National Anti-Slavery Standard.

VOL. XVII. NO. 45. NEW YORK, SATURDAY, MARCH 28, 1857. WHOLE NO. 877.

PUBLISHED WEEKLY, ON SATURDAY,

AT TWO DOLLARS PER ANNUM,

BY THE

AMERICAN ANTI-SLAVERY SOCIETY,

At its Office, 138 Nassau St., New York,

AND THE

PENNSYLVANIA ANTI-SLAVERY SOCIETY,

31 *North Fourth St., Philadelphia.*

Advertisements inserted at $1 per square for the first insertion, and 75 cents for every subsequent one. For advertisements less than a square, 50 cents for each insertion.

NORRIS & JOHNSTON, PRINTERS.

Selections.

THE DRED SCOTT CASE.

THE OPINION OF MR. JUSTICE CURTIS.

IN THE SUPREME COURT OF THE UNITED STATES.] SATURDAY, March 7, 1857.

[Concluded.]

CONGRESS HAS POWER TO PROHIBIT SLAVERY IN THE TERRITORIES.

I have thus far examined, merely for the purpose of the argument, that the laws of the United States, respecting slavery in the territory, were constitutionally enacted by Congress. It remains to enquire whether they are constitutional and binding laws.

In the argument of this part of the case at bar, it was justly considered by all the counsel to be necessary to ascertain the source of the power of Congress over the territory belonging to the United States. When this is ascertained, it is not possible to determine the extent of that power. On the one side it was maintained that the Constitution contains no express grant of power to organize and govern a territory belonging to the laws of the United States as a Territory; that whatever power of this kind exists is derived by implication from the capacity of the United States to hold and acquire territory out of the limits of any State, and the necessity for its having some government.

On the other side it was insisted that the Constitution has not failed to make an express provision for this end, and that it is found in the third section of the fourth article of the Constitution.

To determine which of these is the correct view, it is needful to advert to some facts, respecting this subject, which existed when the Constitution was framed and adopted. It will be found that the material facts not only shed much light on the question whether the framers of the Constitution omitted to make a provision concerning the power of Congress to organize and govern Territories, but they will also aid in the construction of any provision which may have been made respecting this subject.

Under the Confederation, the unsettled territory within the limits of the United States had been a subject of deep interest. Some of these States insisted that these lands were within their chartered boundaries, and that by their independence they had succeeded to the title of the Crown to the soil. On the other hand, it was argued that the vacant lands belonging to the Crown had been acquired by the United States, by the war carried on by them under a common purse, and by the treaty of peace; that they were the common property of the United States "lawfully constituted or established." Nothing was said concerning the power of Congress to prepare or form such States. This omission struck Mr. Madison, who, on the 18th of August (5 Eliot, 439), moved for the insertion of power to dispose of the unappropriated lands of the United States, and to institute temporary governments for new States arising therein.

On the 29th of August (5 Eliot, 492) the report of the committee was under debate, when, after much debate, which exhibited great diversity of views concerning the proper mode of providing for the subject, arising out of the supposed diversity of interests of the large and small States, and between those which had and those which had not ceded territory, but no difference of opinion respecting the propriety and necessity of some adequate provision for the subject, Governor Morris moved the clause as it stands in the Constitution. This met with general approbation and was adopted at once adopted. The section is as follows: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress.

"The 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; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular State."

That Congress has some power to institute temporary governments may be inferred from this, we all agree; and it must be admitted, that the necessity of some power to govern the territory of the United States could not and did not escape the attention of the Convention and the people, and that the necessity is so great that it may be safely inferred that it is strong enough to raise an implication of the existence of that power, it would seem to follow that it is also strong enough to afford material aid in construing an express grant of power respecting the territory; for those who make the grant of the existence of the power, without finding any words at all in which it is conveyed, should be willing to receive a reasonable interpretation of language of the Constitution manifestly intended to relate to the territory, and to confer on Congress some authority concerning it.

It would seem also that when we find the subject-matter of the growth and formation and admission of new States, and the disposal of the territory for these ends were under consideration, and that some provision therefor was expressly made, it is improbable that it would be, in its terms, a grossly inadequate provision; and that an indispensably necessary power to institute temporary governments, and to legislate for the inhabitants of the Territory, was passed silently by, and left to be deduced from the necessity of the case.

In the argument at the bar, great attention has been paid to the meaning of the word "Territory."

Ordinarily, when the territory of a sovereign power is spoken of, it refers to that tract of country which is under the political jurisdiction of that sovereign power. Thus Chief Justice Marshall in United States v. Bevans, 3 Wheaton, 386) says—"What, then, is the extent of jurisdiction which a State possesses? We answer, without hesitation, the jurisdiction of a State is coextensive with its territory." Examples might easily be multiplied of this ordinary, when the term is used in a general way, because it is familiar. But the word "Territory" is not used in this broad and general sense in this clause of the Constitution. At the time of the adoption of the Constitution, there were within the limits of the United States two north-west of the Ohio; another tract, then of unknown extent, ceded by South Carolina, and a confident expectation was then entertained, and afterwards realized, that they then were or would become the property of the United States by cessions from North Carolina and Georgia. These ceded tracts lay within the limits of the United States, and out of the limits of any particular State; and the cessions embraced the civil and political jurisdiction and the soil of the soil as had not previously been granted to individuals.

These words, "territory belonging to the United States," were not used in the Constitution to describe an abstraction, but to identify and apply to the actual subjects matter then existing and belonging to the United States, and other similar subjects, which might afterwards be acquired; and this being so, all the essential qualities and incidents belonging to such actual subjects are embraced within the words "territory belonging to the United States," as fully as if each of these essential qualities and incidents had been specifically described.

I say the essential qualities and incidents. But in determining what were the essential qualities and incidents of the subject with which they were dealing, we must take into consideration not only all the particular facts which were immediately before them, but the great considerations, ever present to the minds of those who framed and adopted the Constitution, that they were making a frame of government for the people of the United States and their posterity, under which they hoped the United States might be, what they have in fact been, a great and powerful nation. With these in view, I turn to examine the clause of the article now in question.

It is said this provision has no application to any territory save that then belonging to the United States; it may have already been that, when the Constitution was framed, a confident expectation was entertained—which was speedily realized—that North Carolina and Georgia would cede their claims to that great territory which lay within their limits, and that the United States would be seized of these States. The first clause of this same article, which enabled Congress to admit new States, refers to and includes new States to be formed out of territory, expected to be thereafter ceded by North Carolina and Georgia, as well as new States to be formed out of territory north-west of the Ohio, which then had been ceded by Virginia. It must have been seen, therefore, that the same necessity would exist for an authority to dispose of and make all needful regulations respecting this territory, when ceded, as existed for a like authority respecting territory which had been ceded.

No reason has been suggested why any reluctance should have been felt by the framers of the Constitution to apply this provision to the lands then held by those who belong to the United States, or why any distinction should have been made, founded on the accidental circumstance of the dates of the cessions—a circumstance in no way material as respects the necessity for rules and regulations, and the propriety of conferring on the Congress power to make them. And if we look at the course of the debates in the Convention on this article, we shall find that the then ceded lands, so far from having been left out of view in framing this article, were present in the minds of members, a subject of even paramount importance.

Again, in what an extraordinary position would such a construction place this clause, place the territory which lay within the chartered limits of North Carolina and Georgia. The title was then claimed by those States, and by the United States; their respective claims are properly represented by the express words of the clause; and when cessions were made by those States, they were merely of their claims to this territory, the United States neither admitting nor denying the validity of those claims, or rejecting them, but leaving the question, as it remained impossible, to be adjudicated hereafter, whether or did not then belong to the United States; and consequently to know, whether it was within or without the authority conferred by that clause to dispose of and make rules and regulations respecting the territory of the United States. This attributes to the eminent men who acted on this subject a want of ability and foresight, or a want of acquaintance with the known facts, upon which they were acting, in which I cannot concur.

There is not, in my judgment, anything in the language, the history or the subject matter of this article which renders its operation as to territory owned by the United States when the Constitution was adopted. And I am not aware that such a construction has ever before been suggested as even possibly true.

But it is also insisted that provisions of the Constitution respecting territory belonging to the United States do not apply to territory acquired by treaty from a foreign nation. This objection must rest upon the position that the Constitution did not authorize the Federal Government to acquire territory, and consequently that no provision for its government when acquired; or, that though the acquisition of foreign territory was contemplated by the Constitution, its provisions concerning the admission of new States, and the making of all needful rules and regulations respecting the territory belonging to the United States, were not designed to be applicable to territory acquired from foreign nations.

It is undoubtedly true that, at the date of the treaty of 1803 between the United States and France for the cession of Louisiana, it was made a question, whether the Constitution had conferred on the Executive Department of the Government of the United States power to acquire foreign territory by a treaty.

There is evidence that very grave doubts were then entertained concerning the existence of this power. But that there was then a settled opinion in the executive and legislative departments of the government that such power did not exist, cannot be admitted, without at the same time imputing to those who negotiated and ratified the treaty and passed the laws necessary to carry it into execution, a deliberate and known violation of their oaths to support the Constitution. But the question has long and then have existed, the question must now be taken to have been settled. Four distinct acquisitions of foreign territory have been made by as many different treaties, under as many different administrations, the language of which is broad enough to extend throughout the existence of the government, and embrace all territory belonging to the United States throughout all time, and narrow it down to territory belonging to the United States when the Constitution was framed, while at the same time it is admitted that the Constitution contemplated and authorized the acquisition, from time to time, of other and foreign territory, it seems to me to be an interpretation as inconsistent with the nature and purpose of the instrument as it is with its language; and I can have no hesitation in rejecting it.

I construe this clause, therefore, as if it had said, Congress shall have power to make all needful rules and regulations respecting those tracts of country, out of the limits of the several States, which the United States have acquired, or may hereafter acquire, by cessions, as well of the jurisdiction as of the soil; and I find in the nature of property of the party making the cession, at the time of making it.

It has been urged that the words "rules and regulations" are not appropriate terms in which to confer authority to make laws for the government of the territory.

