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Speech of... January 23 & 25,
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SPEECH

OF

HON. THOMAS CORWIN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

JANUARY 23 AND 24, 1860.

[After some opening remarks on the importance of electing a Speaker, Mr. CORWIN proceeded as follows :

The eloquent gentleman from Mississippi [Mr. BARKSDALE] is very much afraid of the establishment, by the gentleman from Massachusetts, [Mr. BURLINGAME,] of an anti-slavery Bible. Sir, that Bible is a book without which, in my judgment, no society can very well exist and hope to advance in morals or otherwise. And yet I warn gentlemen, North and South, that it is a book which it will not do for us to look to alone to guide us in the organization of political society of the present day. We find, in the historical parts of that book, brief sketches of the laws, usages, and doings, of the people of the Old World, which, if not read and pondered more carefully than such as we are apt to do, may lead to great errors in legislation in this age and country. We find there enacted very much such scenes, thousands and thousands of years ago, as we have been endeavoring to enact in this little sphere of ours—about a tenth part, I suppose, of this habitable globe—which, of itself, to the mind of Isaac Newton, or Herschell, or La Place, if they had not been born and lived here, would seem to be a very insignificant portion of the universe. And yet, one would suppose, from the debates we have had here, that we really believed the happiness of all worlds, and certainly of untold generations, depended upon the election of A or B, to stand up there in that chair, like a “woodpecker tapping a hollow beach tree.” [Great laughter.] That tapping, sir, has been to us, so far, the only exhibition of power or influence belonging to that office, about which we have been in angry con-

test for the last six weeks. We become so accustomed to the sound, that we do not think we are in order unless we hear that tapping. We do not think we are in Congress unless somebody is calling us to order, accompanied, too, by that continuous, ever-recurring tapping.

But, sir, I was referring to the allusion made by the gentleman from Mississippi to the gentleman from Massachusetts, and an “anti-slavery Bible? How is this, sir? One wants an anti-slavery Bible, and he is sure he has it in our present version. Another wants a pro-slavery Bible, and he is equally certain he has it in the same sacred book. Let each be content with his belief, and not interfere *here* with that of his brother; let us not dissolve the Union upon conflicting constructions of the Bible. I think it is certain that those patriarchs held slaves, and that they transmitted them to their children; but they did not make slaves of their own people; and some other things are very certain. This fugitive slave law that we hear so much about: I will not pretend to go into particulars, but I think it will appear that it, or a rule something like it, had its constructions and repeals in the Bible time.

I think that when the bondwoman Hagar left Abraham, with her master's consent, there being some disturbance in his domestic relations, [much laughter,] the boy Ishmael, not being the child of promise, and being in the habit of making impertinent remarks about the conduct of family affairs, [laughter,] was sent off with his mother into the wilderness, with a loaf of bread and a bottle of water. We are told that Hagar, being exhausted and famished by hunger, laid

NOTE.—On the 23d and 24th days of January last, Mr. CORWIN addressed the House at great length in vindication of the doctrines of the Republican party. A pamphlet edition of thirty-two pages of this speech was published; but, as its size and cost prevented its general circulation, the present edition, comprising the material portions of that pamphlet, has been published, to obviate the objection as to size and cost made to the first edition.

the boy down to die, and that the Angel of the Lord came there. If I remember aright, it is so written in that book. And what advice did he give to this bondwoman and her son? The Angel told this woman that she was in very bad circumstances, but not to be discouraged; to pick up the boy and hold him in her hands, for he would become a great filibuster. [Roars of laughter.] That is the English of what the Angel said, when you use our present word for expressing the idea conveyed by the record of this remarkable historical fact. His hand would be against every man, and every man's hand would be against him. That declaration has been literally fulfilled in the progeny of that boy up to this very hour; and the only nation that has made any impression upon his posterity has been the French in Algiers. The French killed off these filibusters, until they have got them into some very imperfect kind of obedience. From the day that the Angel of God made that prophecy in reference to this slave boy, his progeny have gone on filibustering, fighting, and robbing. This good quality they have had, I believe, in all their history: if you broke their bread and tasted their salt, they would die by you. I would that some of our Southern friends would treat some of our Yankee gentlemen as well, when they go amongst them. [Laughter.] The Angel told this mother that she had better go back into slavery. If that Angel had been an agent of the underground railway, then this mother would have been advised to take herself and son off to Canada. [Laughter.]

So much for the historical fact. That very able man who was the father of that boy had another family; and they, in a generation or two after this, were sold into slavery, and so they remained, we are told, for four hundred and seventy years. At the end of that time, God abolished that servitude and repealed the fugitive slave law, very much to the dismay and astonishment of the pursuing masters, and greatly to the gratification of those owing labor and service to them. Then he allowed them to go home—to their Africa, or, to speak without figure, to the home of their fathers. That repeal of the Egyptian fugitive slave bill, on the shore of the Red sea, with all its incidents, is worthy of some notice now, and at all times. We hear much said of women taking part in politics now-a-days. Something very like it occurred on the occasion to which I refer. Just as the bubbling death-groan of the Egyptian host had risen to the surface of the sea, and was borne away upon the hot breath of the winds, a woman, a notable woman, then and there broke forth in a very remarkable triumphal song. Miriam, the sister of Aaron, with all the dark-eyed daughters of the fugitive Hebrew slaves, shouted out, "Sing ye to the Lord, for gloriously hath He triumphed; the horse and his rider hath He cast into the sea." That was their "Hail Columbia." Sir, that song of the prophetess has rung in my ears in day, and often in night time, too. In my dreams of the ultimate destiny of man, I have supposed it would ring in the ears and agitate the souls of men, till the words, "kings and sub-

jects, rulers and ruled," should be lost in two words, "brothers—sisters."

Mr. Clerk, I warn my brethren from the North and my brethren from the South, that they will scarcely agree as to what are the general teachings of the Bible on this subject of slavery as practiced in our times. I think parts of that Book very clearly inculcate the doctrine, which in our republican form of government is held very sacred by us, that the laws of the country, as they were established, should be obeyed by all good citizens. Certainly, Christ and the Apostles taught that they did not come to overturn Governments, but to search into the wicked hearts of men, and subvert the kingdom of Satan therein. The gentleman from Massachusetts, [Mr. BURLINGAME,] I dare say can find some authority satisfactory to him for his doctrine, and the gentleman from Mississippi, [Mr. BARKSDALE,] for his; but both should draw the true moral, as philosophical Christian historians would do, and agree that that Book teaches us one lesson, at least, which in substance is, that in a country like ours, where every man has an agency in the making of the laws, all should render to them obedience, until they shall be made better or be repealed. For unless the laws are generally obeyed, we will have nothing but anarchy organized, which cannot be a condition pleasing to Him who is the common Father of all men. Hence the Republican doctrine is, that the laws of the country ought to be obeyed. I assert that our Republican leaders, generals, colonels, majors, captains, corporals, and privates, all of them, are conservative; and that the Republican party is a law-abiding party; and whosoever believes the contrary, labors under great ignorance of that party and the men who compose it.

Mr. Clerk, I wish to look for one moment at some other facts found in the historical portion of the Bible, having a curious bearing, at least, on this question of negro slavery. We are told in that same Book that the people of the globe, except eight, were destroyed in a deluge. Noah and his family only were preserved. That old patriarch seems to have been remarkable for nothing, so far as I can find out, except for his strong faith in the word of God, and his remarkable nautical adventure. Noah had three sons, from whom have sprung all the people now upon the face of this globe. We are told by sacred, and I think pretty fully, too, by profane historians, that Japhet is the father of our race. We, then, are all children of that man. We have, it is true, to go far back to get at it. He is our original *propositus*. Shem is the father of the migratory, wandering Asiatic family. Ham, it is said, was the father of the negroes. This, I think it will be found, is shown by our accredited historical books. Some have wondered how it happened that Japhet, born of the same mother, son of the same father, should be a gentleman with features and complexion like you and myself; Shem, a yellow fellow, with high cheek bones; and Ham, a negro, with black face and crisp, curled hair. This difficulty is surmounted by one class of ethnologists by attributing the

difference to climatic influences, in which I think there is great plausibility. Be this as it may, the relationship is the same. Japhet, it is agreed, had large acquisitiveness, and hence his superiority; and it may be said, with equal truth, that his children are not deficient in this capital virtue, for such it is held to be in our times by us in this model Republic. They also, it is said, have quick and powerful faculties for numerals; and regard in theory, as well as practice, the multiplication tables as the acme of human knowledge. But let us look at this family imbroglío. We are the sons of Japhet, and the negro is the son of Ham; we are the sons, respectively, of these two brothers; and consequently we, the sons of Japhet, are cousins to Cuffee, he being the son of our uncle Ham. I have often thought if the negro, as seems from this account of us to be probable, had really that relationship to us, that we certainly had not treated our cousin like a gentleman! [Renewed laughter.] * * *

Now, as to the reason, so often demanded of the other side of the House, why the people of the North would prohibit slavery in the Territories of the United States. I shall be prepared, I hope, to discuss this subject without excitement, fully, whenever it properly comes before us, after this House shall organize. But I cannot forbear a hasty view of the subject, even now. It is called for by the great misapprehension of gentlemen on the other side, and the denunciations, founded on that misapprehension, to which we have, up to this time, listened with a most exemplary patience. The Republican party does claim, and has always claimed, and the Democratic party always claimed until about the year 1852, throughout all the North, that Congress had plenary and unquestionable power, under the Constitution of the United States, to prohibit negro slavery in Territories, and that it is the duty of Congress to exert that power whenever slavery did not exist in any Territory where the white man could live and work. My Democratic friend from Ohio [Mr. VALLANDIGHAM] stated here, a few days ago, that the Democratic party had been wrong upon that subject—meaning that they had heretofore conceded this power, and insisted on its exercise. Now, it is certain, to look at it historically, that, in the progress of your Government, the first founders of it did proceed upon that principle. The ordinance of 1787 was made under the old Confederation; it was made by very many of the men who sat in the Convention which formed the present Constitution of the United States; and Virginia, by all her delegates, voted for that ordinance.

