SPEECH

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OF

MR. DAYTON, OF NEW JERSEY,

ON THE

TERRITORIAL QUESTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 22, 1850.

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The Senate having under consideration the resolutions of Compromise submitted by Mr. BELL, together with the motion of Mr. FOOTE to refer them to a committee of thirteen—

Mr. DAYTON addressed the Senate, as follows:

Mr. PRESIDENT: The war with Mexico has brought with it much territory and much trouble. This result was early foreseen. It was not only foreseen, but it was strongly deprecated. We now have a national estate beyond our national wants or means of enjoyment, and yet not less the subject of contention among the heirs. Some gentlemen on this side of the chamber, in anticipation of the difficulties which now surround us, never assented to the treaty by which this territory was acquired; they preferred the hazard of a continuance of the war with Mexico, rather than a peace which should bring territory along with it. There were a few upon this side of the chamber, and I was of the number, who preferred, as an alternative, peace, upon the terms then offered, rather than a continuance of the war, with the chances of a larger amount of territory, further south, at its close. I do not now, Mr. President, regret my action upon that subject; it is easy to appreciate difficulties which are around us and upon us; but it is hard to say what these difficulties would have been, had that war been continued, by defeating the treaty, and, as a probable consequence, the Whig party been defeated at the ensuing election. I hesitate not to believe that the conclusion of that war, under the auspices of a Democratic Administration, would have brought with it an additional amount of territory, further south, and better appropriated to slave labor. It would have increased rather than diminished the difficulties which now surround us. But, Mr. President, the acquisition of this territory was emphatically the act, the *policy* of the South. This matter, either for good or for evil, has been forced upon the North, not only against our will, but against our remonstrance and fears, ofttimes expressed in this chamber. But the territory is here; and the next step in the progress of this matter is as to the disposition which is to be made of it. That the citizens of the two sections of the confederacy have equal rights there, no man can dispute. But that very equality of right repels the idea that the minority in interest shall have an absolute control. "Equality is

equity;" but a system which shall give to the few (having a lesser interest) the control of the many, is neither equality nor equity.

There is no controversy, then, in regard to the principle that our Southern friends have, with us, politically and personally, equal rights in the Territories; but they are no more than equal. It is the application of this principle of equality which makes the issue between them and us. The first difficulty grows out of California. That country has accomplished what, at the last session, I did not suppose could be accomplished within so brief a space. Her condition must have been misunderstood or misrepresented. There have been, it would seem, but few, comparatively, of her population engaged during the past season in the mines and washings. Others have met in convention, and formed a constitution, which her people have adopted. They have appointed Senators and elected Representatives in the usual forms; and they are now here asking admission for California as one of the States of the Union. The question then occurs, Why shall not the request be granted? California was not at the last session a *State*, and that, though not the whole, was a principal objection to her admission then. That she is now a State *de facto* no man can dispute. But, sir, they have incorporated, it seems, an anti-slavery clause in their State constitution. This, however, I understand distinctly from our friends of the South is, to their minds, no objection to the admission of California into the Union. I understand that they stand now, as they ever have, upon the principle of non-intervention; and the fact of the incorporation of this principle into the California constitution, forms of itself no objection in their minds to the admission of the State into the Union. That being so, it narrows very much the ground of opposition. We get rid in this way of those sources of excitement which have pervaded the country from North to South. The matter is thus brought to stand, not upon a question of right, or honor, or power, but as a mere question of political expediency.

Now, sir, what are the objections to the admission of California, looked at as a matter of form and with an eye to expediency? I know these objections have been gone over by others, and what little I have to say upon them will be said as briefly as the nature of the circumstances will admit.

It has been said that, by the admission of California under the circumstances, the Federal Government will acknowledge that the people of that country had a right to legislate for themselves—that it will in fact be an abandonment by this Government of the sovereign power of legislation over the Territories. Not at all, sir. The very fact that California comes here and asks admission, not *over* our legislation, but through and with the consent of our legislation, admit the fact that our power upon that subject is sovereign; and the very fact that we do admit her upon such application is not only a claim, but the full exercise upon our part of the power of legislation over the country. Why, sir, Congress itself never legislates for a Territory. It creates a Territorial Government, and it constitutes that government its agent. It enacts and we supervise. Now, suppose a state of things shall arise where there is no prior act granting territorial legislative power, and yet, for the purposes of self-protection, laws are passed by its local legislature, and subsequently recognised by

Congress: can any man doubt that these laws would be binding? Is not the act of Congress giving an assent subsequent as binding as if given prior? Does not the general rule apply as to the recognition of an agency either before or after an act done? Did we not in the acquisition of this very territory recognise this principle? The treaty by which it was acquired was not only negotiated by Mr. Trist without authority but against authority; and yet it was sent here and ratified by us. We acknowledged the act subsequent to the negotiation, and it is now the law of the land. Our action, in admitting California, is no abandonment of our right of legislation.

But then, again, it is said that California is not a *State*, and the Constitution authorizes the admission of States only. California, sir, is a State—a State *de facto*; it exercises the powers of an organized government. Whether it is or shall be a State *de jure* depends upon the action of this Government. She has within herself all the powers, all the rights, and is charged with all the obligations of a State—not of a State independent, but of a State dependant—of a State formed with a view to admission into this Union, and consequently curtailed somewhat by its own constitution of the powers of a sovereignty. She has adopted the only character of government which was in her power, upon principles of national law. She could not adopt a territorial form of government; that is the creature of federal legislation. She has within herself now all the elements, rights, and powers of a State. If her conduct has been revolutionary, as has been contended, it would be so against this Government only, and we surely can waive the wrong.

But, sir, this objection, if it existed at all, is an objection which is answered by the past action of the Government. Excluding the case of Texas, some sixteen States have been admitted since the formation of the Constitution, and eight of them have been admitted without any prior consent of Congress to the formation of the State Government. It is said, however, that they previously had Territorial Legislatures. But the powers of a Territorial Government are limited by the act which creates it. They can have no authority to change the fundamental character of the Territorial Government, and make it into a State. Outside of the powers delegated, they are as much without power as though no Territorial Government had ever existed. No amount of argument can make this plainer; nor can any metaphysical subtlety fairly distinguish between the case of States admitted (if without the prior consent of Congress) with or without a prior Territorial Government.

But, again, it has been said there has been no prior census. To this I reply, that five if not six States have been admitted without such prior census; that there is no provision of the Constitution, and no provision of public law, which makes it essential. The question addresses itself to the just discretion of Congress, whether, in point of fact, the population there is sufficient to entitle them to become a State. Now, sir, this population has increased beyond all my expectation, and I suppose beyond the expectations of almost all who hear me. The best information we have upon this subject makes the population about 120,000. The last number of the Alta California gives the number of arrivals in San Francisco in the space of a little more than nine months, prior to the 1st of February last, as 48,000. Un-

questionably large numbers entered the country from other points, and others, doubtless left it. But I think there can be no doubt that, in point of fact, the population of California is amply sufficient to entitle her to admission.