But it must be remembered that this is a grant of power to the Congress—that it is, therefore, necessarily, a grant of power to legislate—and, certainly, rules and regulations respecting a particular subject, made by the legislative power of a country, can be nothing but laws. Nor do the particular terms employed, in my judgment, tend, in any degree, to restrict this legislative power. "Power granted to a legislature to make all needful rules and regulations respecting the territory is a power to pass all needful laws respecting it.

The word regulate, or regulation, is several times used in the Constitution. It is used in the fourth section of the first article to describe those laws of the States which prescribe the times, places and manner of choosing senators and representatives; in the second section of the fourth article, to designate the legislative authority of the States on the subject of fugitives from service, having a very close relation to the matter of our present enquiry; in the second section of the third article, to empower Congress to fix the extent of the appellate jurisdiction of this Court; in the second section of the second article, to describe the words "Congress shall have power to regulate commerce."

It is unnecessary to describe the body of legislation which has been enacted under this grant of power, the variety and extent are well known. But it may be mentioned, in passing, that under this power to regulate commerce, Congress has enacted a great system of municipal laws, and extended it over the vessels and seamen, and the subject of slaves resident in Ohio; and has established judicatures, with power to inflict even capital punishment within that country.

If, then, this clause does contain a power to legislate respecting territory, what are the limits of that power?

To this the answer is, that in common with all the other legislative powers of Congress, it finds limits in the express prohibitions on Congress not to do certain things; that is the exercise of the legislative power, Congress cannot pass an ex-post facto law or bill of attainder; and so in respect to each of the other prohibitions contained in the Constitution.

Besides this, the rules and regulations must be needful. But undoubtedly the question whether a particular rule or regulation be needful must be finally determined by Congress itself. Whether a law be needful is a legislative or political, not a judicial question. Whatever Congress shall deem needful is so, under the grant of power.

Nor am I aware that it has ever been questioned that laws providing for the temporary government of the settlers on the public lands are needful, not only to prepare them for admission to the Union as States, but even to enable the United States to dispose of the lands.

Without government and social order, there can be no property; for without law its ownership, its use, and the power of disposing of it, cease to exist. In the sense in which those words are used and understood in all civilized States.

Since, then, this power was manifestly conferred to enable the United States to dispose of its public lands to settlers, and to admit them into the Union as States, when, in the judgment of Congress, they should be fitted therefor, since these were the needs provided for, since it is confessed that government is indispensable to provide for these needs, and that there is no other adequate power to make and enforce rules and regulations respecting the territory, I cannot doubt that this is a power to govern the inhabitants of the territory, by such laws as Congress deems needful, until they obtain admission as States.

Whether they should be thus governed solely by laws enacted by legislative power conferred by Congress, is one of those questions which depend on the judgment of Congress—a question which of these is needful.

But it is insisted that whatever other powers Congress may have respecting the territory of the United States, it has no power to prohibit slavery therein.

The Constitution declares that Congress shall have power to make "*all* needful rules and regulations" respecting the territory.

The assertion is, though the Constitution says all, it does not mean all—though it says all, without qualification, it means all except such as allow or prohibit slavery. It cannot be doubted that it is incumbent on those who would thus introduce an exception not found in the language of the instrument to exhibit strong reasons, valid and satisfactory reason, drawn from the subject matter, or the purposes and objects of the clause, the context, or from other provisions of the Constitution, showing that the words employed in this clause are not to be understood according to their clear, plain and natural signification.

The subject matter is the territory of the United States out of the limits of every State, and consequently under the exclusive power of the people of the United States. Who will question, it must be admitted in the Constitution, can be subject to no restriction. The purposes and objects of the clause were the enactment of laws concerning the disposal of the public lands and the temporary government of the settlers therein, until they should be formed. It will not be questioned that, when the Constitution of the United States was framed and adopted, a allowance and the prohibition of negro slavery were regarded as the subjects of municipal law, flowing from the exclusive action concerning the territory—the ordinance of 1787, which had then been passed—contained a prohibition of slavery. The purpose and object of the clause, which enabled Congress to make a wide a body of municipal law for the government of the settlers, the allowance or the prohibition of slavery comes within the known and recognized scope of that purpose and object. There is nothing in the context which indicates a limit of power. The regulations must be "respecting the territory." An enactment that slavery may or may not exist there is a regulation respecting the territory. Regulations may be needful but it is necessary for the legislative discretion to determine whether a law be needful.

No other clause of the Constitution has been referred to at the bar, or has been seen by me, which imposes any restriction, or makes any exception concerning the power of Congress to allow or prohibit slavery in the territory belonging to the United States.

A practical construction, nearly contemporaneous with the adoption of the Constitution, and continued by repeated instances through a long series of years, may always influence, and in doubtful cases should determine, the judicial mind on a question of the interpretation of the Constitution. Stuart vs. Laird, 1 Cranch, 269; Martin vs. Hunter's Lessee, 1 Wheat., 304; Cohens vs. Virginia, 6 Wheat., 264; Prigg vs. Pennsylvania, 16 Pet., 621; Cooley vs. Port Wardens, 12 How., 315.

In this view I proceed briefly to examine the practical construction placed on the clause now in question, so far as it respects the inclusion therein of power to permit or prohibit slavery in the territories.

It has already been stated that after the Government of the United States was organized under the Constitution, the territory northwest of the Ohio, which Congress assembled, for the government of the territory north-west of the river Ohio, *may continue to have full effect*, it is required that certain provisions should be made, so as to fitted to take one of its provisions, the language of which is broad enough to extend throughout the existence of the government, and embrace all territory belonging to the United States throughout all time, and narrow it down to territory belonging to the United States when the Constitution was framed, while at the same time it is admitted that the Constitution contemplated and authorized the acquisition, from time to time, of other and foreign territory, it seems to me to be an interpretation as inconsistent with the nature and purpose of the instrument as it is with its language; and I can have no hesitation in rejecting it.

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Here is an explicit declaration of the will of the first Congress of the United States, assembled under the Constitution, that the provisions of the ordinance, which prohibited slavery, "should continue to have full effect, was the President of this Convention."

This was a contemporaneous, nor to act at all on the subject; and after what had been so recently said by Mr. Madison on this subject, in the 38th number of the Federalist, I cannot suppose that he or any others who voted for this bill attributed any intention to alter what was denominated in the ordinance a compact between "the original States and the people and States in the new territory"; there being no new States then in existence in the territory with whom a compact could be made, and the few scattered inhabitants, incorporated into a political body, not being capable of becoming a party to a treaty, even if the Congress of the Confederation had had power to make one touching the government of that territory.

I consider the passage of this law to have been an assertion by the first Congress of the power of the United States to prohibit slavery within this part of the territory of the United States; for it shows that slavery was, thereafter, to be prohibited there, and it could be prohibited only by an exertion of the power of the United States, under the Constitution; no other power being capable of operating within that territory after the Constitution took effect.

On the 2d of April, 1790 (1 Stats. at Large, 106), the first Congress passed an act accepting a deed of cession by North Carolina of that territory afterwards erected into the State of Tennessee. The fourth express condition contained in this deed of cession, after providing that the inhabitants of the territory shall be temporarily governed in the same manner as those beyond the Ohio, is followed by these words: "*Provided* no regulations to be made or to be made by Congress shall tend to emancipate slaves."

This provision shows that it was then understood Congress might make a regulation prohibiting slavery and that Congress might also allow it to continue to exist in the territory; and, accordingly, when, a few days later, Congress passed the act of May 20th, 1790 (1 Stats. at Large, 123), for the government of the territory south of the Ohio, it provided, "that the Government of the territory south of the Ohio shall be similar to that now exercised in the territory north-west of the Ohio, except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled, 'An Act to accept a cession of the claims of the State of North Carolina to a certain district of western territory.'" Under the government thus established, slavery existed until the territory became a State of the Union.

On the 7th of April 1798 (1 Stats. at Large 549), an act was passed to establish a government in the Mississippi territory in all respects like that exercised in the territory north-west of the Ohio, "excepting and excluding the last article of the compact between the original States and the people and States in the territory north-west of the Ohio, by the act of Congress of the 13th day of July, 1787." When the limits of this territory had been amicably settled with Georgia, and the latter ceded all its claim thereto, it was one of the conditions of cession that the territory north of 31 degrees of latitude, "and all its parts extend to the territory contained in the present act of cession, that article only excepted which forbids slavery." The Government of this territory was subsequently established and organized under the act of May 10th, 1800; but so much of the ordinance as prohibited slavery was not put in operation there.

LEGISLATIVE AND EXECUTIVE PRECEDENTS FOR THE PROHIBITION OF SLAVERY.

Without going minutely into the details of each case, I will now give references to two classes of acts, in one of which Congress has extended the ordinance of 1787, including the article prohibiting slavery, over different territories, and thus exerted its power to prohibit it; in the others, and thus exerted its power created governments over territories, acquired from France and Spain, in which slavery already existed, but refused to apply to them that part of the government under the ordinance which excluded slavery.

Of the first class are the act of May 7th, 1800 (2 Stats. at Large 58), for the government of the Indiana Territory; the act of Jan. 11th, 1805 (2 Stats. at Large 309), for the government of Michigan Territory; the act of May 34, 1809 (2 Stats. at Large 514), for the government of the Illinois Territory; the act of April 20th, 1836 (5 Stats. at Large 10), for the government of the Territory of Wisconsin; the act of June 12th, 1838, for the government of the Territory of Iowa; the act of Aug. 14th, 1848 (9 Stats. at Large 548), prohibiting slavery in the territory acquired from France, being north of Missouri, and north of 36 deg. 30 min. north latitude.

Of the second class, in which Congress refused to interfere with slavery already existing under the municipal law of France or Spain, and established governments in which slavery was recognized and allowed, are the act of March 26th, 1804 (2 Stats. at Large, 283), for the government of Louisiana; the act of March 2d, 1805 (2 Stats. at Large 322), for the government of the Territory of Orleans; and the act of March 3d, 1812 (2 Stats. at Large, 743), for the government of the Missouri Territory; the act of March 30th, 1822 (3 Stats. at Large, 654), for the government of the Territory of Florida. Here are eight distinct instances, beginning with the first Congress and coming down to the year 1848, in which Congress has excluded slavery from the territory of the United States; and six distinct instances in which Congress organized governments under the authority which slavery was recognised and continued, beginning also with the first Congress and coming down to the year 1822. These acts were severally signed by seven Presidents of the United States, beginning with General Washington, and continuing regularly down to Mr. John Quincy Adams, the latter including all who were in public life when the Constitution was adopted.

