their different stand-points, yet, all concurred in this, that there should be no power to restrain a State from importing what she pleased. As the Senator from Vermont (Mr. COLLAMER) looks somewhat surprised at my statement, I will refer to the authority. Mr. Rutledge said:

"Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations The true question at present is, whether the Southern States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of slaves, which will increase the commodities of which they will become the carriers."—*Elliott's Debates*, vol. 5, p. 457.

"Mr. PINCKNEY. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress that State has expressly and watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, South Carolina may perhaps, by degrees, do of herself what is wished, as Virginia and Maryland already have done."—*Ibid*, p. 457.

"Mr. SHERMAN was for leaving the clause as it stands. He disapproved of the slave trade; yet, as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it."—Page 457.

"Mr. BALDWIN had conceived national objects alone to be before the convention; not such as, like the present, were of a local nature. Georgia was decided on this point. That State has always hitherto supposed a General Government to be the pursuit of the central States, who wished to have a vortex for everything; that her distance would preclude her from equal advantage; and that she could not prudently purchase it by yielding national powers. From this, it might be understood in what light she would view an attempt to abridge one of her favorite prerogatives.

"If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of ——, which, he said, was a respectable class of people who carried their ethics beyond the mere *equality of men*, extending their humanity to the claims of the whole animal creation."—Page 459.

"Mr. GERRY thought we had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it."—Page 459.

"Mr. KING thought the subject should be considered in a political light only. If two States will not agree to the Constitution, as stated on one side, he could affirm with equal belief, on the other, that great and equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty, whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northern and Middle States."—Page 460.

Here, as will be observed, everywhere was recognized and admitted the doctrine of community independence and State equality—no interference with the institutions of a State; no interference even prospectively, save and except with their consent; and thus it followed that at one time it was proposed to except, from the power to prohibit the further introduction of Africans, those States which insisted upon retaining that power; and finally it was agreed that a date should be fixed beyond which, probably none of them desired to retain it. These were States acting in their sovereign capacity; they possessed power to grant or withhold as they pleased; and that was the view which they took of it. I ask, then, how are we, their descendants, those holding under delegated authority, to assume a power over domestic institutions which they refused to admit, either as a purpose or a function, because opposed to principles eternal and lying at the foundation of the Constitution?

If, then, protection generally be the duty (and who will deny it?) with which this Government is charged, for which the States pay taxes, because of which they surrendered their armies and navies; no exemption, no remission, no exception being made, I ask, in the name of reason and constitutional right—I ask to be pointed to authority by which a discrimination is made between slave property and any other. Yet this is the question now fraught with greatest danger to our country. This has raised the hurricane which threatens to sweep our political fabric before it, to blot out the constellation of the Union from the political firmament of mankind. Does it not become us, then, calmly to consider it, justly to weigh it; to hold it in balances from which the dust has been blown, in order that we may see where truth, right, and the obligations of the Constitution requires us to go?

It may be excusable in one who, from his youth has been connected with a particular party, and has believed that the welfare and the safety of the country most securely rested upon it, who has seen in the triumph of Democracy the triumph of the Union, and who has feared for years past that the downfall of Democracy would be it destruction. It may be permitted, I say, under such

circumstances as these, to such a person as that, to refer in connection with the point which I am discussing, to the recent action of that party in general convention. Delegates from all the States met together to consult as brethren, to see whether they could agree as well upon the candidate as upon the creed for our party, but soon it was apparent that division had entered into our ranks. After days of discussion that party convention was broken. The enemies of Democracy exultingly waited for its funeral, and rejoiced in the blank faces of those to whom the telegraph brought the sad intelligence of Democratic disruption. I hope this darkened sky is, however, but the fleeting cloud of the morning. I have faith in the Democracy, and that it still lives. I have faith that it will, in due time, assert the truth, boldly pronounce it, meet the issue, and I trust in the good sense and patriotism of the people for success.

Not least among the causes for apprehension is the present condition of parties in our country. For a long time two parties divided the people, not the sections, of the United States. The controversy was mainly upon questions of expediency—sometimes of constitutionality. They were not geographical, or constant, and therefore varyingly divided men in all of the States. The contest was sometimes gained by one, and sometimes by the other. The Whig party lives but in history, yet it has a history of which any of its members may be proud. It bore the high, but not successful, part of stemming the tide of popular impulse, and thus failed to attain the highest power. Differing from them upon the points at issue, I offer the homage of my respect to those who, adhering to what they believed to be true, went down sooner than find success in the abandonment of principle. With the disappearance of that party, and perhaps for the very reasons that caused its disappearance, arose radical organizations who so far outran progressive Democracy, that Democracy took the place left vacant by the old Whig party, and became the reservoir of all which remained of conservatism. Therefore it is that so many of those men, eminent in their day, eminent for their services, and in their history, have espoused the Democratic party, in the present condition of the country, as the only conservative element which remains in our politics. In the midst of this radicalism, of this revolutionary tendency, it becomes not the regret of a partisan merely; but of an American citizen that the party on which the best hopes of the country hang is threatened with division, and possibly may not hereafter be, as heretofore, united. Thanks to a sanguine temperament, and to an abiding faith, thanks to a confidence in the Providence which has so long ruled for good the destiny of my country, I believe it will reunite, and reunite upon sound and acceptable principles. At least, this is my ardent wish and earnest hope.