What did the men of that day believe? They were wise men, philosophic statesmen. The terrific storm of the Revolution had blown over them; and we all know that the minds of men, after having been much agitated, and relieved from the causes of that agitation, then become so calm that in no period of their lives are they so well situated for cool reason or calm reflection as immediately after such an event. They were Americans. They were Republicans. I do not use the terms in a party sense. They called themselves Republicans. We call our-

selves so now; and we do believe we are following in our principles this day right after them. What I beg anybody to convince me of is, that I am mistaken. When so convinced, if that be possible, I shall surely acknowledge my mistake, and abandon my present convictions. The great, the good as well as great men of 1787 ordained by law that there never should be any slavery in that part of Virginia which had been ceded to the United States by the deed of 1784. Would they have done so, if they had considered slavery to be a good institution? I think not. There was no overruling necessity for such a prohibition, arising out of circumstances unconnected with slavery. It was their belief that the greatest blessing they could bestow upon these five new States was the prohibition of negro slavery. They thought that an industrious, intelligent community of free white men, having no degraded labor among them, was the best community that could be established. I suppose they had read Montesquieu, and believed with him that without virtue, honesty, and intelligence, a Republic is impossible. I suppose that is a maxim on which everybody agrees. They believed that sort of system would be best promoted, in a country where white men can work, by saying that there should be no forced labor there.

I am not considering *now* whether or not these great men were mistaken. I only wish, at this point, to say, that this much-abused Republican party, so much misunderstood to-day, is acting exactly as these men acted in 1787, who, whether under the Constitution or under the Articles of Confederation, forbade slavery in all the North-western country, and forbade it because they thought it, as all their declarations at that time prove, a great evil. What I mean to say—and I hope all sides of this House will understand me to say—is, that if the men of 1787 had believed that slavery was not only a benign institution, but one that was friendly to the white man in that climate, they would not have prohibited it. They were not the kind of men to do anything for party expediency. They were not contending as to who should hammer this House to order. They were laying deep the foundations of this mighty Empire; and they acted under the profound responsibility which such a condition of things imposed. They spoke with sincerity, they acted with sincerity, in the presence of that God who they believed, and I believe, had manifestly bared his right arm in every battlefield of the Revolution in favor of our right of self-government and independence. They, then, seeing that there was a territory not yet comprehended within the limits of any State, having no power to do anything as a State, prohibited the existence of slavery therein. That is what they did; and such men must have done that act for the reason that they believed it right, and thought, as we Republicans think, that slavery is a great evil, at least in any climate where white men and free laborers *can* live and work.

That territory of Virginia, which she claimed under a very old charter, was no longer the territory of Virginia. It was regarded as territory

acquired by the common blood and treasure of the people of the Confederacy, just as your territories won from Mexico; and, under these circumstances, they then declared: "We will, under this Confederation, agree that there shall be no slavery in this territory, thus won by the common blood and treasure of us all." They so ordained; and they made it a matter of compact forever between the existing Government and the States to be formed out of that territory, that every such State should always exclude slavery. I do not say what effect that would have under our modern notions about compacts. Perhaps, in modern times, we might believe that a State, after it came into the Union, no matter what bargain it made to get in, was such a mysterious and omnipotent sovereign, that all obligations passed from it, and ceased to have binding effect. Be this as it may, my purpose is now to show what were the views of those men, the founders of our Government, respecting slavery. That is the fact I wish to show.

Now, then, suppose another Territory to be acquired by the common blood and the common treasure of the United States, in a latitude like that of the Northwestern Territory. The Republican party say, "We will exclude slavery from that Territory, as the framers of the Constitution under the Confederation did exclude it from just such territory as that." And if we do that, are we to be charged with an attempt wilfully to subvert the institutions of this country and to do wrong to the South? If those Old Fathers of the Revolution—our Fathers, the Fathers of our nation, the authors of all that we boast of, and all that is around us—if they acted in this way, may you not pardon us for doing just as they did? Are we not, at least, excusable for entertaining the opinion that it would be better to confine the institution to its present limits, or certainly to exclude it from a new Territory, as they did? If you think they acted well and wisely upon this subject, it is your duty, under like circumstances, to imitate their example, not calculating too seriously, as they did not, about a few dollars' worth of slave property, which you may not be able to sell to, or carry with you into each Territory; but considering, as they did, and pondering, deeply and profoundly, what is to be the effect upon the people who are to live in the Territories from generation to generation and from time to time, during the whole period of man's history in the world. Well, you will say, they may have been wrong. Admit that irreverent, preposterous supposition, and answer me, boastful, self-sufficient Democracy, do you blame us for having an affectionate regard for the memory of those old men, and a fixed belief that their acts were wisely and well done, and might be safely imitated by the Democratic sages of 1860? I hope you will not say that I am out of order, on either side of the House, when I declare, in the presence of God, that I do believe, that if we had twenty of these very men in this House, this question would not even be mooted, and we should have organized in one day. We do not work as they worked;

we do not talk like them; and, worst of all, we do not think as they thought.

Why are we, I ask again, to be denounced as bad men for desiring to act as our fathers acted? We wish to do just what they did under similar circumstances. We desire, if the country gives us the power, to do all things rightly; and in doing so, we turn to the bright examples of better days for our guide. Unhappily for us, the North and the South have no confidence in each other, and madness rules the hour. You think you have diverse and opposing interests. This is all a mistake—a great mistake. Whatever promotes the interest of Alabama and Mississippi is, in a national point of view, equally favorable to the interest of the State of Ohio. One gentleman has spoken of Ohio as an Empire State. If she be such a State, is not Alabama made stronger by her connection with a strong rather than a weak State? In any national conflict, Alabama has a powerful ally. In this view, it is too plain for argument that every State is interested in the prosperity of every other, and each in the prosperity and happiness of all. We are not rivals, we are brothers. And here, I may ask, without egotism, why is young Ohio so powerful? Kentucky is older by many years; whilst, with a climate and soil surpassed by few, perhaps none, in the Union; with a people surpassed by no community for enterprise, for courage, for constancy, for all the qualities which give character and influence and just pride to States, Ohio certainly, from some cause, has very far exceeded her elder sister in developing wealth, population, and all that constitutes a strong and powerful State. Why is this so? The cause, I think, will be found in facts which give Ohio no cause to boast of herself, but in that very institution which forms the topic of all this debate. Kentucky is my native State. I knew her well; I knew her great men, and love them and honor them; but Ohio and her, side by side, joined in heart as well as neighborhood—look at them, and you will see the difference between them to which I refer. There is history, that may be studied with profit, touching this matter.

My colleague [Mr. Cox] spoke of a meeting upon the western reserve in Ohio. He is a young gentleman, a rising man, and, if he does not get bad habits upon the Democratic side of the House, may come to something some day hence. [Laughter.] He amused himself with the comic power he possesses in imitating the nasal twang of the Yankees of that reserve. It scounded strange to you, as it did to him, and so it did to the army of Prince Rupert at Marston Moor, when the ancestors of these men rushed into battle against the mailed chivalry and curled darlings of the court of Charles I. What happened then? Something worthy to be noted, and not forgotten. Stout Cromwell and his unconquerable Ironsides, when the day was well-nigh lost, charged with resistless fury upon the proud columns of that host of gentlemen, as they were boastfully dominated, and lo! Prince Rupert and his host were no longer there. They were scattered as the

dried leaves of autumn are before the storm-blast of the coming winter. That same nasal twang rang out, on that day, their well-known war cry, "the sword of the Lord and Gideon." These Yankees are a peculiar people; they are an industrious, thriving, pains-taking race of men. The frailties of these men grow out of their very virtues, those stern virtues which founded liberty in England, and baptized it in their own blood upon Bunker Hill, in America. They will do so again, if there is a necessity for it. It is a hard matter to deal with men who do verily believe that God Almighty and his Angels encamp round about them. What do they care for earthly things or earthly power? What do they care for Kings, and Lords, and Presidents? They fully believe they are heirs of the King of Kings. In the hour of battle, they seem to themselves to stand, like the great Hebrew leader, in the cleft of the rock; the glory of the most high God passes by them, and they catch a gleam of its brightness. If you come in conflict with the purposes of such men, they will regard duty as everything, life as nothing. So it appeared in our war of the Revolution.