I regret one thing; and that is, that she has elected two members to the House of Representatives. I think it would have been better and wiser to have waited the result of the coming census. But for that alone I would not reject or delay her admission as a State of the Union. If the coming census do not entitle her to her present representation, she will lose it in the next Congress.

But again, sir, the boundaries of the State of California are made the subject of objection. These boundaries, though not embracing all of California, as did the bill of last session, are perhaps too large upon the coast to admit in the future of the convenient workings of the State government itself. Seven hundred miles is a long stretch to be covered by the interior municipal arrangements of a State. But if this State be admitted now, I see not how it is possible that she can be admitted with any other boundaries. The late influx of population is about the centre of the State, around and at San Francisco, and in the neighborhood of the mines. Now, sir, you could not with propriety have run a line around that population and cut out a piece of country in the centre, for a State, leaving a fragment of territory to the north and another to the south unprovided for. In the present situation of things, you are compelled, if you admit the State at all, to admit her with her present boundaries. They may not have been wisely made; it may in future so appear. If so, we must trust to the patriotism of posterity to do in the future what they have in like cases done in the past—rectify their mistake by the light of experience.

But, sir, there is another branch of this same objection; and that, I apprehend, arises from the fact that a part of these boundaries go south of 36 deg. 30 min.—that they cover land that would have been left to slavery in the event of the Missouri compromise line being extended to the Pacific. But the answer to this is, if answer were necessary, that the people have settled this question for themselves, north as well as south of that line; and under all the circumstances it is "hoping against hope" for the South to look in the future for the formation of a slave State upon the Pacific. Why, sir, when the citizens of the South go there, they do not seem to desire slavery themselves. They slough off their prepossessions at once. If the institution be a blessing at home, it is, at all events, a blessing that they are not disposed to carry along with them. They leave the South and this institution behind, and the very moment they get into the sunshine of freedom, they change their colors; they cast their coats. Why, sir, what have we seen in this very California convention? The South was represented there—nay, was not only represented, but in proportion to their numbers, more than represented in delegates to that convention. True to their past history, the South have already obtained in that territory nearly all its offices and its honors. Their citizens are there, looking, not for emolument only, but it would seem for power and place. Ours more generally are delving in the mines; they are scouring the *dirt*. The citizens of the South are not, it would seem, after the glittering dust only, but power and position.

Mr. FOOTE. The Senator, I presume, does not wish to do injustice to his own section; the representatives in the other House are, I believe, both from the North.

Mr. DAYTON. I did not overlook that fact. I qualified my remark by saying that the citizens of the South had acquired *nearly* all the honors and offices of the Territory. If the representatives in the other House are from the North, those in this are both from the South; the one from Mississippi, and the other from South Carolina. And looking at home, at California herself, we find that the whole body of her State officers, with a single unimportant exception, are Southern men. Sir, I do not censure, but I rather commend the South for their spirit there. But when we see that they were fully represented in the California convention—that the leading and influential men there are men of the South, and yet we find them all, *una voce*, going against the introduction of slavery, I ask, is it not over-sanguine to expect slave territory in California south of 36 deg. 30 min.? Men do not emigrate from mere political motives, and with a view to political results. The leading inducement to emigration is always personal—generally pecuniary. Some few there are who may go with a view to honor and office, but the great body of emigrants have another creed. Theirs is what some one has cynically called the American creed: "they believe in the golden eagle; they believe in the silver dollar; they believe in the copper cent." The sarcasm is scarcely more bitter than true: it is at least the inducement which controls emigration here—that controls emigration everywhere. You will never get a slave population to emigrate to that territory with a view to constituting a political equilibrium. In the business of life, in the daily transactions of men, they are governed and controlled by other motives and other objects. Slave labor is southern capital, and southern capital, like capital of every other description, will pursue the general law of trade. It will go permanently nowhere, except where the investment will produce an adequate return.

California, south of 36 deg. 30 min., embraces the town of San Diego, the city of San Angelos, and other populous towns and villages along the coast. In point of fact, it was, I believe, the best populated part of the territory prior to the late rush of emigration. Can it be required that we shall keep out that portion of California from the benefit of State government, with the expectation, at some future day, of the miraculous advent of a controlling slave emigration? Sir, it cannot be; it is hopeless, and the demand unreasonable. I know that our Southern friends may look at this as another mode of changing the equilibrium. Sir, no such equilibrium was ever intended; and if it were intended, it has been destroyed, not by reason of, but in despite of the action of this Government. In showing up the means by which this supposed equilibrium has been destroyed, the Senator from South Carolina, (Mr. CALHOUN,) has ciphered up with the rest the amount of unoccupied territory appropriated to the two sections since the adoption of the Constitution. He seems to have forgotten that it is not territory *unoccupied*, but occupied, (of which the South has two acres to our one,) that alone could effect such results. He seems to have overlooked another striking fact, when saying that this equilibrium has been destroyed by the action of this Government; a fact, indeed, in our political history, which has been wholly overlook-

ed through all this debate. The action of this Government hostile to the South, forsooth! Why, sir, do they remember that, since the adoption of the Constitution, Missouri, Arkansas, Texas, Louisiana, and Florida, have all been added to the slave territory of the Union, by the direct action of this Government, out of territory acquired since the adoption of the Constitution? Up to the 28th December, 1848, there had not been a solitary free State added, except out of land which we owned upon the treaty of peace in 1783, recognising our independence. By that treaty with Great Britain our boundary ran from the northwest point of the Lake of the Woods due west, to the Mississippi, thence down the Mississippi. That boundary was never disputed by France or any other power, and before the admission of Iowa there had not been a solitary free State formed, except out of territory on this side of the Mississippi. Now I appeal to the Senate and to the country how, in the face of palpable facts like these, can it be contended that the equilibrium has been changed by the action of the Government? If it has been changed, it has been done by causes over which the Government had no control, and in despite of its constant action to the contrary.

Again, it is said that it is not just or fair that the adventurers who first rushed into this territory should settle its organic laws, and thus presume to exclude the institutions of the South. And yet, Mr. President, this is but the history of all territorial governments. The first who go there, as soon as there is a sufficient number, settle the organic law of the Territory; some in longer, some in shorter time. Alabama settled her organic law by forming a constitution a little over two years after she became a Territory. Circumstances will force the settlement of one territory more rapidly than another; but as soon as their population is sufficient, and they have complied with other essential preliminaries, equal justice requires that we apply one rule to all.