From the postulates which I have laid down result the fourth and fifth resolutions. These are the two which I expect to be most opposed. They contain the assertion of the equality of rights of all the people of the United States in the Territories, and they declare the obligation of Congress to see these rights protected. This presents the subject of federal duties and popular rights in the Territories. I admit that the United States may acquire eminent domain. I admit that the United States may have sovereignty over territory; otherwise the sovereign jurisdiction which we obtained by conquest or treaty would not pass to us. I deny that their agent, the Federal Government, under the existing Constitution, can have eminent domain; I deny that it can have sovereignty. I consider it as the agent of the States—an agent of limited power; and that it can do nothing save that which the Constitution authorizes it to perform; and that, though the treaty or the deed of cession may direct or control, it cannot enlarge or expand the powers of Congress. That the Federal Government is not sovereign, though it has functions to perform, which belong to sovereignty, and those functions I propose now to consider.

The power of Congress to rule over the Territories—a subject not well defined in the Constitution of the United States—has been drawn from various sources by different advocates of that power. Some have found it in the grant of power to dispose of the territory and other public property. That is to say, because the agent was authorized to sell a particular thing, or to dispose of it by grant or barter, for specified purpose, therefore he has sovereign power over that and over all else which the principal constituting him an agent may hereafter acquire! The property, besides the land, consisted of forts, of ships, of armaments, and other things which had belonged to the States in their separate

capacity, and were turned over to the Government of the Confederation, and transferred to the Government of the United States, and of this, together with the land so transferred, the Federal Government was authorized to dispose; and of territory thereafter acquired, of arms thereafter made or purchased, of forts, or custom-houses, or docks, or light-houses, or arsenals thereafter constructed; of all these, of course if it had power to create them, it must, of necessity, have had the power to dispose. It was only necessary to confer power over those things which the Federal Government did not create, those which came to it from the States, and over which they might, as property, have retained control.

I look upon the clause referred to, as giving the mere power to dispose of, for considerations and objects defined in the trust, the land belonging to the United States, none of which then was within the limits of a State, and the other public property which the United States received from the States after the formation of the Union.

I do not agree, however, with those who say the Government has no power to establish a temporary and civil government within a Territory. I stand half way between the extremes of squatter sovereingty and of congressional sovereignty. I hold that Congress has power to establish a civil government; that it derives it from the grants of the Constitution — not the one which has been referred to; and I hold that that power is limited and restrained, first by the Constitution to its defined boundaries, and then within those by every rule of popular liberty and sound discretion, to the narrowest limits which the necessities of the case permit. Congress has power to defend the territory, to repel invasion, to suppress insurrection; to enact the laws necessary to carry out its delegated power, and to see the laws executed. For this, it may have a civil magistracy—Territorial courts. It has the power to establish a Federal judiciary, to which may come up to be decided, from these local courts, questions with regard to the laws and the Constitution of the United States. These, combined, give power to establish a temporary government sufficient, perhaps, for the simple wants of the inhabitants of a Territory, until they shall acquire the population, until they shall have the resources and the interests which justify them in becoming a State. I am sustained in this view of the case by an opinion of the Supreme Court of the United States in 1842, in the case of Pollard's lessee *vs.* P. Hagan, (3 Howard, 222, 223,) in which the court says:

"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."

This was a question of land. It was land lying between high and low water, over which the United States claimed to have and to exercise authority because of the terms on which Alabama had been admitted into the Union. In that connection, the court say in the same case:

"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 purpose provided for in the deeds 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 has 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."

Another case arose, not long afterwards, in which, not land, but religion was involved, where suit was brought against the municipality of New Orleans because they would not allow a dead body to be exposed at a place where, according to the religious rites of those interested, it was deemed they had a right thus to expose it. On that the Supreme Court say, speaking of the ordinance for the government of Louisiana:

"So far as they conferred political rights and secured civil and religious liberties (which are political rights) the laws of Congress were all suspended by the State constitution; nor is any part of them in force, unless they were adopted by the constitution of Louisiana as laws of the State."—*Permoli vs. First Municipality*, 3 Howard, 610.