The gentleman from Mississippi [Mr. BARKSDALE] says that the North got more Revolutionary pensions than the South. I do not know how that is. How did it happen? Gentlemen tell me they would not have pensions in the South. I am glad if it be so. I happen to know professionally something of Revolutionary claims for lands. Virginia, when she ceded the Northwestern Territory to the United States, reserved all the lands lying between the Little Miami and Scioto rivers, to satisfy the claims of her troops in the Virginia line on continental establishment. A large district in Kentucky had been taken up to satisfy the same class of claims. All the reservation in Ohio has been absorbed, and still land warrants come, and scrip has been granted; and yet the Virginia line on continental establishment is not yet satisfied. Sir, it has seemed to us that the army of Xerxes might have all claimed and been satisfied before this time. But this is all aside and apart from the proper subject before us. I am not now, never have been, and never will be, one to so far violate history and good taste as to draw invidious distinctions between this or that State or colony, who, by their combined valor, won the independence of all the States. While I must always venerate the men of New England of that day, I still turn with unabated admiration to those of the South, especially to Virginia—glorious "Old Dominion," illustrious alike for her heroes in war and her sages in peace; and if it depend on vote or effort of mine, the last land warrant of the last descendant of her Revolutionary heroes shall be located on lands, if such can be found, rich as the delta of the Nile; in a climate, if it be possible, healthful as was Eden ere yet sin had brought death into the home of the first family of man.

Mr. Clerk, it is my wish to show that the Republican party, which proposes to prohibit slavery in Territories, is in that principle following the example of the men of the Revolutionary pe-

riod, both before and after the adoption of the Constitution. The ordinance of 1787, prior to or rather cotemporary with, the Constitution shows that the men who, under the Confederation, enacted that ordinance, thought it most wise and beneficial towards slave and free States both, to prohibit slavery in the Northwest Territory. Now, if those men were wise men—if they were patriots—then what is the Republican party? It proposes to continue its policy; to imitate their example; to follow in their footsteps; and this is all on the subject of slavery which we propose to do. Were the men of 1787 wrong, then indeed in this particular is the Republican party wrong. If they were right in the policy which dictated the ordinance of 1787, then is the Republican party right, and the Democratic party wrong—totally, entirely wrong. But you say this ordinance was not enacted under the Constitution, but prior to it; and that, under and by virtue of the Constitution, we have no power to prohibit slavery in Territories by acts of Congress. Let us now see what the fathers said on that subject; and, particularly, let us observe what they did. I must insist on the point of examining into what the elder men of the Republic did, for this reason: those men made, pondered, studied, adopted, the Constitution. They had great veneration for it; and all of them who acted under it, whether in legislative, executive, or judicial capacity, took a solemn oath to support and not to violate it. If they were honest, (and I think that we will scarcely dispute it,) then, if they did violate the Constitution, they were ignorant men, and did not understand their own work as well as we sages here assembled. I think the characteristic modesty of this House will scarcely assert the latter proposition!

Passing by many facts in our political history which threw some light on the subject before, let us pause a moment at the year 1820. Not long before this time, we had passed through our second war with Great Britain. At that time, I began to look out upon the political affairs of the world with that interest which both novelty and importance would inspire in all young minds. I read the arguments in the Missouri case with a great deal of care. Although the sentiment of the country was generally against me, I then formed the opinion that Missouri had a right to come into the Union with slavery. I thought that right was founded upon the treaty stipulations by which that Territory was acquired. The treaty, ratified as it was by the Senate, two-thirds of that body concurring, became, in the language of the Constitution, the "supreme law of the land." What was Louisiana when we acquired her? Anybody, who knows the history of the times, will know what she was. A little settlement, old, it is true, but so small in population that it would be made by the Yankees of this day in a very few months. What was the reason of that acquisition? All who have looked into the current history of the West, from 1790 up to about 1803, know that Western men, the ancestors of those who now boast so much of our loyalty to the Union, were threatening to break off from those now living east of the Al-

legations, and to make an independent confederation west of it, and to force free trade to the sea through the mouth of the Mississippi. Jefferson was alarmed, and the whole country was alarmed, as you will see if you read the debates of 1802 and 1803, in and out of Congress, while this matter was going on. Everybody West demanded that we should go into war with Spain, because she would not let us trade through the mouth of the Mississippi; and most eloquent and impressive speeches were made, enforcing the idea that there was danger of a Western secession, unless trade was made easy to the Gulf of Mexico through the Mississippi river. Mr. Jefferson, without any constitutional authority whatever, as he himself thought and openly avowed, authorized our ministers in France to negotiate for the purchase of Louisiana, which had then but recently fallen into the hands of France. It was to avoid war that it was done. That was the motive. It seems by the subsequent purchases of Florida, and more recently of California and New Mexico, that there was authority for acquisition all the while lurking in the treaty-making and war-making powers.

I doubt very much, Mr. Clerk, whether the First Consul, that Little Corporal who was in command in France at that time, would have ever signed a treaty which abrogated any right that the people of the ceded territory then had. We know that when the treaty was completed, it has been always said, and I believe it, that Napoleon refused to put his signature to it, unless we agreed to admit the people of Louisiana into our confederacy of States, with all the rights enjoyed by those who were already in the Union. He was in arms for liberty then; he proclaimed himself then "the armed soldier of freedom," and would not have given up that colony, as he called it, for all you could have offered him, but that he had no navy to protect it. He was at war with England, and he knew that England with her navy would take his colonies from him. He was therefore glad to get rid of them. That Territory would have been a point of weakness to France then, just as Canada would be a point of weakness to England now, if she were in a war with us. That was Napoleon's idea, and that article in the treaty which secured to Louisiana the right to enter into the Confederacy, was inserted at the request of Napoleon, and, no doubt, at that time, it showed his sincere admiration of our Government. He would not sign the treaty till that was put in, in such terms as (treaties being the supreme law of the land) must prevail over any of our notions of slavery. And Louisiana and Missouri would not have been admitted at that day without that clause in the treaty, although I think, without such treaty, they would in time have been admitted without it. I do not say that it was the policy or the wish of the founders of the Republic to disturb the relations of property that existed when they acquired any territory. They left Louisians just as it was; so they did with Florida, in 1819. Slaves were property there when we acquired that territory, and they remained property; and Florida came into the Union with slavery. Arkansas was

admitted in the same way. But in that part of the country comprehended within the Louisiana purchase lying north of latitude $36^{\circ} 30'$, covered by what is called the Missouri compromise line, there was no population—no white men, no slaves, no property to be affected; and therefore slavery could properly be prohibited there. That was the view which the men of 1820 took of that subject. That has been called a compromise; and the legislation of 1850 has been called a *compromise*. Why, I know not. I apprehend that none of the men of that day voted for a law which they believed compromised away or violated the Constitution of the United States. Certainly, no Congress should be lightly charged with such horrible infidelity to themselves and their posterity. They never thought they were violating the Constitution, and compromising it, when they passed the Missouri restriction. They maintained their position of justice and fidelity to compacts. The Constitution had declared that that Constitution, and the treaties and laws made under it, should be the supreme law of the land, overruling all other laws. That omnipotent treaty-making power was not trusted to anything short of two-thirds of that great constitutional body, the Senate of the United States. It was safe to trust it to two-thirds of that body, representing all the sovereign States of the Union.

I have attempted to explain, Mr. Clerk, that we acquired territory, that slavery existed in it as an institution, and that there never was any exercise of the powers of the Government to destroy that local institution, or, if you please, that right. The whole of the Louisiana purchase, so far as slavery was concerned, was left just as it was acquired until 1821, when slavery was prohibited north of $36^{\circ} 30'$. Whether any slaves were held in the country to which the inhibition applied, it is not material, at this day, to decide. My impression is, there were none. However, the men of 1820-21 understood all about the early settlements in the "Louisiana purchase," and the character of those settlements also, much better than we can be supposed to understand them after a lapse of forty years. We know that the men of that day declared that the treaty by which we acquired that territory contained provisions by which we were bound, its obligations being paramount to all law and every other obligation. They admitted Missouri, as I think she would have been admitted if there had been no treaty; perhaps it might not have been within a year or two, but eventually I believe she would have been admitted without the aid of treaty stipulations.

Now, sir, who were *they*, disputing at that time about this question of the benefits of slavery, the disadvantages of slavery, the evils of slavery, looking at it in all its aspects, social, moral, political? They were the men of 1820; they were men who had just emerged from that struggle with Great Britain, second in importance, as they thought, only to that in which they conquered our independence; they rejoiced that they had come out of it with reputation to the country. Their hearts were American. Whether Demo-

crats, Republicans, or Federalists, they were all Americans; all party lines had been obliterated. We know that the period to which I refer was called the halcyon period of the Republic. God knows it *was* a happy day in the public affairs, compared with the present. What did they do? Just what we should do to-morrow, if we were like them. They admitted a slave State because they were bound to do it, either by treaty obligations or by those fraternal relations that must exist between the States; and they said that slavery should never exist in the territory north of Missouri.