If the practical construction of the Constitution contemplated only prohibiting this right of property in the territory, and the long line of legislative and executive precedents under it, three different and opposite views are taken of the power of Congress respecting slavery in the territories.

One is that, though Congress can make no law prohibiting slavery in a Territory, they cannot make a regulation allowing it; another is that it can neither be established nor prohibited by Congress, but that the people of a Territory, when organized by Congress, can establish or prohibit slavery; while the third is that the Constitution itself secures to every citizen who holds slaves under the laws of any State the indefeasible right to carry them into any Territory and there hold them as property.

No particular clause of the Constitution has been referred to at the bar in support of either of these views. The first seems to be a political conclusion, not resting on concerning the social and moral evils of slavery, its relations to republican governments, its inconsistency with the Declaration of Independence and with natural right, which would seem to have influenced deliberations equally general, concerning the right of self-government, and the nature of the political institutions which have been established by the people of the United States.

With the second view, that it is a political right of all citizens to go with their property upon the public domain, and the inequality of a regulation which would admit the property of some and exclude the property of others, it is obvious that no property is protected by the citizens of those particular States where slavery is established, it is insisted that a regulation excluding slavery from a Territory operates, practically, to make an unjust discrimination between citizens of different States in respect to their use and enjoyment of the territory of the United States.

INTERPRETATION OF THE CONSTITUTION.

With the weight of either of these considerations, when presented to the political department of this Court I have no concern. One or the other may be justly entitled to guide or control the legislative judgment upon what is a needful regulation. The question here is whether they are such as authorize this Court to construe the clause of the Constitution an exception of the exclusion or allowance of slavery, not found therein, nor in any other part of that instrument. To ingraft on any instrument a substantive exception not found in the instrument intended with great difficulty. And the difficulty increases with the importance of the instrument, and the magnitude and complexity of the interests involved in its construction. To allow this to be done with any of the great instruments of government, renders its judicial interpretation impossible. Because judicial tribunals, as such, cannot decide upon political considerations. Political reasons have not the requisite certainty to afford a safe judicial interpretation. They are different in different men. And when a strict interpretation of the Constitution, according to the fixed rules which govern the interpretation of laws, is abandoned and the political opinions of individuals are allowed to control under the government of individual men who, for the time being, have power to declare what the Constitution is, according to their own views of what it ought to mean. When such a method of interpretation of the Constitution obtains, in place of a republican government with limited and defined powers, we have a government which is merely an exponent of the will of Congress, or, what, in my opinion, would not be preferable, an exponent of the individual political opinions of the members of this Court.

If it can be shown by anything in the Constitution itself that when it confers on Congress the power to make all needful rules and regulations respecting the territory belonging to the United States, the exclusion or the allowance of slavery was excepted, or if anything in the history of this provision tends to show that such an exception was made by those who framed and adopted the Constitution to be introduced into it, I hold it to be my duty carefully to consider and to allow just weight to such considerations in interpreting the positive text of the Constitution. But, though the grant of power to make needful rules and regulations, I must find something more than theoretical reasoning to induce me to say it did not mean all. There have been eminent instances in this Court, closely analogous to this one, in which such reasoning has introduce an exception not found in the Constitution itself has failed of success.

By the eighth section of the first article, Congress has the power of exclusive legislation in all cases whatsoever within this District.

In the case of Longbhorough agt. Blake (5 Whea., 324) the question arose whether Congress has power to impose direct taxes on persons and property in this District. It was insisted that, though the grant of power was in terms, broad enough to include direct taxation, it must be limited by the principle that taxation and representation are inseparable. It would not be easy to fix on any political truth better established or more fully admitted in our country than that taxation and representation must exist together. We went into the war of the Revolution to assert it, and it is incorporated as fundamental into all American governments. But, however true as a political truth, it does not, in fact, be, it is not necessarily of universal application. It was for the people of the United States, who formed the Constitution, to decide whether it should or should not be permitted to operate within this District, or should not be permitted to operate within this District, and that and contained no such exception as would permit the maxim to operate in this District, this Court, interpreting that language, held that the exception did not exist.

Again, the Constitution confers on Congress power to regulate commerce with foreign nations. Under this, Congress passed an act, on the 22d of December, 1807, unlimited in duration, laying an embargo on all ships and vessels in our ports, or within the limits and jurisdiction of the United States. No law of the United States ever pressed so severely upon particular States. Though the constitutionality of the law was contested, it was felt and acknowledged to be productive of the ruinous effects which were felt from it, and though, as Mr. Chief Justice Marshall has said (9 Whea., 192), "no want of acuteness in discovering objections to a measure to which they felt strong opposition, would be imputed to those who were arrayed in opposition to to this," I am not aware that the fact that it prohibited the use of a particular species of property, belonging almost exclusively to citizens of a few States, and this indefinitely, was ever supposed to show that it was unconstitutional. Something much more stringent, as a ground of legal judgment, was relied on—that the power to regulate commerce did not include the power to prohibit commerce.

But the decision was that under the power to regulate commerce, the power of Congress over the subject was restricted only by those exceptions and limitations contained in the Constitution; and as neither the clause in question, which was a general grant of power to regulate commerce, nor any other clause of the Constitution, imposed any restriction as to the duration of an embargo, an unlimited prohibition of the use of the shipping of the country was within the power of Congress. On this subject Mr. Justice Daniel, speaking for the Court in the case of United States vs. Marigold (9 How., 560), says: "Congress are, by the Constitution, vested with the power to regulate commerce with foreign nations, and among the several States, and to prohibit the importation of any particular kind of property, or the use of all vessels belonging to citizens of the several States, and may operate, without exception, upon every subject of commerce to which the legislative discretion may apply it, if the grounds can I say that the power to make all needful rules and regulations respecting the territory of the United States is subject to an exception of the allowance or prohibition of slavery therein?

While the regulation is one "respecting the territory" —while it is, in the judgment of Congress, "a needful regulation," and is thus completely within the words of the grant—while no other clause of the Constitution can be shown which expresses the insertion of an exception respecting slavery, and while the practical construction for a period of upwards of fifty fifty years forbids such an exception, it would, in my opinion, violate every sound rule of interpretation to deny to the language of the Constitution upon the strength of abstract political reasoning, which we are bound to believe the people of the United States thought insufficient to induce them to limit the power of Congress, because what they have said contains no such limitation.

Before I proceed further to notice some other grounds of supposed objection to this power of Congress, I desire to say that if it were not for my anxiety to insist upon what I deem the correct exposition of the Constitution, if I looked only to the purposes of the argument, the source of the power of Congress asserted in the opinion of the majority of the Court would answer those purposes equally well. For they do not deny that Congress has power to organize and govern the Territories until they arrive at a suitable condition for admission to the Union; they admit also that the kind of government which shall then exist should be regulated by the discretion of Congress, and that it is a matter of necessary committed to the discretion of Congress to enact such laws for the purposes that discretion may dictate, and no limit to that discretion has been suggested or ever suggested, save the positive prohibitions to legislate which are found in the Constitution.

I confess myself unable to perceive any difference whatever between my own opinion on the general extent of the power of Congress and the opinion of the majority of the Court, save that I consider it derivable from the express language of the Constitution, while they hold it to be silently implied from the power to acquire territory. Looking at the power of Congress over the Territories as of the extent just described, what positive prohibition exists in the Constitution which restrained Congress from enacting a law in 1820 to prohibit slavery north of 36 degrees 30 minutes north?

The only one suggested is that change in the fifth article of the amendments of the Constitution, which declares that no person shall be deprived of his life, liberty, or property without due process of law. I will now proceed to examine the question whether this clause is entitled to the effect thus attributed to it. It is necessary, first, to have a clear view of the nature and incidents of that particular species of property which is now in question.

Slavery, being contrary to natural right, is created only by municipal law. This is not only plain in itself, and agreed to by all writers on the subject, but is inferable from the decisions of this Court in which it has explicitly declared by this Court. The Constitution refers to slaves as "persons held to service in one State under the laws thereof." Nothing can more clearly describe a *status* created by municipal law. In Prigg vs. Pennsylvania, 16 Pet., 611, this Court said, "The State of slavery is deemed to be a mere municipal regulation, founded on and limited to the range of territorial laws." In Rankin vs. Lydia, 2 Marsh, 12, 470, the Supreme Court of Appeals of Kentucky said, "It is a status created by the laws of this State, and the right to hold them under our municipal regulations is unquestionable. But we view this as a right existing by positive law of municipal character, without support in the law of nature, or in the written common law." I am not acquainted with any case or writer questioning the correctness of this doctrine. See also 1 Burge Col. and For. Laws, 738–741, where the authorities are collected.

The *status* of slavery is not necessarily always attended with the same powers on the part of the master. The master is subject to the supreme power of the State, whose will controls his action towards his slave, and his control must be defined and regulated by the municipal law. In one State, as at one period of the Roman law, it may put the life of the slave into the hand of the master: others, as those of the United States, which tolerate slavery, may treat the slave as a person when the master takes his life; while in others, the law may recognise a right of other wrongs, the status of slavery notwithstanding. The extent of the power of the master over the slave, in this or that country, must be ascertained by the municipal legislation becomes necessary when slavery is introduced.

Is it conceivable that the Constitution has conferred the right on every citizen to become a resident on the territory of the United States with his slaves, and there to hold them as such, but has neither made nor provided for any municipal regulations which are essential to the existence of slavery?