Thus we find the Supreme Court sustaining the proposition that the Federal Government has power to establish a temporary civil government within the limits of a Territory; but that it can enact no law which will endure beyond the temporary purposes for which such government was established. In other cases the decisions of the court are to the same effect; and in 1855 the then Attorney General, most learned in his profession—and in what else is he not learned, for he may be said to be a man of universal acquirements?—Attorney General Cushing then foretold what must have been the decision of the Supreme Court on the Missouri compromise, anticipating the decision subsequently made in the case of Dred Scott; that decision for which the venerable justices have been so often and so violently arraigned. He foretold it as the necessary consequence from the line of precedents descending from 1842, affirmed and reaffirmed in different cases, and now bearing on a case similiar in principle, and only different in the subject involved from those which had gone before. As connected with the decision which has agitated the peace of the country; as the anticipation of that decision, viewing it as the necessary consequence of the decisions which the court had made before; if it be the pleasure of the Senate, I ask my friend from South Carolina to read for me a letter of the Attorney General, being an official answer made by him in relation to the military reservation which was involved in the question before him.

Mr. CHESNUT read from the Opinions of the Attorneys General, volume 7, page 575:

"The Supreme Court has determined that the United States never held any municipal sovereignty, jurisdiction, or right of soil in the territory of which any of the new States have been formed, except for temporary purposes, and to execute the trusts created by the deeds of cession."

* * * * * * * * * * * *

"By the force of the same principle, and in the same line of adjudications, the Supreme Court would have had to decide that the provision of the act of March 6, 1820, which undertakes to determine in advance the municipal law of all that portion of the original province of Louisiana which lies north of the parallel of 36 deg. 30 min. north latitude was null and void *ab incepto*, if it had not been repealed by a recent act of Congress. (Comp. IV. Stat. at Large, p. 548, and X. Stat. at Large, p. 289.) For an act of Congress which pretends of right, and without consent or compact, to impose on the municipal power of any new State or States limitations and restrictions not imposed on all, is contrary to the fundamental condition of the Confederation, according to which there is to be equality of right between the old and new States 'in all respects whatsoever.'"

Mr. DAVIS. It was not long after this official opinion of the Attorney General before the case arose on which the decision was made which has so agitated the country. Fortunate, indeed, was it for the public peace that land and religion had been previously decided—those questions on which men might reason had been the foundation of judicial decision—before that, which it seems, drives all reason from the mind of man, came to be presented; the question whether Cuffee should be kept in his normal condition or not; the question whether the Congress of the United States could decide what might or might not be property in a Territory. The case being that of an officer of the army sent into a Territory to perform his public duty and who had taken with him his negro slave. The Court, however, in giving their decision in this case—or their opinion, if it suits gentlemen better—have gone into the question with such clearness, such precision, and such amplitude, that it will relieve me from the necessity of arguing it any further than to make a reference to some sentences contained in that opinion. And here let me say, I cannot see how those who agreed on a former occasion that the constitutional right of the slaveholder to take his property into the Territory—the constitutional power of the Congress and that of the Territory to legislate upon the subject—should be a judicial question, can now attempt to escape the operation of an opinion which covers the exact political question which it was known beforehand the court would be called upon to decide. It was known it could not be decided fully, finally, and in strictness of technical language. Hundreds, thousands of cases may arise, centuries may elapse, and leave that court, if our Union still exists, deciding questions in relation to that character of property in the Territories; but the great and fundamental idea was that, after thirty years of angry controversy, dividing the people and paralyzing the arm of the Federal Government, some umpire should be sought which would compose the difficulty and set it upon a footing to leave us in future to proceed in peace; and that umpire was selected which the Constitution had provided to decide questions of constitutional law. I ask my friend to read some extracts from the decision.

Mr. CHESNUT read as follows, from the case of Dred Scott *vs.* Sandford, pp. 55, 56, and 57:

"The Territory being a part of the United States, the Government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out; and the Federal Government can exercise no power over his person or property beyond what that instrument confers, nor lawfully deny any right which it has reserved. * * *

"The powers over person and property of which we speak are not only not granted to Congress, but are in expressed terms denied, and they are forbidden to exercise them. And this prohibition is not confined to the States, but the words are general, and extend to the whole territory over which the Constitution gives it power to legislate, including those portions of it remaining under territorial government, as well as that covered by States. It is a total absence of power everywhere within the dominion of the United States, and places the citizens of a Territory, so far as these rights are concerned, on the same footing with citizens of the States, and guards them as firmly and plainly against any inroads which the General Government might attempt under the plea of implied or incidental powers. And if Congress itself cannot do this—if it is beyond the powers conferred on the Federal Government—it will be admitted, we presume, that it could not authorize a territorial government to exercise them. It could confer no power on any local government, established by its authority, to violate the provisions of the Constitution."