You of the South insist that the inhibition of slavery in the territory north of the State of Missouri was unconstitutional. Is it to be supposed that the men of those days did not understand their constitutional obligations? There were Mr. Monroe, and John Quincy Adams, and William H. Crawford—my Georgia friends can understand who I mean when I speak of him—a man, in my memory, quite as illustrious as any citizen that has ever lived in that great State. He was Secretary of the Treasury in the Cabinet of Mr. Monroe. There was Mr. Smith Thompson, afterwards Judge of the Supreme Court—a man whom everybody who knew him will now remember as one possessing great learning in matters of constitutional law, as well as in the common and civil law; a jurist, in the best sense of the word; an old-fashioned man, in the best sense of the word; a man of large and well-furnished head, and sound, patriotic heart. He was Secretary of the Navy. Mr. McLean was not at that time a member of the Cabinet. It remained for General Jackson to bring the Postmaster General into the Cabinet, but he was in familiar association with that Cabinet. But who was he, I ask you, whose only function it was, at that time, to give constitutional law to the Cabinet? Who was the Attorney General, who has nothing else to do but that, or would have nothing else to do, if we had not imposed extra-official duties upon him? William Wirt was the man, a Virginian. I presume my honorable friend from Virginia, who sits before me now, [Mr. Bocock,] would have had some doubt about the propriety of his own opinion upon legal and constitutional points, if Mr. Wirt had differed from him.

John C. Calhoun, of South Carolina, was also a member of that Cabinet. This very question, the power of Congress to prohibit slavery in the Territories, was submitted to that Cabinet. Was Mr. Monroe an Abolitionist? Doubtless, like others of his compeers of that period, he did entertain the opinion, that wherever the white man could labor with advantage, it would be better to prohibit slavery; but that was not the question submitted to him—him of the Revolutionary era; him, an honored and influential patriot, from the time of our independence up to the constitutional era; him, a cotemporary of the Constitution itself, who knew all the motives and reasons, the *pros* and *cons*, why this power was put in, and that was left out, of that instrument—which, as was eloquently remarked the other

day, is so elegant a piece of machinery, that, if it be deranged in a single spring, the whole falls into chaos. This man, a cotemporary of that period, who had studied that complex and delicate work, knew the object of the whole and the function of each of its parts—I ask, did he not understand the uses and design of that work as well, nay, much better, than we, his degenerate successors? That question, I repeat, was submitted to his Cabinet, not a single member of which, I believe, is now alive; and the testimony of Mr. Adams is, that they were unanimously of the opinion that the bill prohibiting slavery in the territory north of latitude 36° 30' was a constitutional law.

From the history of the times to which I now refer, we should all learn to tolerate difference of opinion. Mr. Jefferson thought a great public necessity obliged him to acquire Louisiana, without any warrant in the Constitution for that act. It is not necessary now to recur to the historical facts of that day which formed in the mind of Mr. Jefferson a justification of that act. Louisiana was thus acquired, and all then supposed our territory complete. But after the war of 1812 was ended, we found, or thought we found, another necessity. Florida was a Spanish colony. She was our neighbor, our too near neighbor. Our race, our rapacious race, will not submit to a close proximity with any other race. Many apologies and some reasons were soon found why we should own Florida. Indians abounded there; slaves were *property* there. It was said, and I believe with truth, that these Indians would sometimes steal or spirit away the slaves of our adjoining States, or that slaves would run away into Florida, and fugitive slave bills, as we knew, could not be enforced there. Florida was purchased to adjust this difficulty. Slavery was lawful there, and the Government received it, kept it, and to this day does not pretend to disturb slavery in Florida. It may be remembered that the legislative power of Congress over Territories came before the Supreme Court of the United States as a question directly or incidentally involved in a case which was brought from that Territory, I think in the year 1828. The whole court then agreed that Congress alone could legislate for Territories. It should be borne in mind that this was the same court, but not the same judges, which decided the famous case of Dred Scott. What did Mexico say when she ceded territory to us? She ceded it to the United States; not to South Carolina, or to Georgia, or Massachusetts; but to the United States. She said that the right to make laws for this people is now transferred to the United States. The local laws and regulations in all such cases remain in full force, except where they conflict with the Constitution of the United States. The deed of cession was made to the *Government of the United States*, and that Government, by consequence, has, by virtue of treaty, the power to control the territory. I have given you the opinion of Chief Justice Marshall. There are other decisions of the Supreme Court, which I may hereafter refer to, recognising Congress as the only legislative power which can rightfully

make laws for a Territory, until that Territory becomes a State.

Now, let me look a little to our opinions—the opinions of learned gentlemen elected to represent the people. It was observed by the gentleman from Mississippi, that, in the “compromise” of 1850, as he will continue to call it, the power to make laws for the Territories was abandoned. Now, if any one will look into the laws of 1850, organizing the Territories of New Mexico and Utah, they will find that, while they organized a Legislative Council and a lower House of Representatives, in each of those organic laws they provide, “that the laws made by the Territorial Legislature should be returned to Congress, and if disapproved by Congress, should be null and void.” So far from surrendering this great principle, now become established by judicial decision as well as by the laws of Congress, Congress expressly retained the power to annul the laws of the Territory. Sir, I listened to the debates upon those measures of 1850 for many months. Mr. Webster was, I think, very unjustly condemned by a portion of the people of his own State, because, they said, he surrendered this great right. I have lived too long to be much amazed at anything; but I have been utterly astonished that it should have been asserted by any one that either of the illustrious men who figured in that discussion—Clay or Webster—ever surrendered the power of Congress to prohibit slavery in the Territories of the United States. They declared, in their speeches, that they believed they had that power; but that the territory coming from Mexico was free, and that no power on earth, except Congress, could take slavery there, unless the law-making power of that territory had planted it there before we acquired it. All the courts, State and Federal, up to 1854, had determined that slavery is the creature of local law, or long local usage recognised as lawful, which was but another formula for the expression of that principle.

Mr. Clerk, yesterday I intended to bring before the House the constitutional doctrines held by the Republican party, and compare them with the doctrines held by the founders of the Republic, and thus endeavor to prove, that when we declare that Congress, under our Constitution, has the power to prohibit slavery in the Territories of the United States, before they become States, we propose nothing which is new, either in the principles or policy of those who founded this Government; and that the practice and policy of this Government, up to the year 1854, is in accordance with the doctrines now held by the Republican party of this day. I am sure that the history of the Government, in all its departments—legislative, judicial, and executive—will sustain me in this position. If so, then I shall feel authorized to inquire of gentlemen on the other side, by what authority you dare to denounce us as holding principles fatal to the peace or interests or liberties of the people? Your apology will be, public opinion is changed; the world has changed its opinions touching slavery. I admit that public opinion may have changed in the South, and public opinion in the

North may have been modified somewhat. The public opinion of the world, however, against slavery, is stronger now than it was sixty years ago. I know, from the declaration of Mr. Calhoun himself, that his mind did undergo a change in respect to some constitutional points, and in respect to the propriety and morality of the institution of slavery. But do not gentlemen know that ever since the time when Jefferson said, when he contemplated slavery in this country, he “trembled when he remembered that God is just;” that ever since the time when he declared that “nothing was more certainly written in the book of fate, than that the black man one day would be free;” that from that very time, and even before that time, the whole moral sense of the highest minds of England had been running in the very direction of abolitionism? We know, now, that the slave trade never was legalized by any people upon the face of the earth. We learn it from the great debates in the British House of Commons, when the slave trade was prohibited under the auspices of Wilberforce, Granville Sharp, of Pitt, and Fox; we know that the license given by Elizabeth to Hawkins expressly forbid him from bringing a negro from Africa “by force.” We know that the statute of George II, which was said to legalize that traffic, forbid that any African should be brought away from Africa except by his own consent. England is not so much to blame as we may suppose for initiating the slave trade, though it is true that she and all Europe acquiesced in it.

Mr. Clerk, we know very well that, in the midst of that universal excitement of the public mind which prevailed during the reign of Elizabeth and subsequent reigns, touching the Protestant and Catholic religions, and the establishment of Protestantism, when all the Powers of Europe were engaged in fighting for the success of the Protestant or Catholic Princes; we know that this affair of the slave trade was a subordinate matter, and passed unnoticed. Had England been in the calm which she enjoyed afterwards in the time of James, I very much doubt whether there ever would have been a negro slave brought from the coast of Africa by force. But it has gone, and England, during the last half of the last century, could not boast of any very great mind in her Parliament who was not opposed to the slave trade. And, as the gentleman from Mississippi well said yesterday, after having abolished the slave trade, the very next step was the abolition of slavery in Jamaica; and I will add, with their views of the subject, they were right. Our crime is, that our notions about slavery, its morality and its evils, are such as these men held. I do not now speak of our right, under the Constitution, to touch it anywhere; that I shall come to by and by. Suppose we do hold opinions touching the evils of slavery in common with the greatest minds that have ever illustrated the history of England—the greatest empire, in my judgment, upon earth—in common with the great minds that founded this Republic. Is it fair, because we have not changed, but still adhere to those old opinions,

to charge us with being reptiles, traitors, and serpents? If it is, then dig up from their last resting-place the bones of Jefferson, and hang them up, as royal hatred in England did Cromwell's for many a year. Go to the sacred sarcophagus, now in the hands of the women of this country, and get the bones of Washington today, spit upon them, and throw them into the Potomac. He held the opinion that slavery ought to be abolished when it could be done with safety to both master and slave. No Northern man goes further than that. Gentlemen will find that these things will lead us into singular conclusions after a while. I have shown that those opinions were the opinions which illustrate the history of the world, and that they were openly proclaimed by Southern men, too, of whose greatness we all so justly boast.