I admit, sir, if the influx of population were made in fraud of the rights of the South, and merely with a view to exclude their institution, it would present a question for the exercise of a just discretion by Congress. But in this case nothing like this is pretended; the settlement has been in good faith, with a view to business interests, and not to the political control of the country. But there is another reason why we should look favorably upon this application: the Government has itself encouraged and fostered this rapid growth and sudden development of California. Witness its great mail system, its line of steamers, the routes secured across the Isthmus, the ports opened, and revenue collected upon the other side of the continent. The Government, in connexion with individual enterprise, has given such an importance to these Territories, that an arrival of a steamer from Chagres is looked for with an anxiety equal to that of an arrival from the marts of the old world; ay, sir, and in the agricultural sections of our country with greater anxiety and greater interest. These are quick, unexpected, and unparallelled results. I had supposed that this influx of population upon that coast would before now have ceased, and as suddenly as it began, but I was mistaken. The precious metals still hold out, and the tide of emigration sets steadily, through as not as strongly, as ever, to the Pacific coast. There is one thing before us that indicates with some accuracy the present condi-

tion of that country. The constitution she has sent here shows the pay and salaries fixed for the officers of her government—sums better fitted for the meridian of California than of Washington, and least of all fitted for the people of a territorial government. Ten thousand dollars a year for their governor, and sixteen dollars a day to their members of the legislature, with other salaries and incidentals in proportion, show that California either never was in, or that she has passed the *grub-worm* condition; she spreads her wings, literally her *golden wings*, fresh, full-grown, before us! You can no more remand her to the state of a Territory than you can force back a development of nature into its condition of yesterday. Nor is it desirable that you should. As a Territory, she is a charge upon your coffers, (and it would seem no mean one,) while as a State she is a charge upon her own.

But, sir, there is yet another objection, and perhaps the most serious of all, to the admission of California; one about which, though least is said, perhaps most is thought. There is no slave State ready to come in, as a balance against this free one. Now, sir, I think this is the first time that it has been assumed *openly*, as a principle of action, that no free State should come in unless there was a slave State to come in with it. I admit, sir, it has long been acted upon—adroitly acted upon—by Southern statesmen. They have manifested upon such occasions a degree of political strategy which, considering that the interests of the South must, through so many years, have been in the hands of different statesmen, indicates great ability and great power. Why, sir, the two last slave States which were admitted, Arkansas and Florida, have each now one representative upon the floor of the other House only, and the population only which entitles them to it; while of the two last free States, Iowa and Wisconsin, both admitted subsequent to those last named, the one has two, and the other, Wisconsin, the last admitted, has three representatives on that floor, and of course a commensurate population. But, sir, let me now call the attention of the Senate and of the country to this matter of admission of new States, and to dates; and I think that a little reference to this subject will serve as a useful lesson to Northern politicians. It will show how they (though having the numerical force themselves) have constantly permitted the South to anticipate them in the admission of States into the Union:

Slave States.				*Free States.*		
Louisiana was	admitted in	1812	and	Indiana was	admitted in	1816
Mississippi	"	1817	and	Illinois	"	1818
Alabama	"	1819	and	Maine	"	1820
Missouri	"	1821	and	Nothing to balance it.		
Arkansas	"	1836	and	Michigan was	admitted in	1837
Florida	"	1845	and	Iowa	"	1846

Now, sir, here is a course of things, running through forty years, showing that, ever and always, without reference to population, our Southern friends have managed to anticipate us a year or two in the admission of States. But, sir, after Florida was admitted, the South had used up its *material;* they had got at last to the end of their tether; here was a difficulty. Wisconsin was looming up in the distance, just upon the horizon, and there was not only no slave State ready, but there was no territory to make one of; not a foot remained south of 36° 30′ unoccupied. The territory west of Arkansas had

been permanently appropriated, by act of Congress, to Southern Indians, removed there. Here, then, was a dilemma; but even here the South was equal to the emergency. Just at this point of time there was, we are told by the Senator from South Carolina, a World's Convention in London for the general abolition of slavery; and simply for the purpose of preventing that World's Convention from carrying its resolves into effect, a Southern Executive actually secured Texas, and *admitted* Texas, before Wisconsin was ready. Now, I say, *that*, again, as matter of strategy, if it were so, was well done.

But, sir, now comes another difficulty. Out of this annexation of Texas came the war with Mexico; and out of that again, by force of Southern policy, comes this acquisition of California. But in getting this the South "have got more than they bargained for." Circumstances wholly accidental, and which no human foresight could anticipate, have thrown a vast free population suddenly into that Territory; they have put their veto upon the slave principle; organized a government, and they are now here respectfully asking admission at our hands, and there is no slave State ready to meet them. Well, here in truth is a dilemma. The South have the territory in Texas, but they have no men. What is to be done? The case is desperate; but if it be so, so is the remedy. *Compromise*, say they, or we will *secede*. Now, what in Heaven's name are we to compromise? Here is a state of things brought about by your own policy, against which we have protested from the beginning; it has taken a turn against you which human foresight could not anticipate, and now you say compromise or we will secede. Sir, but for its importance, the claim, under all the circumstances, is almost laughable. The North has been led along as by a string, blindfold, for forty years, and now it has got in California a little the start, not by its wit or its wisdom, but by pure accident, and the South says *compromise* or we *secede!* Sir, if our friends of the South seriously mean to say that, upon the admission of California they will hold it as ground of secession, in God's name let the trial come; let the issue be made. Never, never can it come upon a point weaker for the South, or stronger for the North, than that. If the power of this Government is to be tested, let it be tested just in such a cause, and just under such circumstances. But, sir, this is a useless anticipation; such a crisis can never originate in such a cause; the just feeling of the South will revolt against it. I hold, therefore, that the South makes no concession to the North in the admission of California, and we are bound to make no equivalent to them.

But, sir, in this connexion, and I suppose as connected with equivalents, a slave State has been spoken of in Texas. The great difficulty is, that they have got no men there to make a State of. They want however, a legislative declaration of willingness upon our part to make a State when the men go there. Now, Mr. President, I do not know that that will be of any service. There has been a legislative declaration of willingness made, as stated by the Senator from Massachusetts, (Mr. Webster,) and I confess I am not fond of putting my willingness upon this subject upon paper. In point of fact I am not willing, but still I suppose it must be done when the time comes. Whatever other gentlemen may say upon the subject, I cannot but think the government is bound to do so upon the fair construction of the con-

tract of annexation. But, as before stated, I am opposed to all unnecessary expressions of willingness in advance. I will abide by the contract, but I did not make it, and will not *willingly* do it. I will do it if the time shall ever come, (which I hope may be far distant,) because, acting as a fair man, I cannot help it. I think, as a legal proposition, that matter is rather too plain to be controverted.