"And if the Constitution recognises the right of property of the master in a slave, and makes no distinction between that description of property and other property owned by a citizen, no tribunal, acting under the authority of the United States, whether it be legislative, executive, or judicial, has a right to draw such a distinction, or deny to it the benefit of the provisions and guarantees which have been provided for the protection of private property against the encroachments of the Government.

"This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights.

"Upon these considerations, it is the opinion of the Court that the act of Congress which prohibited a citizen from holding and owning property of this kind in the territory of the United States north of the line therein mentioned is not warranted by the Constitution, and is therefore void; and that neither Dred Scott himself nor any of his family were made free by being carried into this territory, even if they had been carried there by the owner with the intention of becoming a permanent resident."

Mr. DAVIS. Here, then, Mr. President, I say the umpire selected as the referee in the controversy has decided that neither the Congress nor its agent, the territorial government, has the power to invade or impair the right of property within the limits of a Territory, but is bound to guard and protect it. I will not inquire whether it be technically a decision or not. It is obligatory on those who selected the umpire and agreed to abide by the award.

It is well known to those who have been associated with me in the two houses of Congress that, from the commencement of the question, I have been the determined opponent of what is called squatter sovereignty. I never gave it countenance, and I am now least of all disposed to give it quarter. In 1848 it made its appearance for good purposes. It was ushered in by a great and good man. He brought it forward because of that distrust which he had in the capacity of the Government to bear the rude shock to which it was exposed. His apprehension, no doubt, to some extent sharpened and directed his patriotism, and his reflection led him to a conclusion, from which it was my fortune, good or ill, to dissent, when his letter was read to me in manuscript; I, together with some other persons, being asked, though not by the writer, whether or not it should be sent out as the expression of our political creed. At the first view, I believed it to be a fallacy—and one fraught with mischief; that it avoided the issue which was upon us which it was our duty to meet; but that it escaped it by a side path which led to greater danger. I thought it a fallacy which would surely be exploded. I doubted then, and still more for some time afterwards, when held to a heavy responsibility for the position which I occupied, whether I should live to see that result. It has been more speedily exploded, and to the country with more injurious consequences, than I anticipated. In the mean time, what has been its operation? Let Kansas speak—the first great field on which the trial was made. What was there the consequence? The Federal Congress withdrawing control, leaving the contending sections, excited to the highest point upon this question, each to send forth its army, Kansas became the battle field, and Kansas the cry which well-nigh led to civil war. This was its first fruit. More deadly than the fatal upas, its effect was not limited to the mere spot of ground on which the due fell from its leaves, but it spread throughout the United States; it kindled all the inflammable material which had been for years collected. It was owing to the strength of the

popular respect for our Government and the good sense of the quiet masses, that it did not wrap our country in one wide spread conflagration.

What right had Congress then, or what right has it now, to abdicate any power conferred upon it as trustee of the States? What can we weigh against the great interests of which we are conservators; against the welfare of the country, and the liberty of our posterity to the remotest ages? If any one believes that Congress has not the constitutional power, he acts conscienciously in insisting that Congress do not usurp it. He who believes that the squatters upon the lands of the United States, within a Territory, are invested with sovereignty, having won it by some of those processes unknown to history, without grant or without revolution, without money and without price, adhering to such theory, may pursue it to its conclusion. To the first class, that which claims sovereign power over the Territories, for Congress, I say, turn to the Constitution, and find there the warrant of your authority. Of the second, that of which I have last spoken, I ask, what is there in the Constitution, in reason, right, or justice, to sustain this theory?

The phraseology which has been employed on this question seems to me to betray a strange confusion of ideas. To speak of a sovereignty, a plenary legislative power deriving its authority from an agent; a sovereignty held subject to articles with the formation of which that sovereignty had nothing to do; a compact to which it was not a party! You say to a sovereign, "A and B have agreed on certain terms between themselves, and you must govern your conduct according to them; yet I do not deny your sovereignty!" That is the power to do as they please, provided it conforms to the rule which others chose to lay down! Can this be a definition of sovereignty?

Nothing seems to me more illogical than the argument that this power is acquired by a grant from Congress, connected with the other argument that Congress have not got the power to do the act themselves—that is to say, that the recipient takes more than the giver possessed; that a Territorial Legislature can do anything which a State Legislature can do, and that "subject to the Constitution" means merely the restraints imposed upon both. This is confounding the whole theory and the history of our Government. The States were the grantors; they made the compact; they gave the Federal agent its powers; they inhibited themselves from doing certain things, and all else they retained to themselves. This Federal agent got just so much as the States chose to give, and no more. It could do nothing save by the authority of the grant made by the States. Therefore its powers are not comparable to the powers of the State Legislature, because one is the creature of grant, and the other the exponent of sovereign power. The Supreme Court have covered the whole ground of the relation of Congress to the Territorial Legislatures—the agent of the States and the agent of Congress—and the restrictions put upon the one are there put upon the other, in language so clear as to render it needless further to elaborate the subject.