I endeavored to show yesterday—of which I shall have more to say presently—that Mr. Monroe's administration had sanctioned the very law which the Republican party say shall be passed with reference to the Territories; and that is all they do say. I grant you they stand upon that; that is the only thing which they have ever announced to the world intelligently, and as a matter of law, and doctrine, and practice. It was the departure from that principle which gave birth to the Republican party. I know that in the platform read here the other day by some gentleman on the other side, there was something said about the inalienable rights of man, and there was a long quotation read from the Declaration of Independence. Now, if it has become a crime to quote the Declaration of Independence, pass a law making it so, and we will obey it. I recollect that the celebrated John Randolph once told a young friend of mine, who was travelling with him abroad, that he (this young gentleman) would live to see the day when men would be called to order for quoting the Constitution in Congress.

It seems now, Mr. Clerk, that a gentleman or a party is entirely out of place when he or it quotes the Declaration of Independence with approbation. But I do not construe it as mad enthusiasts do, at all; nor does the Republican party construe it as they do, as paramount to the Constitution. That Declaration says that every man is born with certain inherent, inalienable rights; these are, life, liberty, and the pursuit of happiness. I suppose that the Almighty intended man to *live*, or he would not have breathed the breath of life into him. Every man has the right to live, but he certainly may forfeit that right whenever he violates the law. I suppose everybody knows that. I have seen it tried. Man has a right to liberty; but, in my State of Ohio, if a man breaks a pane of glass, and takes away a piece of goods from a tradesman's store, all that inalienable right, as it is called, cannot save him, and he is sent to serve ten years in the penitentiary, where he never gets the floor, not even for a personal explanation. [Laughter.] Man has a right to the pursuit of happiness, undoubtedly; but if Brigham Young came into the State of Ohio in the pursuit of happiness, in his way, [laughter,] we

would lead him off to the penitentiary immediately. All these things are understood by men who analyze them. I know that they are too much abused by men who take occasion to use these general expressions—all of which are true in the sense in which these great men use them. They are truly much abused; but I hope that the Republican party will not be blamed for it, for they have as many men in their ranks who understand them properly as you have. We have schools and colleges in the West; but still we believe that there are men on the eastern slopes of the Atlantic, who, comparatively ignorant though they be, do still comprehend these truths. They have a Bunker Hill there which reminds them of certain things. They had a James Otis there, and to him will history certainly award the merit of having inaugurated the doctrines of the Revolutionary war. * * *

I now pass to the question of the *power* of the Congress of the United States. If the men of 1787 were right in their policy, then I think that every gentleman will say that we are equally right in entertaining similar views. If the men of former times had the truth with them in saying that it was better, not alone for the present States, not for the East, nor for the West, not for the North, nor for the South, alone, but for all of them; better for the whole Republic, that the white children of the father should go to a place where they could work well and be healthy; better for these, and better for all, that the children of the white man should have all that unoccupied land, if not too hot for them—if they believed that they were *right* in that, then I say we will find power in the Constitution, if we by fair construction can, to do *that right* thing. I think that I have established the point, at least, that the Republican party proposes to do exactly that which the makers of the Constitution did, a year before the Constitution was made. They got the power to do it under the old Confederation; they had that power, not merely by the consent of the South, but at the urgent request of the South. Now, have we the power under the Constitution to do it?

[Here Mr. Corwin read extracts from laws organizing the Territory of Orleans, to show that, as far back as 1798, Congress had exercised power over slavery in our Territories. He also read from the speeches of Mr. Troup, Louis McLane, and other Southern statesmen, to sustain that power in Congress. He then proceeds to remark:]

The general drift of all these observations of the early men of the country concedes the fact that when a Territory is acquired, it is, before it becomes a State, to be governed by the Congress of the United States, whether you derive that power from the clause of the Constitution which says Congress shall have power to make all needful rules and regulations respecting the territory and other property of the United States, or derive it as an incident to the power to make war, as some contend, or as incident to the power to make treaties without qualification, as others

contend. You see that the power to make laws for a Territory was always considered, under one or the other of these clauses, as belonging to Congress. As that power is without limitation—as there is no possible limitation placed on it by these views of the subject—I maintain that it is just as large a legislative power as the States have in regulating their State policy. I hold, and I may differ from some of my Republican friends, that Congress can enact that slavery shall be in a Territory, or enact that it shall not be in a Territory, just as fully and freely as a State can do the same within its limits.

Let us now recur for a few moments to the legislation of Congress in that portion of the Louisiana purchase lying north of latitude 36° 30'—that part of the purchase now known as Kansas and Nebraska. I was endeavoring to show that the Cabinet of Mr. Monroe had all, upon mature reflection, in 1821, conceded the power of Congress to prohibit slavery in a Territory, as they did in that Missouri restriction. When I quoted the opinions of Mr. Calhoun, it was suggested by the gentleman from South Carolina [Mr. KEITT] that Mr. Calhoun did not approve of it at the time. I have in my hand an extract from a speech of Mr. Calhoun, delivered in the Senate in 1838, when that question came directly before that body. I had, I thought, a very perfect recollection of it; but I did not like to state it positively yesterday. It was made in a debate upon a resolution which he himself had offered, in which he said that any attempt by Congress to abolish slavery in the District of Columbia, upon the ground that it was sinful, would be a dangerous invasion of the rights of the South. He went further, and said that Congress had no right to determine whether the institutions of a State were wicked or righteous. I am very much of that opinion myself. I think every State has sins enough to answer for itself, without interfering with its neighbors. When that subject was under discussion, Mr. Calhoun said:

“He was glad that the portion of the amendment which referred to the Missouri compromise had been struck out. He was not a member of Congress when that compromise was made, but it is due to candor to state that his impressions were in its favor; but it is equally due to it to say that, with his present experience and knowledge of the spirit which then, for the first time, began to disclose itself, he had entirely changed his opinion.”

* * * I think, Mr. Clerk, that if we were in a court of justice, and before a jury, with the fact in dispute whether Mr. Monroe's Cabinet did make these answers affirmatively, and if I were maintaining the affirmative of that proposition, I should be sure to get the unanimous verdict of a sensible jury on that point, on the evidence. I shall therefore assume it as true, as a matter of history, that, in the year 1821, James Monroe, President of the United States; John Quincy Adams, Secretary of State; William H. Crawford, Secretary of the Treasury; John C. Calhoun, Secretary of War; Smith Thompson, Secretary of the Navy; William Wirt, Attorney

General, all agreed, after hearing that debate—going on, as it had been, for two years in Congress—with their minds imbued with all the arguments on both sides, came to the conclusion that Congress did possess, always had possessed, and always would possess, the unqualified power to restrict slavery in the Territories, or to make any other law they pleased on the subject. That is all the sin the Republican party has committed. I believe that Mr. Monroe did know something about the Constitution of the country. I believe that John Quincy Adams did understand something of the nature of this delicate machinery of ours, as it is now called. The Republican party is weak enough to believe that there are some men in the world who have brains in their heads besides themselves. They believe the men of 1821, as well as the great men of 1787 and 1804, all held the doctrines of the Republican party of 1860; and this, I think, I have proved.

Sir, need I now call from their homes in eternity the great and good men who, in 1787, declared that it was not just or politic to permit slavery in the territory northwest of the Ohio, and so ordained? Need I call the shades of Monroe and his Cabinet from the “abodes of the blessed,” to come here into this Hall, and declare again, in the presence of the world, the same doctrines they have declared under just such obligations as now rest upon us? I could wish that this majestic and venerated host could pass in review before the vision of the Democratic members here this day. Each and all would range themselves on the Republican side of this House; for there, and there only, in this House, would they find the principles, policy, and constitutional law, which they proclaimed, acted upon, and established, from the day they broke the yoke of foreign power up to the day when it pleased God to relieve them from their earthly trials, and take them to himself.

Mr. Clerk, I find myself at a loss to understand how it is possible for the gentlemen on the other side to rid their minds of the crushing weight of authority which presses against them, upon this subject, either as to the policy of restricting slavery, or the power of Congress to do it. Will they assert that the men of 1787 were mistaken in the policy, and that Congress and the Executive department, from 1804 to 1821, were mistaken in the point of constitutional power? Where is the enormous egotist to be found, who will assert that *he* understands, to-day, the Constitution of the United States better than President Monroe and his entire Cabinet did in 1821?