Is it not more rational to conclude that they who framed and adopted the Constitution were aware that persons held to service under the laws of a State are property only to the extent and under the regulations of those laws; that they must cease to be available as property when their owners voluntarily place them permanently within another jurisdiction, where no municipal laws on the subject of slavery exist; and that, in the absence of municipal regulations, they will do nothing to interfere with or displace them, or compel Congress to legislate in any particular manner on the subject, and having empowered Congress to make all needful regulations respecting the territory belonging to the United States, it was their intention to leave to the discretion of Congress what regulations, if any, should be made concerning slavery therein. Moreover, if the right exists, what are its limits, and what are its conditions? If a citizen of the United States have the right to take their slaves to a Territory, and hold them there as slaves, without regard to the laws of the territory, I suppose this right is not to be restricted to those who own the slaves. If it exists, it was their intention the citizens of slaveholding States, and the property which they own, they can hardly be denied the power of doing the same thing. And what law of slavery does either take with him to the Territory? If it be said to be those laws respecting slaves which existed in the State from which the slave last came, what an anomaly is this! Where else can we find, under the law of any civilized country, the power to introduce and permanently continue diverse systems of foreign municipal law? Slavery is a creature of law, say, not merely to introduce, but permanently to continue these anomalies. For the offspring of the female must be governed by the foreign municipal laws to which the mother was subject; and when any such child, born in a State where it was, by law, the species of subrogation, and as a kind of unknown *jus in re*, the foreign municipal laws which constituted, regulated and preserved the *status* of the slave before his exportation. The practical theoretical importance may be now supposed to belong to the maintenance of such a right, I feel a perfect conviction that it would, if ever tried, prove to be as impracticable in fact as it is, in my judgment, monstrous in theory.

I consider the assumption which lies at the basis of this theory to be unsound; not in its just sense, and when properly understood, but in the sense which has been attached to it. That assumption is, that the territory ceded by France was acquired for the equal benefit of all the citizens of the United States. I agree to the position. But it was acquired for their benefit in collective, not their individual capacities. It was acquired for their benefit as an organized political society, subsisting as "the people of the United States" under the Constitution of the United States; to be administered justly and impartially and as nearly as possible for the equal benefit of every individual citizen, according to the best impartial and distinctive of the Congress, to whose power, as the legislature of the nation which acquired it, the people of the United States have committed its administration. Whatever individual claims may be founded on local circumstances, or sectional differences of condition, cannot, in my opinion, be recognised in this Court, without arrogating to the judicial branch of the government powers not committed to it; and which, with all the moderation of power I feel for the Court, I cannot exercise in this proper sphere. I do not think it fitted to weld.

Nor, in my judgment, will the position, that a prohibition to bring slaves into a Territory deprives any one of his property without due process of law, bear examination.

It must be remembered that this restriction on the legislative power is not peculiar to the Constitution of the United States; it was borrowed from *Magna Charta*;

was brought to America by our ancestors as part of their inherited liberties and has existed in all the States, usually in the very words of the great charter. It existed in every political community in America in 1787, when the ordinance prohibiting slavery north and west of the Ohio was passed.

And if a prohibition of slavery in a Territory in 1820 violated this principle of *Magna Charta*, the ordinance of 1787 also violated it; and what power had, I also ask, to say the Congress of the Confederation alone, but the Legislature of Virginia, or the Legislatures of any or all the States of the Confederacy, to consent to such a violation? The people of the States had conferred no such power. I think I may at least say, if the Congress did then violate *Magna Charta* by the ordinance, no one discovered that violation. Besides, if the prohibition upon all property, citizens as well as others, to bring slaves into a Territory, and a declaration that if brought they shall be free, deprives citizens of their property without due process of law, what shall he say of the legislation of Congress, by which, at the same time, they enacted the same prohibition. As early as October, 1778, a law was passed in Virginia that, thereafter no slave should be imported into that Commonwealth by sea or by land; and that every slave who should thereafter be brought into that State, or which Virginia purchased in Maryland a slave who belonged to another citizen of Virginia, and removed with the slave to Virginia, The slave sued for her freedom and recovered it; as may be seen in Wilson against Isabell, 2 Call's R., 435. See also Hunter agt. Hubsher, 1 Leigh, 172; and a similar law has been recognised as valid in Maryland, in Stewart agt. Oaks, 5 Har. and John, 107. I am not aware that such laws, though they exist in many States, were ever supposed to be in conflict with the principles of *Magna Charta* incorporated into the State Constitutions. It was certainly understood by the Convention which framed the Constitution, and ever since, that, under the power to regulate commerce, Congress could prohibit the importation of slaves, and the exercise of the power was restrained till 1808. A citizen of the United States owns slaves in Cuba, and brings them to the United States, where they are set free by the legislation of Congress. Does this legislation deprive him of his property without due process of law? If so, what becomes of the laws prohibiting the slave trade? If not, how can a similar regulation respecting a Territory violate the fifth amendment of the Constitution?

Some reliance was placed by the defendant's counsel upon the fact that the prohibition of slavery in this Territory was by the words, "that slavery, &c., shall be and is hereby *forever* prohibited." But the insertion of the word *forever* can have no legal effect. Every enactment not expressly limited in its duration continues in force until repealed or abrogated by a competent power, and the use of the word "forever" can give to the law no more durable operation. The argument is, that Congress cannot so legislate as to bind the future States formed out of the Territory, and in this instance it has attempted to do so. Of the political reasons which may have indeed the Congress to use these words, and which caused them to expect that subsequent Legislatures would confirm their action to the general opinion of the country that it ought to be permanent, this Court can take no cognizance.

However fit such considerations are to control the action of Congress, and however reluctant a statesman may be to disturb what has been established by law made by Congress may be repealed, and, saving private rights and public rights gained by States, its repeal is subject to the absolute will of the same power which enacted it. If Congress had enacted that the other Territory, lying in the United Indian territory north of 36 deg. 30 min., by or on any white man, should *forever* be punishable with death, it would seem to me an insufficient objection to an indictment, found while it was a Territory, that at some future time States might exist there and so the law was invalid, because by its terms it was to continue in force forever. Such an objection resta upon a misapprehension of the province and power of Courts respecting the constitutionality of laws enacted by the Legislature.

If the Constitution prescribe one rule, and the law another and different rule, it is the duty of Courts to declare that the Constitution, and not the law, governs the case before them for judgment. If the law include no case save those for which the Constitution has furnished a different rule, it no case save those for which the Constitution has furnished a different rule, it no case save those for which the Constitution has furnished a different rule, it

shall be deemed guilty of Rebellion and punished as in the last section specified.

SEC. 4. Confinement and hard labour as provided for in this act shall not exceed *twenty years*.

This act to take effect and be in force from and after its passage.

To the Editors of The National Anti-Slavery Standard.

I SEND you "the Address" which was delivered "to the people" of the little Unitarian Church in Washington upon the occasion of the Ordination of our friend Conway, some two years ago.

Mr. Conway, as you may know, is now settled in charge of the Unitarian Church in Cincinnati, having been dismissed from the Washington Church on account of his preaching for God's poor held in worse than Israelitish bondage.

Some of the Washington people have published a pamphlet about him, for what reason, except to show their own untenable position, I do not know. Mr. O.'s notice of the pamphlet you will find in the last number of *The Christian Inquirer*. As he makes some allusion to his ordination services, and to my share in the same, it has occurred to me that "the address to the people," which I then delivered, may as well be printed as a little link in the history of a Church which our friend tried to make a Christian Church, and did not succeed.

If you agree with me, the Address is at your service for THE STANDARD.

Need I add that I consider the statement of M. D. C. in the last *Christian Inquirer* as a satisfactory reply to the Washington pamphlet?

Faithfully yours,

W. H. FURNESS.

Philadelphia, March 23, 1857.

Address to the People of Mr. Conway's Ordination in Washington, February 28, 1855.

As, upon this occasion, when our young friend, formally and with accompanying religious services, takes upon himself the office of pastor of this flock—as, naturally enough, he must be deeply impressed with the greatness of the duty which he owes to you, it is but fair that you, my friends, of this Christian society, should be reminded, in all kindness and respect, of the duty which you owe to him, upon the faithful performance of which the successful discharge of his duty very seriously depends. Let me now utter this word of friendly admonition.

I am not going to speak to you—it is quite needless—of the importance to your minister of a cordial reception and a liberal support *out of the pulpit*. In these respects, I believe you never have been otherwise than most prompt and forward. It was my happiness, some twenty years ago, to spend a short time in this city and to preach in this church; and the impression which that brief visit made upon me, and which, although many a venerable presence has vanished from among you, all that I have known of this Society since has only kept fresh and vivid, was, that, few as you might be in number and limited as you might be in means, your minister would never wear the mortification that comes from being surrounded by intelligent and warm-hearted friends.

It is *in this* pulpit that the main duty of your minister is to be performed. And here in this place your great duty to him lies. He is to stand here and preach truth—truth, not opinions, not private speculations, but the truth which Jesus uttered and which God speaks—the truth which, in his inmost heart, every man admits even when he repels its application with the utmost violence, and although he evades it and ignores or sneers at it as an impracticable abstraction. Truth, your minister is to preach upon that responsibility to God and his own conscience, for the disregard of which nothing on earth, no world-wide popularity, no luxurious ease, no uncounted gold can make him any amends. And he is bound to preach truth in the honest and self-renouncing love of it, taking care neither needlessly to irritate, on the one hand, nor meekly to compromise and conciliate, on the other.

As he is thus bound to speak truth, so are you as sacredly bound, upon the same responsibility, to hear truth from his lips. When he speaks the truth in truth, in freedom and in love, when you see that he speaks with a single and understanding mind, then just as truly as he is bound to utter what he knows and what you know to be true are you bound to listen to what he says. For then he speaks with that authority which belongs to every true man, to every true word, an authority which is higher than any earthly thrones, offices and constitutions, which all men must obey and all men do obey, sooner or later, even though they rise upon him who is charged with it and crucify him on the spot; the sooner even, in this case, because they do but accelerate its recognition, and the speaker of truth rises by their means into the martyr of truth, sealing his commission with his blood, and turning the grim cross on which he expires into a sacred altar, before which kings and nations bow. The authority of truth is the authority of God in the soul. There is nothing higher, nothing so high as that. By the grace of God, that must conquer and reign, let who may suffer, and let the opposition to it be never so mighty and so obstinate.