In 1850, following the promulgation of this notion of squatter sovereignty, we had the idea of non-intervention introduced into the Senate of the United States, and it is admirable to see how that idea has expanded. It seems to have been more malleable than gold, to have been hammered out to an extent that covers boundless regions undiscovered by those who proclaimed the doctrine. Non-intervention then meant, as the debates show, that Congress should neither prohibit nor establish slavery in the Territories. To that I hold now. Will any one suppose that non-intervention then meant that Congress should not legislate at all in respect to property in slaves? The acts which they passed at the time forbid that conclusion. There is a fugitive-slave law, and that abominable law which assumed to confiscate the property of a citizen who should bring it into this District with intent to remove it to sell it at some other time and at some other place. Congress acted then upon the subject, acted beyond the limit of its authority, as I confidently believed; and, if ever that act comes before the Supreme Court, I feel satisfied that they will declare it void. Are we to understand that these men, thus acting at the very moment, intended by non-intervention to deny and repudiate the laws they were then creating? The man who stood most prominently the advocate of the measures of that year, who, great in many periods of our history, perhaps shone then with the brightest light his genius ever emitted—I refer to Henry Clay—has given his own view on this subject; and I suppose he may be considered as the

highest authority. On June 18, 1850, I had introduced an amendment to the compromise bill, providing:

"And that all laws, or parts of laws, usages, or customs, pre-existing in the Territories acquired by the United States from Mexico, and which in said Territories restrict, abridge or obstruct the full enjoyment of any right of person or property of a citizen of the United States, as recognized or guarantied by the Constitution or laws of the United States, are hereby declared and shall be held as repealed."

Upon that, Mr. Clay said:

"Mr. President, I thought that upon this subject there had been a clear understanding in the Senate that the Senate would not decide itself upon the *lex loci* as it respects slavery; that the Senate would not allow the territorial legislature to pass any law upon that question. In other words, that it would leave the operation of the local law or of the Constitution of the United States upon that local law to be decided by the proper and competent tribunal—the Supreme Court of the United States."—*Appendix to Congressional Globe*, Thirty-first Congress, first session, p. 916.

That was the position taken by Mr. Clay, the leader. A mere sentence will show with what view I regarded the dogma of non-intervention when that amendment was offered. I said:

"But what is non-intervention seems to vary as often as the light and shade of every fleeting cloud. It has different meanings in every State, in every county, in every town. If non-intervention means that we shall not have protection for our property in slaves, then I always was, and always shall be, opposed to it. If it means that we shall not have the protection of the law because it would favor slaveholders, that Congress shall not legislate so as to secure to us the benefits of the Constitution, then I am opposed to non-intervention, and always shall be opposed to it."—*Appendix to Congressional Globe*, Thirty-first Congress, first session, p. 919.

Mr. Downs, one of the committee of thirteen, and an advocate of the measures, said:

"What I understand by non-intervention is, an interposition of Congress prohibiting, or establishing, or interfering with slavery."—*Appendix to Congressional Globe*, Thirty-first Congress, first session, p. 919.

By what species of legerdemain this doctrine of non-intervention has been so construed as to paralyse the Government on the whole subject, to exclude Congress from any kind of legislation whatever, I am at a loss to conceive. Certain it is, it was not the theory at that period, and it was not contended for in any of the controversies we had then upon that question. I had no faith in it then; I considered it an evasion; I held that Congress ought to perform its duty; that the issue was before us, and ought to be met, the sooner the better; that truth would prevail if presented to the people; borne down to-day, it would rise up to-morrow: I stood then on the same general plea which I am making now. The Senator from Illinois (Mr. DOUGLAS) and myself differed at that time, as I presume we do now. We differed radically then. He opposed every proposition which I made, refusing to give power to a Territorial Legislature to protect slave property which should be taken there; to remove the obstruction of the Mexican laws; voting for a proposition to exclude the conclusion that slavery might be taken there; voting for the proposition expressly to prohibit its introduction; voting for the proposition to keep in force the laws of Mexico which prohibited it. Some of these votes, it is but just to him I should say, I think he gave in obedience to his instructions; but others of them, I think it is equally fair to suppose, were outside of the limits of any instructions which could have been given before the fact.

In 1854, advancing in this same general line of thought, Congress, in enacting Territorial bills, left out a provision which had usually been contained in them, requiring the legislature of the Territory to submit its laws to the Congress of the United States. It has been sometimes assumed that this was the recognition of the power of the Territorial Legislature to exercise plenary legislation, in the same manner as a State. It will be remembered that, when our present form of Government was instituted, there were those who believed the Federal Government ought to have the power of revision over the laws of a State. This was long and ably contended for in the convention which formed the Constitution; and one of the compromises which was made was, to lodge an appellate power in the Supreme Court to decide all questions of constitutional law.