Monroe was a patriot and a soldier of the Revolution. He was familiar with all the deliberations of the wise men and all the thoughts and writings of his times which led to the formation of the Union and the adoption of the Constitution. He was an anxious participant in the discussions concerning the powers vested in Congress by that Constitution. He had carefully watched its operations from the time of its adoption up to 1821, when he was called upon, under the responsibilities resting on the highest officer of the Government, to decide whether Congress

possessed the power to prohibit slavery in a "Territory." He was a Virginian, a slaveholder; and, if biased at all, that bias might be expected to incline him against the power. Such a man, such a President, on full deliberation, decided that such power did exist in, and by virtue of, that Constitution, and accordingly approved the act of Congress which exerted that power. John Quincy Adams was his Secretary of State. A child of the Revolution, educated in the principles which brought that Revolution to its glorious conclusion, thoroughly taught and studied in the science of jurisprudence, he brought to this very question all the powers of a mind naturally strong, strengthened and enriched by all the appliances of study, while its operations were freed from all sinister influences, by candor and integrity which even party malignity has never questioned. Adams was a Northern man, and not a slaveholder. He, too, agreed with Monroe, the Southern slaveholder. William H. Crawford, of Georgia, was then the Secretary of the Treasury. He was a Southern man, and a slaveholder. He was at that time a most notable man among men who were indeed worthy of notice—a man of austere virtues, and yet of kindly and generous nature. But, above almost all men of his time, he was remarkable and remarked for carrying what is called "strict construction" to great extremes. Every power not clearly granted, in terms, to the Federal Government, was, by him and his school, denied to the Government, and reserved to the States or the people; and this, too, whether such power were claimed for the executive, or legislative, or judicial department. In this characteristic he stood in perfect contrast with his colleague in the War Department, Mr. Calhoun, who then held doctrines on this subject condemned by Mr. Crawford and his school as dangerous, as latitudinarian. Mr. Crawford had been much in public life; had studied—as men of that day did—the Constitution, and all other forms of civil polity found in libraries accessible to them. His name and character will long live in the esteem of all Georgians, as well as in that of all Americans who venerate the wise and good. Crawford, strict constructionist as he was, slaveholder as he was, admitted that Congress had power to prohibit slavery in a Territory. John C. Calhoun was also in this Cabinet council of 1821. He was then Secretary of War. He was a South Carolinian, and a slaveholder; a man of rare powers of mind, quick in discerning the point of merit in any question. His power of "generalization" was greater and more rapid in its processes than that of any man with whom I have had the good fortune to be acquainted. All Southern as he was, he, too, admitted this power to subsist in Congress; and, as I think I have shown, gave his written opinion to that effect under all the grave responsibilities of a "Cabinet minister." Smith Thompson, of New York, was then Secretary of the Navy. This gentleman is better known to the world as a Judge of the Supreme Court of the United States, to which place he was transferred on account of his accurate and profound knowledge of law—law as a science—comprehending all

subjects embraced in what are denominated national and municipal law. He was a Northern man, and to the four others I have enumerated he added the great weight of his opinion, concurring with them fully and entirely.

But who was he, the then Attorney General of that Cabinet?—he whose entire official duty it was to advise the President and each one of the Cabinet on questions of law? Mr. Wirt was that Attorney General—a name known and respected by all lawyers who know anything of law; a name equally known and respected by all, of all classes and professions, who admire true intellectual greatness combined with amenity of manners and amiability of temper that won the affections of all hearts; a man of such rich and diversified intellect, that while he toiled in the profoundest depths of the richest mines of legal learning, yet found leisure and had the taste to gather from the gardens of polite letters some of the richest and rarest of their fruits and flowers; and, to crown all, he was gifted with an eloquence that charmed and enraptured all who heard him. To this Virginian, this slaveholder, this all-accomplished mind, our Republican platform of this day was submitted. It was not then a great spring-board whence some insane aspirant for Presidential power was to leap into the coveted Executive chair; it was not then a principle to be used only for the occasion, and to be announced to the world amid the hoarse clamor of popular strife, and then abandoned at the end of four years for some novelty more captivating to the popular ear. It was argued, considered, and decided, by such men as I have named, at a time when the old party names, Federalist and Republican, had ceased to have a meaning; when the beacon fires of party war were quenched in the pure waters of a pervading American patriotism.

As the Republican platform (so much derided and condemned now by learned gentlemen of the Democratic party) now reads, so did the great tribunal to which I am now referring decide the law of the Constitution. To this august court I appeal, from the hasty opinions of your modern politicians and the teachings and paragraphs cut from obscene newspapers. To that tribunal I summon, for judgment and sentence of death, these new notions which teach us that this same Constitution, which in 1821 permitted Congress to forbid slavery in "Territories," now, in 1860, tramples Congress and its power, scoffs at all power, Federal or Territorial, and bears slavery, as the phrase goes, "*suo proprio vigore*," into all Territories; and only pauses to bow with royal courtesy to the crowned and sceptred majesty of State Constitutions. Hither, also, do I summon that other modern partisan war-cry, "popular sovereignty," born of the partisan struggles of 1854. From the heated furnaces of political strife, this fire went forth. It shed its baleful light over Kansas for three troubled years; blazed up to noon-tide, and then, like a tropical sun, dashed down the sky, cast a lurid blaze over the chaos it had created, and sunk, quenched in blood, leaving behind it only the spectral

images of confusion and war which its brief day had evoked into life.

Mr. Clerk, in treating this subject of the power of Congress over Territories, the object of our inquiry is to ascertain whether any clause in the Constitution gives, in terms or by fair implication, the power in question. In all such cases the inquiry is, what is the true intent and meaning of the Constitution? The words employed are to be carefully criticized; and if they be *plainly* such as to give or deny the power, then the meaning is ascertained. If doubts arise, however, from an examination of the words employed, it is always safe to ascertain, in other modes, what they did mean who wrote and enacted these words. Hence, the acts of individuals, done in performance of their own written engagements, show what they understood their own written contracts to mean. So the conduct of nations in the execution of treaties is always resorted to show what each nation understood its treaty contracts to bind it to perform. This plain rule of good sense, when applied to Constitutions or legislative enactments, is called "contemporaneous construction."

Sir, we know that while the Convention that formed the Constitution was in session, in the year 1787, the old Congress, under the old Articles of Confederation, passed the celebrated ordinance of 1787, whereby that Congress did enact that there should be "no slavery or involuntary servitude" in the then Northwestern Territory. It is only reasonable to suppose that the Convention then in session, seeing this power exerted by Congress under the old Government, should conclude that the same ought to be granted to Congress in the *new* Constitution, which was to supersede the old "Confederation." Accordingly we find a clause inserted, which says:

"Congress shall have power to make all needful rules and 'regulations' concerning the territory and other property of the United States."

The men who enacted the ordinance of 1787, and those who formed the Constitution, were many of them the same persons. Is it not an irresistible conclusion that they did intend, by the clause I have quoted, to confer the same power upon Congress by that clause which they had in the old Congress, in the same year, themselves exerted, by virtue of the powers given to Congress by the "Articles of Confederation," under which they then acted? Let us not be told that the power "to make all needful rules and regulations concerning the territory" was inserted in haste, or was not well examined and well understood. Before the Constitution was adopted, and after it was formed, it underwent the closest scrutiny. The public prints teemed with criticisms upon all its provisions. State Conventions debated it with all the interest its vast importance naturally elicited, and with all the power which the greatest minds, in that age of truly great men, could bring to the discussion. They knew the meaning and import of every word, and the extent and intent of every power granted to each branch of the new Government. Now, we also know that the leading men in the Convention that formed this Constitution were many of

them leading and active men in the legislative, judicial, and executive departments of the Government under this Constitution. In every office they may have thus held, they took a solemn oath to "observe the Constitution," it being the same they themselves had made. We must admit, therefore, that *they* did not intend to violate any clause in that Constitution. Even the Democratic party will not assert that the great men of that day would be likely to commit perjury, and, in doing it, destroy their own great work; for all of them regarded the Union under that Constitution as furnishing the only hope remaining to them and their posterity, of realizing their long-cherished object, rational freedom regulated by law. Did not they think they had the constitutional power to do that? They did it in 1798; they did it in 1804; they did it in 1820. These were fathers of the Revolution; the apostles were there, making their own commentary upon their own gospel; and this was the commentary: that Congress makes laws for the territory, composed as it was of a heterogeneous and discordant population, not likely to agree among themselves upon any system of civil polity. We treat them as infants. We, owning the country, are the proper legislative power to give it laws. That is the way they treated it; and I never shall believe that they intended that that power should not be there when they made the Constitution. If they had not intended it to be there, they never would have exerted it. They would have asked for an amendment of the Constitution if they had thought it necessary; but they went right forward, and exerted the power, because they knew the power to be there. One of two conclusions you must come to, or admit the full weight of my authorities: either that these men violated the Constitution which they had sworn to support, knowingly and wilfully, or that they, the makers and contemporaneous exponents of the Constitution, did conscientiously believe that it gave them this power. Who knows so well what he meant to do, what he meant to say, and what he meant to inculcate, as the author of the book himself? And if he be honest, he will always give you the true meaning. Thus we have this constitutional gospel delivered to us by no remote posterity, not acquainted with the writers; by no commentator or historian at all; but by the fathers, the very men themselves who wrote the book. And we, of the Republican party, are to be charged with treason, and with an odious attempt to disrupt this glorious Union which these very men made for us; we are to be denounced for believing these opinions to be right, instead of believing the doctrines of modern commentators on that Constitution, who have found out that the authors of it did not know what they meant!