Your great duty, then, in this place, is *to hear*; a very plain duty, and at first sight very easy, hardly anything easier than to sit quietly and listen; but, in reality, it is a very hard duty, even though your minister should speak with the tongue of an angel, and it will require the highest considerations of religion and humanity to enable you to perform it faithfully. A most difficult duty indeed is this, in these days, to hearken to the truth, and for a reason so obvious that one might as well try to veil the sun or exhaust the air as to keep it out of sight. The fact is that the truth which your minister is bound to declare—the central and animating life of the Christian religion, without which it shrivels into nothing, the Golden Rule, the truth which Jesus preached and for which he suffered death, the truth which is enforced by every reasonable and generous impulse of our nature, the truth which is to the moral world what the law of gravitation is to the material world, *the law of simple justice and common humanity*—has been and is violated in this land upon a scale the most stupendous, and all the sanctions of formal legislation are resorted to, to protect and perpetuate the violation, already guarded by the interests, the passions and the prejudices of men. Accordingly it has become dangerous to property and liberty to discharge those simple offices of humanity which Jesus enjoined in words the most emphatic; and the exercise of the most precious privilege of our social order, freedom of speech, is called in question. In this state of things, to hearken with attention and candour to the appeals of Christian truth is hard and dangerous also. Nevertheless, I counsel you, friends and brethren, I charge you, be faithful to the sacred obligation which is upon you thus to hearken to the words of the Lord Jesus. Fear not the wrath of man, which perishes the extent of this Church. What is this Church worth, or how can it deserve the name, if it will not endure the voice of Christ and of humanity, pleading within its walls for "the least of his brethren," bought, sold and hunted? Recognise, clearly and solemnly, not only the right, but the plain Christian duty of your minister to plead with her, let him hear," is, of all things, the one thing which, if faithfully obeyed, will ensure the abolition of all wrongs, the vindication of all rights, the kingdom of God and his righteousness. The advocates of what is just and humane ask only to be *heard*. All that remains, after a thorough *hearing*, may be cheerfully left to the enlightened intelligence and the awakened conscience of the land. All that the sacred and world-renowned cause of humanity—that cause consecrated by the blood of patriots, saints and martyrs—that cause for the bringing of which the whole civilized world groans, being in travail—all that it asks here and now is a *faithful hearing*. Once more, then, when your minister pleads for justice and humanity, listen to him; listen not only with patience, but with fervent God-will; and as you listen, you will hear in the voice of Truth the voices of your own hearts, the voice of Him who taught that mercy to the weakest is the best homage that can be paid to the Highest. You will hear the voice of God approving and blessing, and bidding you to share in his power and partake of the divine peace and the divine nature.

LITTELL'S LIVING AGE, No. 670, opens with an exceedingly interesting Narrative of Dr. Livingstone's Discoveries in South Africa, filling over twenty pages. It concludes in Part 12 of "The Fortunes of Glencore." The number closes the fifty-second volume.

THE ANTI-SLAVERY CHURCHMAN.—This is the title of a journal, the second number of which (in part) has been sent to us by a friend. It is published at Geneva Lake, Wisconsin, edited by the Rev. J. McNamara, and published by Leland and Ulter. It bears at its head, as a motto, the text, "Envy thou not the oppressor, and choose none of his ways." The number before us bears date Nov. 29, 1856. We had no previous knowledge of the existence of such a paper, and do not know if it is still in existence; but if we can get it in exchange for THE STANDARD, we will give it another notice. As its title indicates, it is designed to meet the wants of anti-slavery Episcopalians. The presses of that Church, so far as we know, either ignore the slavery question altogether, or treat it in a manner unworthy alike of the importance and of the spirit of Christianity. We hope this new paper may live to rebuke the sin of that Church in lending its support to slavery.

From our Boston Correspondent.

NO. CCVI.

THE ARGUMENT.—The Correspondent recommends to the editors a Work of Gov. Gardner—He discusses on the Natural History of Fast Day—Gives a sketch from the Congressional Report of Steam Fortifications, and Vessels of Value—He expounds the Proclamation, and says it is the Abolitionists' practical translation—The special element in late improvements of the doctrine of Election—Rebuke of the Democratic press made up by the Slave Masters—The apparition of a Multitude of Counsellors—He describeth the one which it committeth—And the dreadful threats of its friends—He encounteth the Republicans—He falleth of the Slave Masters which did not come off—He rebuketh Mr. Buchanan for his ingratitude to Mr. Hallett—He exclaimeth against the "so-appalling" treasons—Treasonous and concludeth with unpleasant remarks touching Judge Taney and Brigadier Andrews, &c. &c.

BOSTON, March 23, 1857.

HAVE you seen our Massachusetts Excellency's Proclamation for a Day of Fasting, Humiliation and Prayer? It is worth your reading. As a general rule I should not recommend Governor Gardner's Works to the perusal of my friends as things either edifying or entertaining. But this one is both. It has some of the Governor's ideas as with a lode, it will grow, put forth and even show their teeth and threaten to bite, such is their just provocation at its importance. You know that Fast Day and Thanksgiving Day have always been regarded as the Ministers' holidays, when they were allowed to say just what came into their heads, as to war, rum, niggers or anything else, usually laboured, and the weightier members of the church were expected to be simply asleep, or to do what they got patiently, without stamping their way out of meeting, slamming the doors of the pew and the house after them as they went. These days were regarded as a kind of safety valve to let off the steam ecclesiastic, which, if allowed no vent at all, might burst the pastoral boiler and scatter confusion and destruction all around the pews, and perhaps utterly blow up the church. So conservative an institution as this should have been respected by a wise statesman, and it is surprising that a plot that has weathered so many storms and managed to trim his sails and his course so dexterously as to come three times into the pleasant harbour which his soul loveth, as Gov. Gardner hath done, should run upon the rock he has—the rather as he had to go out of his way to do it, not to say to put the rock there on purpose.

It was thought highly proper that Governor Gardner should proclaim a day of Humiliation, Fasting and Prayer, since we certainly have cause enough for the first; and if we were to hold a day for the reasons by virtue of the two last, the people of the State will not be found slow to make trial of them. One of our causes of Humiliation this Proclamation will be likely to help to remove from the possibility of ever issuing another. The rock of offence against which his Excellency hath broken his gubernatorial shins is to be looked for in that part of the State Paper where he exhorts the Clergy to beware of political and secular topics, but to confine themselves to the simple preaching of truth to the hearts of their hearers severally and not jointly. Considering that his Excellency owes that superlative epithet to his zeal against the Catholics and his horror of the Interference of Church with State, it seems ever so little odd that he should thus undertake to thrust the State into the domain of the Church. And it is not odd that the Clergy of the Church should regard his advice in this matter as a piece of impertinence, pure and simple, and look upon him as a busybody in other men's matters. And as the clerical element was no mean one in the ingredients of the No Popery cauldron by the ebullition of which his Excellency was brought, by the usual operation of the laws of political chemistry, to the top, it was a great blunder on his part not to have let it alone. Many of them, I am assured, have expressed their determination not to read it from the pulpit, as the order goes, on the Sunday before Fast. If they do, I trust they will preach a fiery anti-slavery sermon on top of it, by way of improving the text.

Our Know-Nothing doctors have gone so far in their endeavours to patch up the Constitution of our poor old mother as to get two out of their three prescriptions ready to be offered to her, if she will take them, that being a not unimportant preliminary to her permanent cure. One is to district the State anew for Senators, and to divide it into Representative districts, thus abandoning the idea of a Senator for each County in the State. This would give the Multitude of our Connsellors considerably—from some four hundred to a hundred and fifty or thereabouts. This seems to be a rational proposition, on the face of it; but I am not sure that the old way is not the more excellent one, after all. The chance of the mere politician is less now than it would be under the proposed scheme, and in their very multitude there is more chance of escaping the log-rolling which is the life and soul of our legislation every where. There is to exclude from the ballot-box persons unable to read and write, with certain exceptions meant to protect those now in enjoyment of that chief glory of the land. The third, which was to require a residence of fourteen years as the qualification of a voter, has been referred to a Committee in the Senate by a large vote, which is regarded by its friends and enemies as a *coup de grace*, which effectually puts it out of the way for ever. This is regarded as a severe blow to Know-Nothingism and the chief muffin of that sect affirm that it will revive the agitation of the foreigner question and make Mr. Gardner Governor for another year. This is, indeed, a dreadful alternative, and it shows a good deal of pluck on the part of the Republicans to have done anything that should risk its happening. But I rather think the Republicans feel strong enough to have a Governor of their choosing next year, and that they will put in a very plain enough one, if they might have had one last year, if they had had the courage to make the attempt. The other two amendments will soon be submitted to the people and settled by their decision. As I do not think my personal chance of an election to the general Court will be increased thereby, and as I learned to read and write at an early age, I feel no particular interest in the result.

You have seen in the world's papers, no doubt, that we have had an alarm of slave-hunters here. There is every reason to believe that the report was entirely false, and there is reason for believing it I cannot prudently spread before you, on account of your large circulation in the Southern States, and the insight it might give the slave-catchers into the mysteries of the Vigilance Committee and the secrets of the Underground Railway. It is enough to say that the evidence of slave-catching intent came from several distinct and independent quarters. It is believed that the hounds had actually started on the scent, when they found that their prey had escaped them, and had to return with their tails between their legs, dolorous and malcontent. The man had been ten years away from slavery, but thought that he could not be safe nearer than Canada. And I think he was quite right. As a lover of the Union, you will be pained to hear that Mr. Buchanan has removed our faithful District Attorney, Benjamin F. Hallett, from his office. When we remember how earnest and thorough he has been in his vocation—how he announced at the Faneuil Hall Meeting for the Repeal of the Fugitive Slave Law that he was ready to issue a Warrant for the arrest of a slave, if no other Commissioner could be found to do it—how he behaved at the time of the examination of the malefactors suspected of having helped Shadrach out of the fiery furnace—how he helped in the matter of Sims, and how he was competent in that of Burns, we cannot but marvel at the ingratitude of Republic which could so treat such a pitch as to cut off so useful a hand. Mr. Woodbury, however, the son of the Judge, is to be relied on for the willingness of his spirit; how it will be as to the weakness of his flesh, time alone can show.