But did this omission of the obligation to send here the laws of the Territories cede this grant of power to the Territorial Legislature? Certainly not; it could not, and that it did not is proved by the fact that at a subsequent pe-

riod the organic act was revised because the legislation of the Territory of Kansas was offensive to Congress. Congress could not abdicate its authority; it could not abandon its trust; and when it omitted the requirement that the laws should be sent back, it created a *casus* which required it to act without the official records being laid before it, as they would have been if the obligation had existed. That was all the difference. It was not enforcing upon the agent the obligation to send the information. It left Congress as to its power just where the Constitution placed it; which, in 1856, was defined to be for the Territories such non-intervention as was proper in the States and in the District of Columbia. I find myself physically unable to go as fully into this subject as I intended, and therefore omitting a reference to those acts, suffice it to say, that here was the recognition of the obligation of Congress to interpose against a Territorial Legislature for the protection of personal right. That is what we ask of Congress now. I do not ask Congress to go into speculative legislation. I am not one of those who would willingly see Congress enact a a code to be applied to all Territories and for all time to come. I only ask that cases, as they arise, may be met according to the exigency. I ask that when personal and property rights in the Territories are not by existing laws and governmental machinery adequately protected, then the Congress shall intervene and provide such means as will secure in each case, as far as may be, an adequate remedy. I ask no slave code, no horse code, no machine code. I ask that the Territorial Legislature be made to understand before hand that the Congress of the United States does not concede to them the power to interfere with the rights of person or property guarantied by the Constitution, and that it will apply the remedy, if the Territorial Legislature should so far forget its duty—so far transcend its power—as to commit that violation of right. That is the announcement of the fifth resolution.

My colleague arraigned that resolution because it did not go far enough. He thought the mere proposition to act, when necessary, did not meet the case because, he said, the necessity had arisen. To that my answer is, that here I ask the Senate to declare great truths for to-day, and for all time to come; to bring back the popular judgment to the standard of the Constitution; that I am not seeking legislation in these resolutions; I am but making declarations on which legislation may be founded. They will speak a restraining voice to the Territorial Legislatures. They will speak our sentiments as to the rights of person and property, the obligation and duties of the Constitution. It is for that purpose I introduced them; it is for that purpose I seek the vote of the Senate. At some other time I may institute a comparison between these resolutions and their doctrines, and those of some others before us, particularly those of my colleague, who has twice criticised mine, once very harshly when I was detained by illness from the Senate. I will only say now, however, that his second resolution contains what I consider too near an affiliation with his "distinguished friend from Illinois." The admission that every Territory when organized is to exercise legislative power inclines rather too much to the direction of squatter sovereignty. At an earlier period of our history many Territories were organized without a Legislature, with simply a governor and council, and if the Territory of Utah was fitted for anything in the form of civil government, a governor and council are as much as it ever ought to have had. I thus illustrate my opinion by a case in point.

These are the general views which I entertain of our right of protection and the duty of the Government. They are those which are entertained by the constituency I have the honor to represent, whose delegation has recently announced them at Charleston. I honor the men, and cordially endorse their conduct. I think their bearing was worthy of their mother State; and doubt not she will receive them with approving gratitude. They have asserted and vindicated her equality of right. By that assertion I doubt not she will stand. For weal or for woe, for prosperity or adversity, for the preservation of the great blessings which we enjoy, or the trial of a new and separate condition, I trust Mississippi never will surrender the smallest atom of the sovereignty, independence, and equality to which she was born, to avoid any danger or any sacrifice to which she may thereby be exposed.

The sixth resolution of the series declares at what time a State may form a constitution and decide upon her domestic institutions. I deny this right to the territorial condition, because the Territory belongs in common to the States.

Every citizen of the United States, as a joint owner of that Territory, has a right to go into it with any property which he may lawfully under the State government have possessed. These territorial inhabitants require municipal law, police, and government. They should have it, but it should be restricted to their own necessities. They have no right within their municipal power to attempt to decide the rights of the people of the States. They have no right to exclude any citizen of the United States from coming and equally enjoying this common possession; it is for the purpose of preserving order, giving protection to rights of person and property in the Territory, not to prejudice the interests of any State or citizen, that a municipal territorial government should be instituted.