The clause in the resolution for the annexing of Texas is this: "New States, of *convenient size*, not exceeding four in number, in addition to said State of Texas, and having *sufficient population*, may hereafter, by the consent of said State, be formed out of the territory thereof, which *shall be entitled* to admission under the provisions of the Federal Constitution;" and those States formed south of 36 deg. 30 min. "*shall be admitted* into the Union with or without slavery, as the people of each State asking admission may desire." Mr. President, neither I nor my friends voted for that resolution. Texas was annexed in pursuance of it, in despite of our remonstrance and opposition. But the act being done, the obligation of good faith is imperative upon the Government. There is no escape from it. Two answers are given to this. The Senator from New York (Mr. SEWARD) says it is true these States south of 36 deg. 30 min. may come in as *slave* States, if they desire it; but Congress may refuse to admit them as States at all, and, as I understand, for the reason that they are slave States. This seems to me a clear evasion of the contract. The resolution says "they shall be *entitled* to admission;" it says "they shall be admitted," with or without slavery, as *they*, not we, desire. I would not hurry or anticipate the time of their admission, but, on the contrary, shall be very careful to exact a full compliance with all precedent conditions; but when a state of a "convenient size," having a "sufficient population," shall apply, with the "consent of Texas," and in conformity with other provisions of the Constitution, the letter and spirit of the resolution should be fairly complied with. That Congress may exercise, and is bound to exercise, a just discretion as to whether the preliminaries have occurred, no man can doubt; but the fact that they have chosen slave and not free institutions is *expressly excluded* from its consideration by the contract of annexation. To make the slave institution *a bar* to admission is to nullify that part of the resolution which says they "*shall* be admitted" with or without slavery, as *they* may desire. Sir, I struggled against this resolution or contract then. I regret it now. But its terms are plain; the consideration of the question of slavery was expressly reserved to the newly-formed States by the act of admission, and the obligation of good faith faith demands that the Government abide the contract. But a second answer has been given by the Senator from New Hampshire, (Mr. HALE.) He says the resolution admitting Texas was unconstitutional, and consequently not binding; but without discussing that point—for it is too late to do so—we are precluded by the fact that Texas has been admitted; the contract has been thus far executed. The Government has taken the country under that contract. We cannot claim its benefit in that which makes for us, and disclaim its obligation in that which makes against us. This is not only a principle of good faith, but a rule of law recognised in every court, whether of equity or law, in christendom. No, sir; no, sir; let us stand by our contract, without subterfuge or evasion, and that whether they be for us or against us.

Mr. SEWARD. I think my position was not stated correctly; but, if it is the pleasure of the Senator, I will wait until he gets through.

Mr. DAYTON. By no means. I will hear the Senator now.

Mr. SEWARD. I intended to state, and I think I did state, that the resolution for creating new States at all in Texas, is one which requires consent to be given hereafter; not only the consent of Texas, but of Congress; and that, therefore, if the question was to-day before me, I should vote, under present circumstances and with my present opinions, against creating any new States in Texas, and that the result of it would be that no new State could be admitted as a State.

Mr. DAYTON. If the Senator means to say that he would vote now, under existing circumstances, against the admission of a slave State in Texas, I agree with him.

Mr. SEWARD. Now and hereafter. If he will refer to the words, he will see that new States *may be* admitted, with the consent of Texas to be hereafter given, and with the consent of Congress to be hereafter given; that the Congress of the United States is not committed in that resolution to the creation of States hereafter.

Mr. DAYTON resumed. That is not the language of the resolution. If that were the language of the resolution, there might be something in the gentleman's argument. But the language of the resolution is this:

"New States, of convenient size, may hereafter, by the consent of said State, be formed, &c., which *shall be entitled* to admission under the provisions of the Federal Constitution."

I repeat, that I would not hurry their admission; I would not anticipate the necessary preliminaries; I would take full time to see that they are of convenient size; to see that they have a sufficient population; to see that they come in with the consent of Texas; to see that they have complied with the whole spirit and letter of that resolution; but when that is done, I see not how the Government is fairly to escape from the contract.

I thus pass from the subject of California and its proposed equivalents, and say I am in favor of her admission without restriction, without limitation, and without equivalent.

Well, sir, there is another question——

Mr. SEWARD, (interposing.) Will the Senator from New Jersey allow me to ask him whether the resolution for the annexation of Texas, as he has quoted it, was found in the book called "The Constitution?"

Mr. DAYTON. I believe I copied it from that.

Mr. SEWARD. Will the Senator excuse me if I read from that volume, the one to which I had access before, and which I presume is right, for the purpose of avoiding misapprehension? It is as follows: [Mr. S. here read the resolution as before recited, and commented upon the language, "new States may hereafter be formed," as giving to Congress an option.]

Mr. DAYTON resumed. The Senator misunderstands, I think, the application of that language; if critically examined, it will be seen that the word *may* applies to the option on the part of Texas; or, if applied to this Government as well as that, it is controlled by the language of the next sentence. The word *shall* applies to the obligation which rests upon this Government. [Two or three Senators near: "That's it, clearly."] I do not think there can be any great

difference of opinion with regard to the fair construction of that resolution. But I pass from that branch of the subject, trusting that we may not be called upon to act upon it for years to come.

There is another topic of a practical character to which I beg to call the attention of the Senate; and that is, *the fugitive slave bill.* This subject has been much spoken of, in the general, in the Senate, but it has been very little spoken of in its details. The Constitution provides that fugitives from service "shall be delivered up on claim of the party to whom such service or labor may be due." I trust that I may be pardoned a few preliminary remarks in calling the attention of the Senate to the mode in which that provision came into the Constitution, with a view to what I consider the truth of history, and to rectify a mistake recently made upon the subject by the Senator from South Carolina, (Mr. CALHOUN.) That Senator said that he understood that the ordinance of 1787 had been opposed in the Congress of the Confederation from 1784 to 1787, and had been kept out; but that finally, in 1787, the Congress of the Confederation and the Convention which formed the Constitution, (sitting at the same time, the one in New York and the other in Philadelphia,) acting upon a mutual understanding, the one passed the anti-slavery clause of the ordinance, and the other put this clause into the Constitution providing for the delivery of fugitive slaves; leaving us to understand that the one was in consideration of the other, and that we had now faithlessly refused to carry out that understanding.

In the course of a few years, this statement, unless contradicted here and now, will become history; "*vires acquirit eundo.*" I beg to ask upon what it rests? The ordinance, as drawn by Mr. Jefferson, was not defeated, but passed in 1784, without the anti-slavery clause. (It was a meagre skeleton, wanting in all those noble properties which have since given it so just a celebrity.) It provided, as drawn by Mr. Jefferson, for ten States instead of five, which, if continued, would have made a great difference in the relative strength of the two sections of the Confederacy. As it was, it continued the law from 1784 to 1787. The subject matter of the Northwestern Territory and this ordinance were then referred to a committee of the House, of which Mr. Carrington, of Virginia, was chairman. On the 9th of July, 1787, this reference was made; and on the 11th, Mr. Carrington, as chairman of that committee, reported the ordinance as it now is, without the anti-slavery proviso. On the 12th, Mr. Dane, a member of that committee, moved the insertion of this proviso as an amendment; and it was inserted unanimously. On the 13th, the bill passed and became a law, having gone through all the forms of legislation in five days. Now it is supposed that this bill, with its anti-slavery clause, was connected with the clause in the Constitution for the surrender of fugitive slaves, and that they were passed together and upon mutual understanding of the two bodies. By reference to the proceedings of the convention which formed the Constitution, it will appear that that convention never approached the subject of fugitive slaves until the 28th of August, nearly seven weeks after the time that the Congress of the Confederation had passed the ordinance with the anti-slavery proviso in it! This would at once and of itself end the hypothesis, but there is no trace of any such understanding in the debates in the convention; nor is there a trace of such an understand-