Now we have got through with the legislative and executive history of this Constitution of ours. I was stating yesterday what the Supreme Court had done. A friend of mine has been kind enough to furnish me with a speech made by a gentleman in the Senate, who has collected the very authorities to which I wanted to refer. From that I shall read to show what the Judi-

ciary think about this matter. As I said yesterday, such is the structure of our Government, that, if there be any dispute about the constitutional power of Congress in making a law, and an individual right comes in question, so as to give the judicial department of the Government cognizance of it, and they decide that the law is unconstitutional, I know of no relief against that decision, if it shall be wrong.

I wish to show what the judicial department of the Government thought of this power of Congress to govern the Territories. There is a case referred to, which I had not before me yesterday, and I have been unable to get the book from the Library this morning. I take it for granted that it is here correctly referred to, and that the quotations are correct. It is the case of *Sere vs. Pitot*. It occurred in 1810, and is reported in 6 Cranch, page 336. The Supreme Court of the United States, without a dissenting voice, in the most explicit language, then declared "that the power of governing and legislating for a Territory is the inevitable consequence of the right to acquire and hold it."

Let me advert to that Supreme Court. Who were upon the bench of the Supreme Court at that day? Look at the judicial records of the country. There was John Marshall, and all of them like him in great qualities of mind and nature. Virginians know who I mean when I refer to John Marshall. Questions are not brought up in that court as they are here. A gentleman jumps up in the morning here, to set himself right before the country. [Laughter.] To do that, he offers a resolution. The House votes on it. One gentleman speaks over on that side, and another gentleman speaks on this side, pretty nearly all the time he has the floor. Fifty gentlemen sit between, engaged in an earnest colloquy as to what the speakers are saying. [Laughter.] It is to be inferred that we have a fair opportunity of knowing the opinions of gentlemen. That is the way we decide great questions here, at this time, in our present unorganized condition. Go into the Supreme Court. Not a whisper is heard. The court is opened, and sits for four hours. You might, at the time I refer to, have argued a question for three weeks, if you had the power to hold out so long, and every judge would have been found listening every day, and every hour, and every minute. All the learning of the law; all the history of the law, all the logic of the law, is laid before that court; and the court, accustomed to look into the intricacies of the law, will revolve all that has been brought before them in their minds, and pronounce what is and what is not law. They have sober and discreet minds. It is a better court than this. I do not mean to cast any disparagement upon your court, Mr. Clerk. I wish, if it could be so, that from the beginning of this session, the Journal Clerk had every night blotted out the record of our proceedings, that they might not be heard of any more among men. When I entered this Hall, a new man, the other day, a strange feeling came upon me, that I was not in the Congress of the United States. Over the chair where the Speaker presided sat,

in the old time, the Muse of History, with her pen. The men who built the first Hall of the House of Representatives thought that this grand inquest of this great Republic was to make that history which should illustrate our annals. Clio was there, emblematical of what was to be submitted to the dread tribunal of posterity.

But to the decision of the court. The decision referred to is to be found in 6 Cranch, page 336. There was no dissenting opinion. It was in 1810. There was no Democratic party in those days, but there was a Republican party. This question was not decided the year before a Presidential election. Time is always a circumstance to be looked at in referring to a historical fact. There was then a powerful party in this country called the Republican party, and there was a remnant of an old and most respectable party called Federalists; and they were discussing whether we should make war upon England or upon France. I have always thought they were not sure which one of these nations to fight, and that they were never sure they had hit upon the right one, for they had quite equal causes of war against both. They recollected La Fayette was with us, and that, I believe, turned the scales against England. Says the court of that day:

"The power of governing and legislating for a Territory is the inevitable consequence of the right to acquire and hold territory. Could this position be contested, the Constitution declares that 'Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;' accordingly, we find Congress possessing and exercising the absolute and undisputed power of governing and legislating for the Territory of Orleans."

Do you not think, Mr. Clerk, that John Marshall was a man who knew and understood the subject then before him? If any question could be submitted to the mind of that man, with which he was more familiar than any other, it was the question arising under the powers of the Government, as defined in that Constitution. We know that the whole court agreed with him in 1810. I have shown the legislative history of this question. Now, it was declared by the Supreme Court, as early as 1810, that the power to govern the Territories arises under the power to acquire territory, or under the clause of the Constitution authorizing Congress to make all needful rules and regulations respecting the territory and other property of the United States. So much for 1810. Now, some years have elapsed. In 1 Peters, page 511, there is a reference to the same question, and the law is laid down in the same terms as in 1810. In the mean time, says Judge Marshall, "Florida continues to be a Territory of the United States, governed by that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property of the United States." He goes on:

"Perhaps the power of governing a Territory belonging to the United States, which has not, by becoming a State, acquired the means of self-government, may result necessarily from

' the facts that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source whence the power may be derived, the possession of it is unquestioned."

These Republican traitors, these dupes, these insurrectionists, these one hundred and thirteen men who were, as you say, by intendment, at Harper's Ferry with John Brown; these men have committed no sin but that of believing, with Judge Marshall, and with the Supreme Court up to the year 1828, in the opinions they entertain. I shall show, by and by, that the same doctrine now held by the Republican party was carried forward by an unbroken current of decisions up to the year 1852.

Much is said by the present Democratic party just now about the sanctity of constitutional law, as delivered to us by the Supreme Court. I revere that great court, and will abide its decisions, when made upon any question brought fairly on the record before them—which, I maintain, was not done, as some suppose, in the famous Dred Scott case. Gentlemen on the other side would disregard the solemn decisions of that court for half a century, and cling to an *obiter dictum*, casually thrown out in a single case, recently. They remind me of a dispute between two excellent clergymen. They both regarded the Old and New Testaments, very properly, as the oracles of God, but they differed as to their meaning. "Well, brother," said the old Methodist, "we agree well enough about the Adamic law, and the Abrahamic covenant, and the Divine legation of Moses; but when we come to the Christian dispensation, you will fork off. Our Democratic brethren here have a strange disposition to "fork off" from us, and run after the casual remarks of the court—the "*obiter dicta*" of the court, to express it in judicial phrase—while they travel on with us, in the well-paved highway, up to 1852.

Mr. Clerk, I know that this long, wandering journey among the legislative annals and judicial records of the country is very tedious; but truth is a jewel of such precious value, that we are told we must go to the bottom of a deep well after it, if, perchance, we may find it there. I wish to let down my pitcher for another draught of that sort of water from the well of the Supreme Court. Two decisions of that court we have had already. Here is the third, in the year 1853. We are coming now close upon the period of the Democratic Hegira. In 1853, a very few weeks before the introduction of the Kansas-Nebraska bill, there was an opinion pronounced by Judge Wayne, at the December term of that court, in which he said:

"The Territory [speaking of California] had been ceded as a conquest, and was to be preserved and governed as such, until the sovereignty to which it passed [the United States] had legislated for it."

He proceeds:

"That sovereignty was the United States, un-

der the Constitution, by which power had been given to Congress 'to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'"

Then, I say, from the earliest period of our Government down to 1853, everybody—all agreeing to it; all shades of politics; Congresses of every hue of politics; all the courts of the country, all over it—regarded the question as clearly settled, as the Republicans now hold it. * * *

What I have proved, I think to the satisfaction of all, is, that the men who framed the Constitution acted upon the power to govern the Territories, believing it to be there; and they acted under oath; that the legislative department of the Government always have exercised it up to the year 1854; and that the judicial department of the Government decided the law thus, whenever the question arose, up to the year 1853. Now, I say to gentlemen upon the other side, if you can put yourself in as good society as this Republican party are in, then I will agree to pay a visit to you, and perhaps stay all night. [Laughter.] Until you do, I choose to put up at the Republican hotel. [Laughter.] I wish to compare graveyards, monuments, epitaphs, and authorities, with the Democratic party. We Republicans may possibly be under a great mistake upon this subject; but if we are, the most intelligent people, according to your own account of it—and I believe it true—have been under the same mistake from the beginning.