The last resolution refers to a law founded on a provision of the Constitution, one unanimously adopted, and which imposes a special obligation of faith on every State of the Union; but that obligation has been violated by thirteen States of the Confederacy—as many as originally fought the battles of the revolution and established the Confederation. Is it to be expected that a compact thus broken in part, violated in its important features by some, will be regarded as binding in all else by the others? Is the free trade which the North sought in the formation of the Union, and for which the States generally agreed to give Congress the power to regulate commerce, to be trampled under foot by laws of obstruction, not giving to the citizens of the South that free transit across the territory of the northern States which we might claim from any friendly State under Christendom; and is Congress to stand powerless by, on the doctrine of non-intervention? We have a right to claim abstinence from interference with our rights from any government of the earth. Shall we claim no more from that which we have constituted for our own purposes, and which we maintain by draining our means for its support?

We have had agitation, changing in its form, and gathering intensity, for the last forty years. It was first for political power, and directed against new States; now it has assumed a social form, is all-pervading, and has reached the point of revolution and civil war. For it was only last fall that an open act of treason was committed by men who were sustained by arms and money, raised by extensive combination among the non-slaveholding States, to carry treasonable war against the State of Virginia, because, as before the Revolution, and ever since, she holds the African in bondage. This is part of the history and marks of the necessity of the times. It warns us to stop and reflect, to go back to the original standard, to measure our acts by the obligation of our fathers, by the pledges they made one to another, to see whether we are conforming to our plighted faith, and to ask seriously, solemnly—looking each other inquiringly in the face—what we should do to save our country.

This agitation being at first one of sectional pride for political power, has at least degenerated or grown up to (as you please) a trade. There are men who habitually set aside a portion of money which they are annually to apply to what are called "charitable purposes;" that is to say, so far as I understand it, to support some vagrant lecturer, whose purpose is agitation and mischief wherever he goes. This constitutes, therefore, a trade; a class of people are thus supported, employed for mischief, for incendiary purposes, perhaps not always understood by those who furnish the money; but such is the effect; such is the result of their action; and in this state of the case I call upon Senators to affirm the great principles on which our institutions rest. In no spirit of crimination have I stated the reasons why the proposition is made. For these reasons I call upon them to restrain the growth of evil passion, and to bring back the public sense as far as in them lies, by earnest and united effort, if it may be, to crown our country with peace, and start it once more in its primal channel on a career of progressive prosperity and constitutional justice.

The majority section have the power, why not use it? They cannot be struggling for additional power in order to preserve their rights. If any of them ever believed in what is called southern aggression, they know now they have the majority in the representative districts and in the electoral college. They cannot, therefore, fear an invasion of their rights. They need no additional political power to protect them from that. The argument, then, or the pretext on which this agitation commenced, has passed away; and yet we are asked if a party hostile to our institutions shall gain possession of the Government, that we shall stand quietly by and wait for an overt act. Overt act! Is not

a declaration of war an overt act? What would be thought of a country that, after a declaration of war, and whilst the enemy's fleets were upon the sea, should wait until a city had been sacked before it would say that war existed, or resistance should be made? The power of resistance consists, in no small degree, in meeting the evil at the outer gate. I can speak for myself—having no right to speak for others—and do say that if I belonged to a party organized on the basis of making war on any section or interest in the United States, if I know myself, I would instantly quit it. We of the South have made no war upon the North. We have asked no discrimination in our favor. We claim but to have the Constitution fairly and equally administered. To consent to less than this would be to sink to the state of a tabooed caste; would be to degrade our posterity so that they would curse this generation for robbing them of the rights their Revolutionary fathers bequeathed.