ing, so far as I have seen, in the debates of the several State conventions, when they came to consider the adoption of this Constitution. I have looked particularly into the debates in Virginia, North Carolina, and South Carolina, and I find nothing of the kind. The only reference from which the consideration given the North for this consent to surrender fugitive slaves may be implied, I find in the remarks of Gen. Pinckney, in the convention of South Carolina. He, in speaking of the abandonment of the right of importing slaves after twenty years, said, in that connexion, that the South had secured a provision for the surrender of fugitive slaves, which they would not have been entitled to, and had made the best bargain they could. If there was any question (which is very uncertain) which had a bearing upon this fugitive slave clause, it was that provision for giving up the right of importation of African slaves after twenty years. I may add here, that the adoption of that Constitution in the convention of South Carolina was violently opposed; but when the decisive vote came, there was a long burst of applause and approbation from the surrounding spectators; confusion followed; the minority protested against it as insulting to them, and the House was cleared. Long, long may it be, before other and different feelings shall reign in the hearts of that people!

I was speaking of the mode in which this fugitive slave clause came into the Constitution, and deny that there is any evidence that it came there as a consideration for the anti-slavery clause in the ordinance of 1787. That clause as to fugitive slaves being there, as soon thereafter as might be, the act of 1793 was passed for the purpose of carrying the provision into effect. Upon that act of 1793, and the powers originating under it, there has been a decision of the Supreme Court of the United States; and before I come to consider in detail this fugitive slave bill, it is necessary that we see what the Supreme Court has decided. I hold the case of Prigg *vs.* the Commonwealth of Pennsylvania, 16th of Peters, page 540, in my hand. I do not mean to read the case, but I wish to read some of the points which the case decided.

It lays down these principles, among others, that

"The clause in the Constitution of the United States relating to fugitives from labor manifestly contemplates the existence of a positive, unqualified right, on the part of the owner of the slave, which no State law or regulation can, in any way, qualify, regulate, control, or restrain."

Again: That

"The owner of a fugitive slave has the same right to seize and take him in a State to which he has escaped, or fled, that he had in the State from which he escaped; and it is well known that this right to seizure, or recapture, is universally acknowledged in all the slaveholding States. The court have not the slightest hesitation in holding that, under and in virtue of the Constitution, the owner of the slave is clothed with the authority, in every State of the Union, to seize and recapture his slave, whenever he can do it without any breach of the peace or illegal violence. In this sense, and to this extent, this clause in the Constitution may properly be said to execute itself, and to require no aid from legislation, State or national."

Again: That

"The clause relating to fugitive slaves is found in the national constitution, and not in that of any State. It might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the national government, no where delegated or intrusted to them by the Constitution. On the contrary, the natural, if not the necessary conclusion is, that the national government, in the absence of all positive provisions to the contrary, is bound, through its own proper departments, legislative, executive, or judiciary, as the case may require, to carry into effect all the rights and duties imposed on it by the Constitution."

Again: That

"It would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation upon the same subject, and by necessary implication, prohibit it."

Again: That

"The act of 12th February, 1793, relative to fugitive slaves, is clearly constitutional in all its leading provisions; and, indeed, with the exception of that part which confers authority on State magistrates, is free from reasonable doubt or difficulty. As to the authority so conferred on State magistrates, while a difference of opinion exists, and may exist on this point, in different States, whether State magistrates are bound to act under it, none is entertained by the court that State magistrates may, if they choose, exercise the authority, unless prohibited by State legislation."

Mr. President, there seems to have been a general expression of opinion in the Senate against the validity or correctness of this decision, so far as it pronounces State laws unconstitutional. Sir, I was happy to hear the honorable Senator from North Carolina, (Mr. BADGER,) whose judgment as a lawyer we all respect, say that in his opinion the decision was right. That is my opinion. Now, sir, having ascertained what the Supreme Court of the United States has decided upon this subject, and that it is the duty of Congress to carry this provision of the Constitution into effect, I am willing to do so.

Here permit me to say, without the slightest disrespect or unkindness towards the Senator from New York, who had expressed himself upon this subject, (Mr. SEWARD,) that I have no sympathy in some of the sentiments thus expressed. Every man, it is true, is the judge of what is due to himself. I only judge of what I feel is due to myself. Having entered this chamber, and bound myself by a cable stronger than iron to the Constitution, I hold that it is too late to go behind it when its text is clear. As soon, sir, as we begin to speculate, not upon what the Constitution is, but upon what it ought to be—to try it by the laws of God, and the powers of conscience, as *we* understand them—I fear that our anchorage is gone, that we are adrift in the night. I am willing to carry out this provision without paltering with my duty. But I may look upon this question differently from the honorable Senator from North Carolina and others who have addressed us upon this subject. I am prepared to vote for a law for the recapture and redelivery of fugitives slaves; but you must present a law that is reasonable—not one anomalous in its proxisions or reasonable in its character.

It is my purpose to examine a little in detail the law which is now before the Senate, and the proposition which is intended to be introduced by the Senator from Virginia (Mr. MASON) as an amendment. In my judgment, it would have been better, in the present excited state of the public mind, simply to have amended the act of 1893, by a supplement providing merely that certain named persons be substituted in the place of the State officers, (of whose services you have been deprived by the decision of the Supreme Court,) and that they be vested with powers to carry that act into effect. But another course has been taken. The committee have thought proper to report an entire bill, and I propose to examine that bill; I think we shall find it the most anomalous and extraordinary bill ever brought before us for legislative action.

The bill reported by the Judiciary Committee, in its first section, gives power to all commissioners of the Supreme Court, clerks, marshals, postmasters, and collectors of the customs, to carry into effect

the duties and powers of that act. Now, sir, if you recollect who and what the individuals here named are, scattered all over the country, does it not strike you as most anomalous and extraordinary that they should be vested with the power of pronouncing, in effect, upon the slavery or freedom of a human being? Is there a State in this Union, is there a Southern State that has or would vest a power of this kind in such a tribunal—a power without appeal and without revision? I think not one. And if you you pass such a law, I take it upon myself to say that you will generate a species of kidnapping, of fraud and outrage, which has been unknown even in the past history of this subject. I admit that the amendment offered by the Senator from Virginia is better than the provisions of the law as it now stands. That amendment provides, however, for the appointment of commissioners by the federal courts of the United States; and I observe that by that amendment my little State would get between sixty and seventy commissioners, three to each county, for carrying this law into effect. Here, again, in the amendment, as well as in the original bill, it seems to me there is a mistaken principle of action, of which I will speak further hereafter.