Sir, I am an old Whig; and the very doctrines which the Whig party always inculcated upon this subject are the cardinal doctrines of the Republican party; and the only constitutional doctrines they have enunciated were born of a violation of the same Whig doctrines in 1854. The Republican party had never had a name, and never had an existence, in that form and that name, had it not been for the proceedings of that Congress in 1854. I suppose that every man will admit this. And why? Why was that treasonable party, as you now denominate it, brought into existence? Do you suppose that all the people of the North are insane? I would like an inquest of lunacy to try the question, and I would show where the insanity is. It was in that year 1854 that you proposed to renounce this doctrine of the control of Congress over the Territories. It was then that you determined to depart from that compromise of 1850, to which my friend from Illinois [Mr. McCLELLAND] just referred me, and with which I was satisfied. Why was I satisfied with it? In the first place, when the compromise measures of 1850 were passed, I was not a member of the Senate. I was a member of the Cabinet when they were brought to President Fillmore. I was for their approval. Congress had determined the details; it was for the President to see whether the laws were constitutional, not whether they were good laws. It is sometimes said that Congress, by the compromises of 1850, renounced its power over the Territories. This is not true. I suppose that Congress has the power to declare war against the whole world, although nobody intends to exer-

give it. What I speak of is the law. The gentleman will find, if he looks to the law, that Congress reserved this power. Utah and New Mexico were to report their laws to Congress. If Congress disapproved of the laws, they were to be null and void. Does that look like surrendering the legislative power of Congress over the Territories? If Congress had not even expressly reserved the power, the acts organizing those Territories, in view of the previous history of this Territorial question, could not properly receive a different construction. But the power was expressly reserved, so that there could be no mistake about it; and every law made by either of those Territories might have been vetoed by Congress. * * *

Why, then, shall we not have harmony? I assert here—and I care not for anybody's criticism—that this slavery question would not exist two hours in this House, if you passed a resolution not to acquire any more territory for ten years. If it could be that there should not be another Presidential election for ten years; that of itself would bring peace. The cause of discontent and strife, in a great measure, is, that we must have a Presidential election in a few months. You do not want any more slave territory. How will you fill up Texas, which has been generously devoted for all the surplus slaves for fifty years? Do you expect to find a milder climate or a better latitude? You quarrel with the people of the North about the settlement of Kansas. There are four States for you to fill, where you can go unquestioned. Go first and bring into cultivation those fertile lands yet unoccupied, before you think of another expansion of territory. You will not go there, but stand here quarrelling with us, Northern Republicans, because you cannot get more territory. If you had more territory, you could not settle it, because you have not the slave labor.

A gentleman upon the other side of the House called out to us the other day: "Disband your Republican party; disband it; you threaten the peace of the Union." Sir, I am not afraid of this Union. I see plainly enough that I can save it in the last extremity, just by letting a Democrat be elected President. [Great laughter.] Ever since I found that out, I have cared little what you say about danger to the Union. The gentleman from Mississippi [Mr. BARKSDALE] declared, also, that his State would go right off out of the Union, in the event of the election of Mr. SEWARD. The people of the State of Mississippi may walk out, but the State never will. Why, sir, I have heard of this thing ever since I have heard anything in public affairs. In 1833, South Carolina was determined to go out of the Union, because of what she deemed an excessive duty on foreign goods. Pennsylvania was going out because we taxed her whisky in 1794; and Massachusetts thought the Union was endangered when Louisiana was purchased. Each and all of these States yet remain, and are, I trust, loyal to the Union. I have lived through three dissolutions of the Union myself, [great laughter,] and the Union is stronger to-day than when its dissolution was first threatened—stronger than

it was in the beginning. The State of Mississippi is a glorious little State, covered all over with cotton; and, in my judgment, she will be "cotton to" the Union to the last. [Laughter.] All these planets which revolve around this great constitutional centre, whence truth, light, political knowledge radiate, may threaten to fly off occasionally. Mississippi may seem to fly off in some eccentric orbit, but she will soon return to her proper perihelion. I do not say how she will do it, but she certainly will do it of her own accord. Let us then hear no more of this angry talk about disunion; but, like men, like brethren, as we are, work earnestly and happily together for the common good of all.

* * * In consequence of Congress not exercising this great conservative power to make laws for an uncongenial, heterogeneous people, civil war raged for three years over the beautiful plains of Kansas, where there should have been nothing heard but the jocund whistle of the plowman driving his team to the field, and where nothing else or worse would have been heard, if Congress had only made laws to govern that Territory, and sent its Governor, and, if necessary, troops, to execute the law. You made an experiment there, and you know the result.

What have you in another Territory now? You say you cannot make laws for Utah. You have denied the power of Congress to make laws for the Territories. What is Utah? A blot on the fair pages of your history, which all the waters of Lethe can never wash out—a foul, incestuous den of miserable adulterers and murderers—a disgrace to a civilized and Christian country. That is what comes of this glorious new doctrine which you have propagated on all sides. That comes of your parting with the wise usages and the wise institutions of your fathers; and so it will ever be, the moment you abandon those well-established, constitutional rules fixed by the founders of the Republic. You have abandoned the great highways of the past—the good macadamized roads made for you—every milestone of which was red with revolutionary blood; you have strayed away from them, and wandered after wille-o'-the-wisp into swamps and by-paths. All that the Republican party wish to do, is to stand up and call you back as a mother calls to her lost child, and put you on the safe old road again. They call upon you to come out of the wilderness; to quit the shedding of each others' blood in fratricidal war for the right to have this or that law; to let the Congress of the United States, who represent the fathers, the brothers, the sisters, of the peaceful emigrants who have gone into the Territories, consider what is best for their children and friends. But abandon, as you have abandoned, the institutions of your Fathers, and there will be neither peace nor progress in the Territories. There will be strife here, and civil war there, and wild confusion will reign supreme.

The wise prophet of Israel, after he came down from the mountain with the law in his hand, and found his brother Aaron worshipping a golden calf which he had made, was so angry that he

threw down the tables of the law, and broke them. He determined that that wicked people should never have an opportunity of worshipping any more golden calves: he made all the women bring in their trinkets and golden ornaments, and melted them down in one mass. Let us, in the same spirit, bring in these miserable idols of ours; sacrifice them on the common altar of our country; shake hands, forget, and forgive.

And now, before I sit down, let me ask again, are the destinies of this mighty Republic to turn on the publication of a pamphlet? You know that the gentleman whom we have nominated will make a just and impartial Speaker. Concede that for once. Concede that we will have to elect by a plurality. I think that, if we could, we ought to elect by a majority. There is something symmetrical in it. You say, he should be elected by a majority, because, in the happening of two or three very remote contingencies, he may become President of the United States. But, as I said yesterday, no President or Vice President will ever be found, both amiable enough to die and let the Speaker take that place. We will not consider that contingency. If we cannot agree upon one man, as it is possible, in the name of the American people, that we cannot find some man in this Congress who is fit to preside over this House?

It has been stated that I said that I would vote for Mr. SHEEMAN till the last trump should sound. A better man than I am changed his mind. David, King of Israel, repented of what he said, when he remarked, "I have said, in my haste, that all men are liars." I concede that fact, when I state now that I am willing to vote for any one almost who can be elected. If this protracted contest mean anything, we cannot elect a Republican; we cannot elect a Leecompton Democrat; we cannot elect an anti-Leecompton Democrat; and though there may be as many shades of party as Jacob had stripes in his cattle—I do not know how many—it seems that we cannot elect any one of them. I know of but one man in this House who does not belong to any party, and I have thought that perhaps we might unite upon him. The gentleman from New York [Mr. HORACE F. CLARK] belongs to no party; he will not act with any party; does not love any party; does not hate any party; does not care for any party. [Great Laughter.] Why not elect him?

Mr. Clerk, I believe that I am abusing my privileges here. [Cries of "Go on!"]

I hope the observations which I have made, Mr. Clerk, forced from me without any of that

preparation which is usual, may not be entirely worthless. Whether we consider this ever-recurring question of slavery as resting within our unrestricted discretion, or whether we regard it as fixed and limited by constitutional law—in either aspect, with good sense, guided by true patriotism—there is nothing to be feared. The way through the future is, in my judgment, open, clear, and plain. We cannot be so weak as to give way to childish fears, or sink into lethargy and despair. On the contrary, let us "gird up our loins" to the work before us; for upon us this duty is devolved. We cannot escape from it, if we would. Let us, above all, preserve our Constitution inviolate, and the Union which it created unbroken. By the lights they give us, with the aids of an enlightened religion, and an ever-improving Christian philosophy, let us march onward and onward in the great highway of social progress. Let us always keep in the advancing car of that progress—our book of Constitutions, and our Bible. Like the Jews of old, let the ark of the covenant be advanced to the front in our march. With these to guide us, I feel the proud assurance that our free principles will take their way through all coming time; and before them I do believe that the cloven-footed altars of oppression, all over the world, will fall down, as Dagon of old fell down, and was shivered to pieces in the presence of the ark of the living God.

But if we halt in this great exodus of the nations; if we are broken into inconsiderable fragments, and ultimately dispersed, through our follies of this day, what imagination can compass the frightful enormity of our crime! What would the world say of this unpardonable sin? Rather than this, we should pray the kind Father of all, even His wicked children, to visit us with the last and worst of all the afflictions that fall on sin and sinful man. Better for us would it be, that the fruitful earth should be smitten for a season with barrenness, and become dry dust, and refuse its annual fruits; better that the heavens for a time should become brass, and the ear of God deaf to our prayers; better that Famine, with her cold and skinny fingers, should lay hold upon the throats of our wives and children; better that God should commission the Angel of Destruction to go forth over the land, scattering pestilence and death from his dusky wing, than that we should prove faithless to our trust, and by that means our fight should be quenched, our liberties destroyed, and all our bright hopes die out in that night which knows no coming dawn.



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