Is this expected? Yet it is for the assertion of such thoughts, such intents as these, that we of the South are arraigned as threatening and attempting to menace the North. I understand the art which induces the use of that word "menace." No portion of our people are to be intimidated by threats. They all have much of that sentiment which feels a pride in the perilous hour; and therefore it is that our demand of equal rights, our assertion of the determination never to surrender them, has been tortured into a menace to those with whom we have ever sought to live in peace. It is not a threat, but a warning. A warning given in the spirit of fraternity, when we say to those who have a common destiny, a common interest with us, stop, ere "your tread is on an empire's dust," it is not to destroy, but to avoid the alternative; we call you to the sober reckoning of the account before you. It would be idle to expect us to be satisfied with declarations that the only purpose is to prevent slaves being taken into the Territories. That, if it were all designed, would be the cause of quarrel, because it is offensive, unjust, and, as I have endeavored to show, unconstitutional. We have a recent example, however, teaching a melancholy lesson of the madness and faithlessness of abolitionism. When the British emancipationists met at Old Jewry, they said their only object was to break up the slave trade—the *amis des noirs* of France—at first proclaimed their purpose to be the education of the mulattoes. The new schools progressed with hastening steps to a common goal. The steady growth of their purpose; the terrible catastrophes which ensued; the widespread ruin which now broods over the most fertile portion of the West Indies, proclaim how idle it is to rely on those who set out with no fixed rule of conduct, their imaginations turned loose on the field of mere speculative philosophy, and attempting, upon such a basis, to legislate for public interests. This English teaching, this English philanthropy, is to us what the wooden horse was at the siege of Troy. It has its concealed mischief; it is, I believe, the separation of these States; the ruin of the navigating and manufacturing States, who are their rivals; not the southern States, who contribute to their wealth and prosperity. Yet, strange as it may seem, there only do the seeds they scatter take root. British interference finds no footing, receives no welcome among us of the South; we turn with loathing and disgust from their mock-philanthropy and transparent disguises in relation to the slave trade. We look with sorrow upon the gallant sailors of the United States who perish on the coast of Africa, participating in a scheme which is to people the British islands with Africans sent there from captured slavers. While we are amiably employing our navy and appropriating money to send the captured Africans back, not to their home—they had none—but to a colony founded by the United States, Great Britain transports her captives to her colonial possessions, and there, under the name of apprenticeship, compels them to labor. More horrible still: while preaching a crusade against the domestic institutions of the United States, she is engaged in a trade for a race of men sufficiently high in the scale of creation to value family ties and to feel the sentiment of home — coolies kidnapped; boys tolerably well educated, tradesmen, apothecaries, caught up in China and brought to be sold for a term of years, probably longer than they will live in field labor as cultivators of colonial sugar estates. This offence against nature has met with some solemn retributions. The rising of these miserable captives against the crews of the transports, attests the fraud and cruelty of the traffic. The horrible barbarity with which the trade is pursued, are to be seen in the accounts of wrecks where the hatches are battened down, the ship deserted

by the crew, left beating on the rocks, and these helpless prisoners, without the light of Heaven, or the chance to struggle against their fate, left there to hear the roar of the relentless waves as they rush to complete the destruction begun by equally relentless men. With such manifestations as these, how can she assume to preach philanthropy to us because we hold in bondage a race of men, to whom slavery is the normal state, who never were free; who, for thousands of years, have occupied the condition they did in the American colonies, and do now in the Southern States, and who live in a quietude and happiness which she might be well employed in bestowing on the suffering peasantry of England, and her colonial dependencies of the East.

Among the great purposes declared in the preamble of the Constitution is one to provide for the general welfare. Provision, due and ample, for the general welfare, implies general, cordial fraternity. This Union was not expected to be held together by coercion of the States, the power of force as a mean was denied. They sought, however, to bind it perpetually together with that which was stronger than triple bars of brass and steel — the ceaseless current of kind offices, renewing and renewed in an eternal flow, and gathering volume and velocity as it rolled. Its functions were intended for the security of each, not for the injury of any. It declared its purpose to be the benefit of all. Concessions which were made between the different States in the convention prove the motive. Each gave to the other what was necessary to it; what each could afford to spare.

Young as a nation, our triumphs under this system have had no parallel in human history. We have tamed a wilderness; we have spanned a continent. We have built up a granary that secures the commercial world against the fear of famine. Higher than all this, we have achieved a moral triumph. We have received, by hundreds of thousands, a constant tide of immigrants—energetic, not well educated, fleeing, some from want, some from oppression, some from the penalties of violated law—the men who disturbed the quiet of Europe, we have received into our society; and by the gentle suasion of a Government which exhibits no force, by removing want and giving employment, they have subsided into peaceful citizens, and have increased the wealth and power of our country.

If, then, this temple so blessed, to the roof of which men look for a protection, coextensive with the continent, a shelter and a model to infant republics that need it—if this temple is tottering on its base, what, I ask, can be a higher or nobler duty for the Senate to perform than to rush to its pillars and uphold them, or be crushed in the attempt. We have tampered with a question which has grown in magnitude by each year's delay. It requires to be fairly met; the truth to be plainly told. The practical sound sense of the people, whenever the Federal Government from its high places of authority shall proclaim the truth in unequivocal language, will, in my firm belief, receive and approve it. But so long as we deal like the Delphic oracle, in words of double meaning, so long as we attempt to escape from responsibility, and exhibit our fear to declare the truth by the fact that we do not act upon it, we must expect speculative theory to occupy the mind of the public, and error to increase as time rolls on. But if the sad fate should be ours, for this unwarranted agitation most minute, unworthy cause of dissension, to see our Government destroyed, the historian, who shall attempt philosophically to examine the question, will, after he has put on his microscopic glasses and discovered it, be compelled to cry out, veritably so the unseen insect in the course of time destroys the mighty oak. I hope there is yet time by the full, explicit declaration of truth, to disabuse the public mind, to arouse the popular heart, to expose the danger from lurking treason and ill-concealed hostility; to rally a virtuous people to their country's rescue, who, circling closer and deeper round the ark of their Father's covenant, will bear it to a place of security, there to remain, a sign of fraternity, justice, and equality to our remotest posterity.