The second section of that law authorizes the individuals to whom judicial power is given to issue process upon application of the claimant, before the arrest of the fugitive is made. That is right—unquestionably right. The only difficulty is, that, instead of being optional, if we have the power, it ought to be peremptory; because most of these difficulties arise from the fact that claimants act without process. A black male or female lives in a free community, and has, perhaps, for years; they are recognised as free by our laws, and have children born there, (as was the case of the female carried off by Prigg from Pennsylvania.) Upon some calm day a stranger, unknown to the community, presents himself there, and, without process or evidence, simply says, that man, or that woman, is my slave! The black denies it: and yet he lays violent hands upon that slave, and carries him or her off by force. That community know nothing of the man who presents himself, nor of his right. They only know that the black has been there, perhaps for years, and supposed to be free. Can it be matter of surprise that, under such circumstances, there should be mobs, and riots, and outrages? The case is calculated to create excitement, and the feelings of all free communities revolt against it. It is therefore I say that if we have the power, it is best for the master as well as the slave, that we make the prior issue of process imperative, and not optional.

The third section authorizes the marshal and his deputies, of the federal courts of the United States, where force or violence is anticipated, to retain the fugitive in their own custody, and that they deliver him over to the claimant in the State where the claimant lives. Here is a new reading of the duties of United States marshals! A man who is marshal in Michigan, under this provision, is compelled to deliver, and is of course held responsible under this law for the safe delivery of a fugitive in Texas. These marshals are appointed under the judiciary act of 1789; let me read a few lines from the 27th section:

"A marshal shall be appointed in and for each district, &c., whose duty it shall be, &c., to execute *throughout the district* all lawful precepts directed to him and issued under the

authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty."

He is then required to take the official oath and to give bonds as marshal of that district. He is appointed only to execute writs and other precepts or orders within the district. Now, sir, I put it to professional gentlemen on this floor, can you surcharge him with these additional duties, extra-territorial in their character? And, if you do so surcharge him, are his securities responsible for their due performance?

But, sir, again: It is said that this demand for the delivery of a fugitive is a demand upon the jurisdiction of the State. I grant it. The act of delivery is, in contemplation of law, the act of the State. Now, recollect that all your authority to deal with this subject is an authority which comes from the Constitution, and you cannot legislate an inch beyond the powers there given. When the Constitution says the fugitive shall be delivered up on claim made, where does it mean he shall be delivered up? In this law you require that it shall be done in the State from which he fled. That is not the constitutional provision.

The power under the Constitution is to deliver up, but to deliver up *on claim made*, and of course where the claim is made. Why, sir, take the preceding section of the same article, which requires the delivering up of fugitives from a criminal charge, the language of which is identical in this particular. Where is that delivery to take place? Can you, under the Constitution, require the delivery of the alleged criminal in the jurisdiction from which he fled? No man can pretend it. That delivery under the Constitution can only be made *then* and *there*, and if you attempt to legislate beyond that, you are legislating outside of the powers conferred by the Constitution. I hold, therefore, that we are without power to pass this part of the 3d section of the act.

But there is another provision in the section; and that is, that the marshals shall have the power in certain cases to call assistance for purposes therein specified. Sir, this is simply unnecessary; by the judiciary act of 1789 any marshal has already the power to call all such assistance as he may require for the execution of his duties. This 3d section of the bill is then in its parts unconstitutional and unnecessary.

The 4th section is obnoxious to the same criticism applied to the preceding, only with increased power and force. It provides that in the event that there shall be no marshal or deputy within ten miles, the person issuing the warrant shall appoint some fit person to execute it, and deliver up the fugitive, with all the powers to call assistants, &c., named in the preceding section. Of course this subjects the section to the remarks which I have applied to the preceding one. It moreover develops, in its fullest extent, the incongruous character of this law. Here you are appointing postmasters, collectors of customs, and others, who have never, perhaps, seen the inside of a law-book in their lives, to exercise high judicial powers; you then propose to authorize them to name anybody else to act as executive officers, and these again to call to their assistance any other persons to aid them to carry their extraordinary powers into execution! And then, in the event of difficulty and force being opposed, the United States are to pay all the expenses and costs.

The fifth section is a mere increase of penalties upon those who obstruct the claimant. I care little for this, though in point of fact the penalties are severe enough now, if enforced: you only increase the difficulties of a recovery by enlarging them. I now submit to honorable Senators, do you believe that this law, or any law like it, can be carried into effect through the agency of such a tribunal? You will increase, rather than diminish, your difficulties. Upon each arrest and trial there will be but a repetition of scenes of confusion, exasperation, and excitement. You are taking the wrong course. You are endeavoring to augment your chances of recovery by increasing the number of your agents; *the error is radical.* You should, instead of this, elevate the character and standing of persons to be selected as agents. That is the only mode in which we can ever expect to succeed in enforcing the provisions of the Constitution. You must lodge this power in the hands of those whose position and character will make that power respected. You catch and reclaim your fugitive criminals without difficulty, with the aid of *one* Governor; and when you get a Governor's order for the delivery of a criminal, no one thinks of interfering with the authority of that distinguished official. If you will confide this affair of fugitive slaves to the district and circuit judges of the United States courts, or even if you should extend it to those commissioners of the United States courts who may be appointed with their consent from the judges of the Supreme courts of the several States, you will be able, I have no doubt, to secure the execution of your law. Such persons will give weight of character and respectability to the offices which they are called upon to perform; but if you put this power in the hands of a great number of petty commissioners, you will inevitably surround its execution with new and augmented difficulties. You do not need an agent stationed at every cross-road through the free States, for the purpose of catching your fugitive slaves. Southern men do not go into the free States to hunt a slave as they would start a partridge, which must be taken on the wing or it is gone; they first ascertain where he is, or obtain some knowledge of his whereabouts, locate him, and then go for the purpose of arresting him. There is, therefore, no difficulty in their arming themselves with the proper process beforehand, whether there be five or fifty persons charged in the State with the execution of the law for delivery of fugitives. You are proceeding upon a false principle. You are legislating with a view to finding facilities to *run* your slaves out of the free States, as though they were *contraband* goods, to be run across the border in the face of a revenue officer. It is a false principle of legislation, and proceeds upon an entire mistake as to the feelings of our people.