And this treatment of the late Attorney Hallett is the more shocking to every good mind inasmuch as he was the man who builded the platform which Mr. Buchanan declared was himself and he it—so that it is a clear instance of almost parricidal ingratitude. Slavery, however, hath not left herself without witness in this city and witness that no man can galusy; for Marshal Freemao has been reappointed, there having been no opposing candidate, as we learn from the authentic testimony of the Boston *Post*. I had not hoped that the infamy which justly attaches to the office of Slave-catcher in Chief for Massachusetts would so soon have left it as monopoly of Freedom's friends of hanging in the Court House. It is a good sign, and I hope foreshadows the time when no man, professing the least gentlemanlike feeling or selfrespect will consent to hold any commission of Uncle Sam. Then we shall be near the Good Day Coming. For men will open the way to the paradise of office even if they have to break down the walls which now enclose it in unworthy alike of their importance and of the spirit of Christianity. We hope this new paper may live to rebuke the sin of that Church in lending its support to slavery.

From our Cincinnati Correspondent.

The late Decision of the Supreme Court—Opinions of the Press—Its effects upon the Anti-Slavery cause—The Agitation in the Church—Rumors Relative to the Board and Assembly—Mr. Barnes and Dr. Ross—U. S. Marshal in Southern Ohio.

CINCINNATI, March 18, 1857.

THE recent decision of the Supreme Court of the United States in the Dred Scott case is just now the most important topic of discussion here. The decision, which reversed the long-established opinion of that portion of the bench in the interest of the Slave Democracy, condemns it as contradicting former decisions which affirmed the binding authority of the Ordinance of 1787 and the constitutionality of the Missouri Compromise of 1820, and as giving in the adhesion of the Court to the most ultra Southern doctrines. But, however abhorrent to justice this decision may appear, we ought not to be surprised at it. Every one who has watched the course of events for the last thirty years must have observed how completely the Slave Power has had the control of the Government, how steadily, but surely, it has advanced in its encroachments upon the principles of freedom, and how subservient the Supreme Court has been to its behests. Since the appointment of Judge McLean, every one of the Judges has been chosen by an Administration devoted to slavery, and have been men of Southern birth and Southern feelings. Northern men of well-known Southern principles. If any one known to lean towards the side of freedom has been nominated, the Senate has refused to confirm it. From the first the Abolitionists clearly saw and proclaimed the fact of the subservicny of this tribunal to the interests of slavery, but the party leaders either denied it or treated it with indifference, until it has become so apparent that no one can be deceived.

The conscience of the party in power, indeed, profess to regard this decision as a final settlement of the points in dispute. The *Daily Enquirer*, of this city, eulogizes the decision as "a final and wise determination of this vexatious question," and the Judges as having handled the subject "without *sectional bias* or *extra-judicial* influence." In this case, the "wish is father to the thought." No intelligent or observant mind can believe that this or any other legal decision taking place between the friends of slavery and the anti-slavery agitation or bring the contending parties on common ground. The anti-slavery agitation is primarily a moral one—the political features of it are merely incidental—and a decision like this one can carry no moral influence with it. It gives up everything to the Slave Power, and is too palpably sectional and partisan to accomplish such a design. On the contrary, it will furnish new fuel to the sectional fires and wrings of the Abolitionists (the Republicans are so by any means synonymous), open the eyes of the people to the determined aggressions of the Slave Power, and lead to more persevering efforts and more efficient combinations to resist them.

In the Church, every effort to settle the slavery question by compromise will be as hopeless. We have been told again and again that the action of the General Assembly each year was a happy and auspicious settlement of the subject, distasteful, indeed, to a few ultras men, but meeting the concurrence of moderate men of all parties. But the late decided action of the Home Mission Society will give a new impulse to the discussion, and in the next General Assembly (N. S.), in May next, it will, no doubt, be fully canvassed. The delegates from Philadelphia and New York will take ground *against* the refusal of the Home Mission Board to grant assistance to slaveholding churches, and unite with those from the South, while the Western members and those from the interior of New York will *approve* it. The *Christian Herald*, of this city, impelled by what it well knows is the general sentiment of the Church in the West, approves the action of the Board as "in strict accordance with the spirit of the resolutions of the General assembly of 1850," and cannot see "how our Church can, with any propriety, object to the action of the Society." The *Herald* is not so sanguine as to think that the New School Presbyterians will, which will be gradually purged of the sin of slaveholding through the moral influence exerted by the repeated testimonies of the Church upon the subject. The Church, it thinks, will only be freed from slavery by the excision or withdrawal of the Southern Presbyteries, and this opinion is becoming more general every day, among observant men, both North and South. Mr. Barnes means well; but his mild remedies for a mighty evil are out of place in the emergency of the times of the times. Mr. Barnes is one of the editors of the *American Presbyterian*, which was established at Philadelphia, it was understood, in consequence of the intense pro-slaveryism of the *Christian Observer*, and was expected to be anti-slavery in its tone. But, from a late editorial in that paper, it appears that its sentiments upon this subject are of a very weak noncommital type. It "repudiates the false extremes that involving sectional sin." It is anxious not to drive off the South, and is opposed to taking any measures to enforce the discipline against slaveholders in the Church. Such conservatism as this will be heard in the General Assembly as of old, but it will have to give way, by and by, to the growing and progressive anti-slavery sentiment of the Church, which cannot much longer be deceived.

In one of the Southern papers, I see a letter of Dr. Ross, of Tennessee, to Rev. Albert Barnes, in reply to Mr. B.'s late work on Slavery and the Church. As usual with Southern writers, it is written in bad style and bad temper. In this respect it is in striking contrast with Mr. Barnes's writings. Dr. Ross comes out boldly in defence of slavery and denial of the doctrines of the Declaration of Independence on the natural equality of man. I regret published at the North at all, it can have no other effect than to increase the popular dislike to slavery and its clerical defenders.

The office of United States Marshal for the Southern District of Ohio has been held for some months by a Mr. Smith, taken from the General Post-Office at Washington, but formerly of this city. The Senate, however, did not confirm the appointment, and Mr. Buchanan has superseded him by a Col. Sifford, of Chillicothe, Ohio, who was an original Nebraska man, and favored the nomination of Pierce or Douglas. The original Buchanan men had awarded this appointment to Col. Frank Linch, of this city, and why he did not get it is not known, as he was a zealous supporter of Buchanan both before and after his nomination, unless it be owing to his German descent. Mr. Sifford can, no doubt, be relied upon for his fidelity to the behests of the Slave Power, which was not, with the main recommendation for the office. The office of Commissioner being under the control of Judges McLean and Leavitt, there will probably be no change of the present incumbent.

There was another emancipation case before our Probate Court last week. Four women, with their children, making 18 or 20 persons in all, were set free by Mrs. Parker, of Newport, Ky.

Rev. John G. Fee has been preaching for some days at Newport, Ky., and applying the Gospel doctrine of the Church of God to the duties of the people relative to the great sin of the nation. He has been heard with respectful attention. Yours, P.

THE New York Assembly, on the 25th inst., by a vote of 75 to 27, adopted resolutions providing for an amendment of the Constitution by abolishing the property qualification in regard to coloured voters. The proposition not only abolishes the property qualification, but also the three years residence required, thus placing whites and blacks on a perfect equality at the polls.

From our Dublin Correspondent.

DUBLIN, Feb. 27, 1857.

To the Editors of The National Anti-Slavery Standard.

GENTLEMEN: Other cities and towns may have Mayors, but London, York and Dublin have *Lord* Mayors. Accordingly, we have a Lord Mayor, who, from the position of a private citizen, jumps at once to the dignity of a Peer of the realm, and during his term of office takes precedence in Dublin of the Lord High Chancellor, the keeper of her Majesty's conscience, and of every one else except the Lord Lieutenant, the representative of Her Most Gracious Majesty's self. Our present civic sovereign is Richard Atkinson, an eminent manufacturer of the rich and beautiful fabrics, part silk, part woollen, which are almost indigenous to Dublin, and of which every erratic Yankee who comes hither is sure to take home at least one costly garment to his better half, if he do not take also a garment to his mother, his sister, his daughters and each of his favourite nieces. Well, Lord Mayor Atkinson is not only a Lord Mayor and a manufacturer of gorgeous, splendid, and beautiful fabrics, grand enough for an Empress, but he is a self-made man, a real worthy, with a heart as big as a haystack, and is generous, right good fellow. Every one has a good word for him.

The nineteenth of this month was not only remarkable as my birth-day, but it was also the day when the Lord Mayor gave his feast; and although covers were laid for 600 guests, you may imagine my mortification when I tell you that I was not even invited. However, it is possible that there might not have been room, or the dinner might have been cold, or I might have been placed at one of the side tables and not in my proper place among the guests who were worthy of double honor, or—in short, I comfort myself with a scrap of classic consolation, and say, how happy I am that my native city had 600 worthier sons than your valued correspondent.

But you may ask why I dwell so much on the Lord Mayors of Dublin in general, and this present one in particular, not to speak of the dinner I have suffered, and which a sensitive man might judge it most prudent to cover with a veil of silence. Well, then (as Adin Ballou once said in one of his articles—and a turn of speech which charmed me exceedingly), I will tell you: Amongst the guests, beside the illustrious Whately, Archbishop of Dublin, Lord Gough, who was encobled for a tremendous slaughter he made of the Sikhs, marquises, viscounts, bishops, judges, baronets, generals, knights, aldermen, and common commoners like myself, there was the Lord Lieutenant, the Earl of Carlisle, who travelled, some years since, in your free and enlightened country, under the style and title of Lord Morpeth. And the Lord Lieutenant made a speech, which contained some particulars very cheering to us Irish who live at home at ease. Its principal flowers of eloquence consisted of certain statistical returns, of which I will give you the cream. As regards the number of murders committed in Ireland in 1848 the number of persons arrested in this city for manslaughter or assaults with intent to murder was 86; in 1856 they amounted to but 1. In 1838, all the arrests for all sorts of offences were 30,000; in 1855, 18,000. Within the last year the decline in the number of inmates in the poor-house was considerable, and the poor rates have fallen from 2s. 11d. to 1s. 6d. in the pound. In 1851 there were 1864 sentenced to transportation at the Quarter Sessions for crime in all Ireland; in 1852, 1538; in 1853, 1013; in 1854, 692; in 1855, 521; and in 1856, 375—a gratifying descent from 1858 to 375. Of 400 convicts set free on tickets of leave in Ireland, but 7 of the licenses have been revoked. I think these partionlars are most interesting, as they give the best possible proof of the country in the march of moral improvement, without which there is really no true civilization. On all hands I hear no complaints but all are in the progress of Ireland is onward in the best sense. From what I read of the United States, I cannot think that the Irish who emigrate make a change, on the whole, for the better. The extremes of heat and cold are tremendous on your side of the Atlantic; the security of life much less; the political excitement and corruption very much greater; and, as far as I can judge, the substantial enjoyment of existence not so great, though more money may be made, and the means of enjoyment in greater abundance.