But, again, sir, much has been said as to the propriety of affording the fugitive slave a trial by jury; the most strenous objections are made to the proposition. And the honorable Senator from North Carolina, (Mr. BADGER,) who expressed himself with so much clearness and legal acumen, took occasion to say that the granting of such a trial would render the whole remedy of the slaveholder illusory; and I recollect that the honorable Senator from Maryland (Mr. PRATT) said the other day that it was equivalent to the denial of all remedy to the master for the recovery of his slave. I was surprised, sir, to hear these expressions. I speak from some knowledge of the subject,

when I declare that a jury is, in my judgment, a thousand times better tribunal than that of any of the petty officials your bill proposes to create; not better for the slave only, but fairer for the claimant. I do not mean to say that after a jury has rendered its verdict, and an order for delivery and removal is made, that an appeal or certiorari or writ of error is to be provided for, and thus a ruinous procrastinated litigation to be entailed upon the claimant. Not at all. I mean that the verdict of the jury shall be final and conclusive as respects the question then and there submitted, and that the order for delivery be based thereon. That is now the law of New Jersey, first enacted in 1836, and again re-enacted in 1846. A jury can be summoned in an hour; there is no harrassing and annoying delay, nor any but the most trifling expense about it. It is simply the substitution of another tribunal in the place of the judge or commissioner who has been proposed to try the questions of fact. Nor do you have to prove anything more before a jury than you would before a judge or commissioner. You have to prove exactly the same thing—nothing more or less.

But my learned friends from Kentucky, Virginia, and North Carolina say that this is a change of *venue*, and implies an insulting distrust of *their* courts. With all respect, sir, I assert that it is nothing of the kind. It is a change of nothing but the character of the tribunal that is to try the question of fact. The finding of the tribunal, and the finding of the judge or the commissioner, has the same effect, and none other. They investigate the same matters—decide upon the same evidence, and you have to prove no more before the one than before the other. How, then, can it be said that it is a change of venue? The finding of a jury and the judge's order thereon for delivery has no effect upon the question of the abstract right of property; but it is effective *then* and *there*, and for the purpose only contemplated by the Constitution, to wit: the delivery up of the slave, or a denial of it. But suppose, after a finding in the fugitive's favor, he return to the State from which he fled, could he plead the verdict or denial of the order of delivery in bar of the claim of the master to his service? or, if the verdict were in favor of the claimant, could that, in a Southern State to which he might return with his slave, vest a title if he had none before? Would it *bar* the negro's claim in your courts to his freedom? Surely not. It is conclusive only for the purpose which is *then* and *there* under consideration. A verdict is not on general principles pleadable in bar; it is the judgment alone which has that effect; and, in this case, that consists of nothing but *an order for delivery*. A jury, under these circumstances, is any thing but injurious to the interests of the claimant, or insulting, as supposed, to the rights of the South.

But, sir, the whole argument against the allowance of a jury is based upon a supposed analogy between the two provisions in the Constitution relating to fugitives—the one to fugitives from justice, the other to fugitives from labor. My learned friend from North Carolina (Mr. BADGER) said yesterday, or the day before, that the cases were identical. How strange that, on a question of legal construction, we should so widely differ! To my mind the line of distinction between the two is as broad and clearly marked as a turnpike. Let us look and see whether the argument based upon this position is well founded. Here is one section:

"No person *held to service* or labor in one State, &c., *escaping* into another, &c., shall be discharged from such service or labor, but shall be delivered up on claim of the party to whom *such service or labor may be due.*"

Now, upon this claim of fugitive slaves, what is to be proved? You are, in the first place, to prove that the person was held to service; in the second place, that he has escaped from such service; and in the third place, that the service is due to the person making the claim. That is not only plain on the face of the Constitution, but if you look at the decision of the Supreme Court before referred to, it recognises a full and fair hearing of this entire question upon the merits, and says, in substance, that the question of *title* may be gone into. Well, sir, upon the provision under which the claimant claims the slave, cannot the slave offer evidence that he is no slave, that he is no fugitive? cannot he bring testimony that the claimant is not and was not his master? And yet if this tribunal were the mere "*committing*" tribunal—as is so earnestly contended by these Senators—a tribunal to deliver up the slave, that he may be tried elsewhere—a tribunal sitting to take preliminary evidence to ascertain whether there was a *prima facie* case sufficient to justify an arrest and commitment for trial—would the fugitive have a right to such evidence in chief? Does a criminal ever exercise such right? No, sir, nothing of the kind. The Constitution contemplates a full and impartial hearing, without a view to the decision of the question there submitted, and the slave is not to be given up until those things are satisfactorily proved. Now, let us look at the provision which provides for the delivery up of criminals, fugitive from justice; which they say is in language identical, and that the practice under the former should assimilate with that under the latter. Here it is:

"A person *charged* in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having *jurisdiction* of the crime."

Sir, is there no distinction between the two sections? In the one case, the Constitution makes the plain question, Is he a slave, a fugitive, and the claimant his owner? In the other, the question made is, Has the person been *charged* with crime, and has he fled? If so, he is not to be tried where found, but in *the jurisdiction* where alone he could be tried; and that is where the crime was committed. By the act of 1793, if you produce an affidavit or copy of an indictment, duly authenticated, *charging* him with crime, he is to be delivered up. But the Senator from North Carolina, in reading this provision, comments upon the passage "charged with treason, felony, or other crime, who shall flee from justice" to another State. Fleeing from justice, says the Senator, would imply that the man must be guilty; and yet he is not permitted to show it. But, sir, this is no fair construction of the clause. The meaning of it is indicated by the previous part of the section, "any person who shall be *charged* and shall flee;" that is all. "Shall flee from justice" is equivalent only to shall flee from the charge or the trial; then he shall be delivered up. And that is the obvious construction put upon it by the act of 1793. But, says the Senator from North Carolina, (Mr. BADGER,) and the Senator from Kentucky, (Mr. UNDERWOOD,) there are extradition treaties, which equally compel us to render up criminals who are charged with certain crimes merely upon *prima facie* evidence. And can we refuse

to do to a sister State what we have agreed to do to foreign governments? Sir, these treaties are mutual agreements, on consideration, and in the express language of the Constitution, agreeing to surrender up criminals (not slaves) when they are *charged*, provided the evidence be sufficient, according to our laws, to justify the commitment of the men so charged for trial. These treaties obviously contemplate no trial and no hearing as to the fact of guilt; none such being possible in another jurisdiction. Can it be said, under such circumstances, that there is any analogy between these two provisions of the Constitution? And, if there be none, the whole argument and complaint as to change of *venue* in case of fugitive slaves, and the necessity of a *prima facie* case only, fall to the ground, because that argument is based altogether upon this assumption of analogy.

Mr. UNDERWOOD. With the permission of the Senator from New Jersey, I will put a case and ask a question. If I understood him aright, he says that one of the inquiries under the Constitution to be gone into before a jury, or the investigating tribunal by which the fugitive shall be arrested, is the question of slavery, and it must be established before that tribunal, be it of what character it may, that the man arrested is a slave. To that extent the Constitution gives the Congress of the United States the right to legislate and to institute a proceeding to make the inquiry. Now, my question, under that view of the subject, is, if that tribunal be so constituted by the legislation of Congress, and that tribunal decides the man is or is not a slave, is not that decision binding?