I think *The European* an admirably conducted, truth-telling paper. If it be firmly established, and should it continue under the same auspices, it must do great good by the promulgation of truths which it has heretofore not been considered patriotic for an American to utter. I can't help thinking it is bad for any people to be hoodwinked by their guides, social, religious or political. It is bad for a man with an individual to have an overweening opinion of its own enlightenment, strength, goodness or greatness. Any one would look on the man as a fool for boasting of himself in the style which so many of your countrymen employ when they come over here and talk of their country. *The European* is a manly, outspoken, many-sided paper, which is dedicated to Truth above all other objects; and its results cannot fail to result beneficially on your country. I prefer the plain speaking of this paper because the facts about Ireland I have given you above are just the kind which it likes to offer respecting all other countries as well as its own, and which, where read, might serve to correct the prevalent Chinese idea which is also so common in the United States, that yours alone is the Flowery Land. By the way, we have lovely weather just now, and the crocuses, snowdrops and wall-flowers are in full bloom, and we have not yet had like May than February-fill-the-dykes, the title by which this auspicious month is familiarly known.

I am greatly obliged to Rev. Dr. Bellows and Hon. Henry Wilson for the clear and convincing reasons they have given me against the mad project of Garrison and his crew. The country is big, and the bigger the better, and the larger the more you are bound to it by the bonds of patriotic affection; and if the South are not as they ought to be, yet we are the more called on to wait till she becomes so, and her merits are great, and it is treason to doubt them. I thought the arguments of the Doctor more airy than substantial; and as to the Massachusetts Senator, his ideas oconrred to me, as soon as I read them, as dictated by a looking towards the White House much more than to Plymouth Rock or Bunker Hill.

Yours ever, RICHARD D. WEBB.

Summary.

MRS. Lydia A. Jenkins, wife of a Universalist clergyman at Port Byron, N. Y., has commenced preaching to good acceptance.

Mr. Badger of North Carolina, whose distinction as a lawyer entitles his judgment to more than ordinary value, said, at the conclusion of Judge Curtis's opinion, that he felt the benefit of a complete and conclusive piece of judicial reasoning, from first to last, that he had ever heard or read.

George W. Johnson, one of the largest sugar planters of the Southern Mississippi, who died lately, left an estate valued at not less than $7,000,000. He has by his will manumitted all his slaves, and provided for their transportation to the Liberia, to four years from his death, and each one is to be furnished with $50.

APPOINTMENT BY THE GOVERNOR.—Wm. M. Ewarts, Esq., has been appointed by the Governor, in the place of O. Hoffman (deceased), associate counsel to represent the State of New York in the Commission of Claims, a place which has become of now become of increased importance in consequence of the decision in the Dred Scott case.

THE DEATH PENALTY IN RHODE ISLAND.—The Senate of Rhode Island has refused to adopt the report of the Committee on the Judiciary, making two degrees of murder, and then passed the title of the revised code relating to crimes and punishments, precisely as it came from the commissioners on revision. That makes murder punishable with death only when committed by a convict in the State prison under sentence of imprisonment for life.

THE READING AND WRITING REFORM.—We have noticed during the present session of the Legislature that many of the members who are advocates of the constitutional amendment requiring voters to be able to read and write correctly have themselves rather distinguished themselves in the House, having a petition for an asylum for inebriates was presented by Twiss, of Worcester, we made this blunder on the back of the petition, and by the petition of T. W. Higginson, and others, for an *Asylum* for inebriates."—*Boston Herald.*

HIGH SOUTHERN GROUND.—Captain Jones, United States Army, a Virginian by birth, stationed in Oregon since at Benicia, California, had with him, as body servant, a slave named Joe. One morning the Captain was surprised at the news of Joe's having left his service, and he whirled over his head, and ran to the Legislature with tremendous appeals. This was received in the Legislature with tremendous applause.

THE LATE WILLIAM A. WHITE.—All the Southern papers ring any clue to the fate of Mr. William A. White, formerly of Washington, but for the last few years a resident of the West, has now been given up. All that can be ascertained is that he departed from the hotel in Milwaukee, intending doubtless to return in a few hours, for he left behind not only his baggage, but even his gloves. His wife has applied for letters of administration upon his estate. Since his disappearance, his child has died.

BORDER RUFFIAN BLASPHEMY.—A beautiful exemplification of border ruffian religion occurred in the speech of Mr. O'Brien, Buchanan-Democratic Representative, in the house Kansas Legislature. We quote as follows:

"God thundered that negroes should be slaves from Sinai's Mount! God would declare it right! God science decrees it right! God society declares it right! And shall our *statutes agree with them*, the immutable, the unanswerable!

THE PRICES OF SLAVES RISING IN SOUTH CAROLINA.—At a recent sale, in Pickens District, of Mr. John Grant's personal property, fifteen slaves, men, women and children, brought upwards of $16,000.—*Charleston Patriot.*

We attended the sale of the property belonging to the estate of Smith Bradley, deceased, on Monday last. The estate of Smith Bradley, deceased, on Monday last. The negroes sold amounted at an average of $730. One negro man, field hand, sold for $1,500; a boy, fifteen years old, at $1,000; a girl, aged 10, negro woman and child, at $1,000; a girl, $900. Of the number sold there was one child two years old, and one five years old.—*Greenville Enterprise.*

The following table is presented as a parallel between the American Supreme Court in the year 1857 and the British Court of King's Bench in the year 1772—between the Democratic Chief Justice Taney and the Royalist Chief Justice Mansfield—our readers may well be reminded of the fact that in deciding the case of Somersett, the great English jurist declared that "no sooner than a slave touches the land of England to be made free by the decision, and though they were worth to their masters from £500 to £800 ($2,500 to $4,000) not a farthing's value." He resolutely followed the logic of the Common Law, and, pronouncing the decision which made British soil a sanctuary for human slavery, said: "Let the consequence be such a nature that it was inexpedible or being introduced on any pretence, moral or political."—*Albany Evening Journal.*

MRS. STOWE is yet in Paris. She lives retired in the Faubourg Poissonniere, and sees but little of Americans. She does this in order to devote her attention to the study of French. I learn that she is translating Dred into French, in view of publishing in the United States, *L'Amour dans le Mariage* (Love in Wedlock). It is also said that she is preparing for the press a work on the poorer classes in Europe, a sort of Uncle Tom in white society. At the reception of M. Mirecourt, the author of the Life of Mme. Stowe, Mme. Stowe was present, had a grand success of curiosity, even in that Paradise of human vanity, Paris. Mme. Stowe's work, "Dred" has not yet appeared in French. Hon. Mrs. Norton and the ladies of Lord Elgin's family are among the few Americans who have called on Mme. Stowe in this city.—*Letter to N. Y. Times, dated Paris, Feb. 20.*

NEVADA TERRITORY.—We find in a late California paper mention made of a bill having been introduced into Congress, Washington, D. C., to the effect that a bill was in preparation by Senator Douglas for the formation of a new Territory on the eastern boundary of California, to be called Nevada, to include Utah and North-Eastern New Mexico, from the Oregon line to the Colorado river. The name intended for it is Nevada, taken from the great Sierra Nevada, which forms the eastern boundary. This bill was to have been shown to the California members of Congress when perfected, and it is probable that it will be submitted to Congress. It did not, however, see the light, as the pressure of business in Congress prevented action on the formation of new Territories. It is probable that Douglas will pass bills for the organization of this as well as several other new Territories at the West.—*Evening Post.*

MEDICAL EDUCATION.—We learn with real pleasure of the extensive interest in the subject of physical education in the Queen City, and the large classes of young girls under the discipline of our countrywoman, Miss Beecher, in the Physical Department. If anything can restore good health to puny, pithing, pale Yankeeism, it will be a physical training, such as Miss Beecher and her sisters teach, they not only teach "how to be healthy and to be happy," but they teach how to be *useful*, and to make the most of the human body.—*Christian Inquirer.*

FROM HAVANA.—A letter from Havana to the *N. O. Picayune*, dated the 7th inst., says: "The slave trade is quite active, and vessels are arriving daily from Africa on the coast of Africa. The brig Miller, formerly of your city, sailed hence on the 4th. She cleared in ballast, and returned in ballast, but everybody saw her slave-deck when she was being fitted up in Regla. We hear of landings all along the coast, and the fact is notorious that every Spanish Governor, with the certain parties, high in office, not excluding foreigners, have lent themselves to the scheme, and have received handsome pay for their complaisance. Brig. Lerrano, Governor of Trinidad, is reported to have realized over $100,000 within the last two years, for which he has given a pledge of his good offices to Gen. Concha. He is a native of the town of Puerto Principe, and one of the few Chinese who have made their fortune in Cuba, and shine in their own country. Though much criticised by all parties, he is no more guilty than his companions."

WASHINGTON.—A singular statement has been made by the papers of Mr. Channing's visit to Washington, "to call to the Capitol." Quoting the matter down, it appears that Rev. Mr. Conway has urged Mr. Channing very earnestly to return to the former pastorate of the Church Washington; we hope that the old society there will heartily second the call. It has been unusual to hear from Mr. Channing, but his address, a most conciliating spirit, and an exceedingly fervent heart. We expect that he will be heard from more frequently in the Autumn, with the hearty sympathies of all true friends of Liberal Christianity and comprehensive philanthropy.—*Christian Inquirer.*

GAMBLING AT GREAT SALT LAKE.—They have, it seems, "shaven"—24 per cent a month follows—in the Great Salt Lake city, as well as in Wall Street. Brigham Young, "Prophet" too, according to the denomination of the virtuous high Priest Brigham Young, who "shuffles" and are the smartest jockeys in the world.

Brigham preaches from the pulpit, in somewhat of similar style to father Brownlee in the columns of the Knoxville Whig, and then gets down to the office, and, who advertise moral lectures, delivers them, and then runs off and don't pay his bills. Brigham, who preached the last Sabbath in January, as follows:

"We can pick out sliders in Israel right here who can beat the world at gambling, who can deal, stack the cards, cut and shuffling them with the smartest rogue on God's footstool. I know gamblers who have been cheated out of their money, and take their money from them. We can beat the world at any game."—*St. Louis Democrat.*

NEGROES IN CONNECTICUT.—It has been stated by many Democrats, during the discussion on the decision in the case of Dred Scott, that it was decided in the State of Connecticut, some years ago, that negroes were not "citizens." This appears to be an error. The facts in the case referred to are stated substantially as follows: In 1834, Prudence Crandall, of Canterbury, Ct., was prosecuted for keeping a school for coloured persons, who were not inhabitants of the State. She was tried before Superior Court, before a jury, and the Judge in charging the jury that negroes were not citizens. Miss Crandall was found guilty. The case went, of course, to the Court of Errors, where the judgment of the Superior Court was reversed, on entirely different points, by Judge Williams, now an Ex-Chief Justice of the State, who, in the decision, declined expressly to give an opinion upon the rights of negroes to citizenship.—*Boston Atlas.*

DR. KANE'S DOG.—The Arctic dog brought home by Dr. Kane has strayed from his owner. He has taken refuge on the property of James McArthur, timber dealer in Oramel. The recently intense cold weather has been too much for the poor mariner in high spirits. When they take him into the forest among the timber-hewers, where he can do no harm, and remove logs, he cuts off a piece of a hemlock tree, digs into drifts, and actually burying himself for delight; you can see the dry snow move, but no resemblance of a dog; the dog is coming up to peep, giving his body a tremendous shake, and away he runs for another drive. Mr. McArthur calls him "Esquimo" (Esquimaux), not a very inappropriate name, phonetic. To look "Esk" fair in the face, you see almost the likeness of a black bear, though his eyes are rather longish. He long, soft, black hair, and looks very much like a bear in his body. When left to run at large in the village, he wears a muzzle to prevent his destroying the pigs and chickens.—*Newark Daily Advertiser, March 3.*

EMIGRATION TO LIBERIA.—Senator Brooks desires to reduce our coloured population, and to that end has introduced a bill which provides that a steamer shall be appropriating $5,000 per annum shall be appropriated and paid upon the following conditions: There shall be appointed by the Governor a Commissioner, whose services shall be given without compensation, whose official title shall be, "Agent for Liberia Emigration." It shall be the duty of a Commissioner to search for free coloured residents of this State, for aid in emigrating to Liberia, and, in a book provided for that purpose, he shall enter a record of their names, age, sex, residence and occupation of all applicants, including date of application, emarkation, &c., and if upon inquiry, he shall find the applicant of good character, said agent shall, as soon as convenient, secure for such applicant a passage in any suitable vessel to such free port in United States or Liberia, and shall, if he deem it expedient, advance such sums as shall seem meet and needful, provided that for passage, support and outfit, for each person so emigrating, the total expense shall not exceed sixty dollars.

RELIGION AT THE WHITE HOUSE.—A correspondent of the *Purikan Recorder* thus refers to the retiring President and his successor:

"Gen. Pierce relies said many compliments from the citizens of Washington, and the members of Congress, who have waited upon him, addressed him, and received a beautiful reply, in which, among other things, he commended the quiet Sabbath of the Capital, and the Church of God in Washington. He has been a regular attendant on divine worship, thus setting an example, which more of our rulers should follow. Mr. Buchanan will also regularly attend the Presbyterian church, probably in the New School branch, as has been his custom for many years, when at home, unless prevented by trials. Gen. Pierce attended chiefly the church of the Old School branch, not neglecting the other. Mr. Buchanan's sermons, delivered in his pastor, are the conclusion of his sermon, addressed him in an earnest and affecting manner, which greatly excited the interest of the congregation."

MR. DALLAS COMMITTED.—A letter from England says: I do not wish to make mischief, but, truth to tell, Mr. Dallas has sadly and notoriously committed himself in the Kossuth and Hungarian *sympathy feelin*', but he has done that, before all the world, and in the very presence of the populations of Europe, and of other powers, which would shock the nerves, and cause the cars to tingle, of every omnibus passenger in New York, Boston, and Philadelphia. Not to mention the matter, it was Mr. Dallas who made *amalgamation!* for it is the liberal and shameful truth that he was seen cheek by jowl, and hand in hand, and arm in arm, repeatedly, with the sloven Emperor of Hayti, and that too, openly, in the British House of Commons. I will not say he was drunk, but he was very, very

Miscellaneous Department.

THE DEAD SECRET.

CHAPTER THE SIXTH. TIMON OF LONDON.

TIMON of Athens retreated from an ungrateful world to a cavern by the sea-shore—Timon of London took refuge from his species in a detached house at Bayswater. Timon of Athens vented his misanthropy in magnificent poetry—Timon of London expressed his sentiments in shabby prose. Timon of Athens had the honour of being called "My Lord"—Timon of London was only addressed as "Mr. Treverton." The one point of resemblance which he could be made to bear, serves only to point a contrast between the two Timons consisted in this: that their misanthropy was, at least, genuine. Both were incorrigible haters of mankind.

Fresh from childhood, Andrew Treverton's character had presented those strong, distinguishing marks of good and bad, jostling and contradicting each other, which the language of the world carelessly expresses and continues. There is ously sums up in the one word—eccentric. There is probably no better proof of the accuracy of that definition of man which describes him as an imitative animal than is to be found in the fact, that the verdict of humanity has generally assigned any individual member of the species to a character very like the rest. A man is one of a who presumes to differ from the rest. A man is one of a flock, and his wool must be of the general colour. He must drink when the rest drink, and graze where the rest graze. When the others are frightened by a clap, and scamper, starting with the leaders of the herd, he frightened by a clap, and scamper, starting with the right leg, also. If he is not frightened, or even if, being frightened, he scampers and starts on of step with the rest, it is a proof at once that there is something wrong about him. Let a man walk at noonday with perfect composure of countenance and decency of gait, with not the slightest appearance of vacancy in his eye or wildness in his manner, from one end of Oxford street to the other, without his hat, and let every one of the hundred and fifty-thousand people whom he passes be asked separately what they think of him, how many will abstain from deciding instantly that he is mad, on no other evidence than the evidence of his bare head? Nay, more: let the same man stop each one of those passengers, and let him explain in the plainest form of words, and in the most intelligible manner, that his head feels more easy and comfortable without a hat than with one, how many of his fellow-creatures will hesitate to pronounce that he is mad? Some him will change their opinion when they part from him, after hearing his explanation? In the vast majority of cases, the very explanation itself would be accepted as an excellent additional proof that the intellect of the hatless man was irretrievably demolished.

Starting at the beginning of the march of life out of step with the rest of the mortal regiment, Andrew Treverton paid the penalty of his irregularity from his earliest days. He was a phenomenon in the nursery, a phenomenon at school, and a victim in after life. The ignorant nursemaid reported him as a queer child; the learned schoolmaster gentedly vurled the phrase, and described him as an eccentric boy; the college tutor, harping on the same string, facetiously likened his head to a sieve, and said there was slate loose in it. When a slate is loose, it nobody fixes it in time, it ends by falling off. In the roof of a house we view that consequence as a necessary result of neglect; in the roof of a man's head we are generally very much surprised and astonished at it.

Overlooked in some directions and misdirected in others, Andrew's uncouth capacities for good tried helplessly to shape themselves. The better side of his eccentricity took the form of friendship. Of friendship, generally and unintelligibly fond of one among his school-fellows—a boy, who treated him with no especial consideration in the playground, and who gave him no particular help in the class. Nobody could discover the smallest reason for it, but it was nevertheless a matter of fact, that the little pocket-money was always at this boy's service, that Andrew ran about after him like a dog, and that Andrew ever and over again took the blame and punishment on his shoulders which ought to have been laid on those of his friend. When, a few years afterwards, that friend went to college, the lad petitioned to be sent to college too, and attached himself there more closely than ever to the strangely-chosen comrade of his schoolboy days. Such devotion as this must have been genuine, and proceeded of ordinary generosity of disposition. It made no impression whatever on the inherently base nature of Andrew's friend. After three years of intercourse at college—intercourse which was all selfishness on one side and all sacrifice on the other—the friend left college, and the light was let in cruelly on Andrew's eyes. When his purse grew light in his friend's hand, and when his acceptances were most numerous on his friend's bills, the brother of his boyhood, in the full flush of his simple attachment, abandoned him to embarrassment, to ridicule, and to solitude, without the faintest affectation of penitence—without so much, even, as a word of farewell.

He returned to his father's house, a soured man at the outset of life—soured to the core by the blow to the faith that he had contracted to serve the man who had heartlessly outraged and shamelessly cheated him. He left home in disgrace, to travel, on a small allowance. The travels were prosecuted, and the money was spent, and he came home in settled expatriation. The life he led, the company he kept, during his long residence abroad, did him permanent and fatal harm. When he at last returned to England, he presented himself in the most hopeless of all characters—the character of a man who believed in nothing. At this period of his life, his one chance for the future lay in the good results which has brother's influence over him might have produced. The two had hardly resumed their intercourse of early days when the quarrel occasioned by Captain Treverton's marriage broke it off forever. From that time, for all social interests and purposes, Andrew was a lost man. From that time, he met the last remonstrances that were made to him by the last friends who took any interest in his welfare, with the fatal oath