Mr. DAYTON. I had answered the gentleman's inquiry before it was put. I said it was unquestionably binding for the purpose of *that* trial; unquestionably binding so far as respects the judge's order, which is to be given there; but if the man remove to the State from which he fled, it does not affect the abstract right of property. That may again be presented there, the same as if this question, under the constitutional provision, had never been tried.

Mr. UNDERWOOD. I think not.

Mr. DAYTON. How so? The trial was for a single object only. How could it be pleaded? What is the record, and what is the judgment. Is it, can it be pretended that the tribunal is not to hear and fairly examine the question, whether the negro be a fugitive from the service of the claimant? Must he order him delivered up without such examination? May not the negro be heard, and heard by evidence? And, if so, can you limit his right? Can you say by *how much evidence* he shall be heard? Sir, gentlemen push their claim of right to an extreme when then they deny a full and fair hearing. But it is said that the right of trial by *jury* is illusory, and will afford no remedy to claimants. This is a mistake, and the extreme opposition to a jury trial originates in a want of knowledge of the feelings and habits of our people. I have before said it was a much better tribunal in reference to this question than one composed of a judge of commissioner, and I desire upon this point to make a few additional remarks.

You call a jury of twelve men together, and put them upon oath *then* and *there* in reference to the *precise subject* before them. That oath has an immediate and binding influence on their minds far beyond that of the more general oath of a commissioner for the per-

formance of official duty, entered into, perhaps, years before he is called upon to act. It has a *present* binding operation. Select this jury from any community, and you will not find twelve men who are fanatics on this question. Where can you select in this country, in the ordinary way, a jury unanimously disposed, without regard to their oaths, to overide the plain law and the Constitution? You select twelve men, (freeholders in most of the States,) and they uniformly give impartial verdicts, even on this question of fugitive slaves. They act with more independence because they support each other against the excitement of the community in which they live. Their decision has, too, more effect, and is more binding in the estimation of the community, because of a kind of sacred respect our people have for jury trial; you can, upon that verdict, remove your slave without difficulty, the very jurymen sustain you against a mob. Sir, we have had some little experience on this subject. In the very case out of which this bill more especially grows, the case in Michigan of the failure of an agent from Kentucky to get fugitive slaves, it was subsequently presented to a jury of the vicinage. But let me read from the evidence of the agent, laid before the Judiciary Committee. He says:

"Affiant then called upon some of the most active members of the mob to give him their names, and inform him if they considered themselves responsible for their words and actions on that occasion. They promptly gave their names to affiant, and he was told to write them in capital letters, and bear them back to Kentucky, the land of slavery, as an evidence of their determination to persist in the defence of a precedent already established. The following resolution was then offered:

"*Resolved*, That these Kentuckians shall not remove from this place these (naming the slaves) by moral, physical, or legal force.

"It was carried by general acclamation."

This was the state of things in Michigan when the agent was interfered with in bringing away these fugitives. The slaves went off and the claimant gave them up. What was the consequence? This citizen of Kentucky went to that very place, (Michigan,) and commenced a suit against these very individuals who had given their names, and recovered, before a jury of the citizens of that place, nineteen hundred dollars, the full value of the slaves, and got the money! Do you tell me, sir, that trial by jury is illusory and illusive? Why, the facts in this case repel the allegation. Suppose that, instead of a jury of twelve men, you had one of your petty commissioners or collectors there; do you think he would have faced the storm of public sentiment, and given to the claimant full value for his property? Not at all; he would have cowered before popular excitement. There have been, I understand, two other cases in Michigan, in both of which the jurors did their duty. I have a letter to that effect, from the district judge of that State, before me; and he says further, that he has never known, in that State, a jury to fail in the discharge of its duty upon this question. Well, sir, in the State of Pennsylvania, at Pittsburg or near it, I am informed, a jury, under like circumstances, did their full duty to the claimant; and the Senator from Pennsylvania (Mr. Cooper) now informs me there was another and more recent case at Carlisle, in which the jury found two thousand dollars for the claimant.

But there has been a case referred to by the Senator from Maryland, (Mr. Pratt,) that occurred in the city of New York, wherein

Judge Edmonds charged that the claimant was bound to show that, by the statute laws of Maryland, that State was a slave State, and in default of this testimony, the slave escaped. But, sir, was that the fault of the jury? No! If it was a fault at all, it was the fault of the judge.

Mr. SEWARD. It is due to the judge of the Supreme Court, before whom the case was tried, that I should state that the law of the State of New York requires, as matter of evidence, the production of the authentic provisions of the original statute, or an exemplification of it from the other States. This decision, therefore, was undoubtedly in conformity with the statute law of the State which regulates the admission of testimony in all questions whatsoever which may arise between States, whether of slavery or otherwise.

Mr. DAYTON. I am not censuring the judge. I said that in this case the acquittal of the fugitive was not the act of a jury, but the act of a judge—whether it was right or wrong, I care not, for it does not affect the question.

But, again, in the State of Ohio, I am informed, there have been at least two such cases, in both of which the jury found for the owners of the slaves; and in one, the Senator from Ohio before me (Mr. CORWIN) now tells me, on what, in his judgment, was insufficient evidence.

There have been of late some cases in my own State. There have been, within some five or six years last past, three fugitive slaves from the State of Maryland delivered up there, on claim made by the owners. Two of these slaves were tried by a jury of the county of Burlington, where I should think three-fourths of all the population are of Quaker blood or connexion, and of course imbued with their prevailing views and principles, adverse to slavery. But in these cases the jury at once gave back the fugitives to the claimant, and they were taken off to the State of Maryland. The third case occurred in the town of Princeton; and in that case the man had been living in the town as a free man for some time before. He was seen and claimed by a gentleman from Baltimore. The master made his claim; but not being then ready for trial, the slave was committed to the county jail of Mercer, to await the day named for hearing. The day came, and the case was tried; and although there was much sympathy for the black, the jury ratified the claim of the master. Some benevolent person or persons at once advanced five hundred dollars, (the price at which his master held him,) and paid for him on the spot. I may add, that he is now living in that town as a freeholder, and has refunded, as I am told, voluntarily, the whole, or a large part, of his purchase money!

In view of these facts, can it be justly said that this trial by jury, is an illusion, and no remedy for the grievance alleged? The history of the cases I have referred to repels that idea; and I repeat again that it is a thousand-fold better tribunal than any which you may compose by petty commissioners. Juries will take responsibilities, acting under the immediate obligation of their oaths, which no single individual, unless of high judicial position and character, dare incur. They are better for the master, if not for the slave. If they disagree, (which will not happen one time in fifty,) summon another at once. I ask any gentleman in the chamber to name one single case where they have failed in their duty.

Mr. BUTLER. Suppose the twelve jurors should hold the opinions of the Senator from New York, what would be the result?

Mr. DAYTON. I would ask the honorable Senator if that is a fair *supposable* case? Is it not against all probability? [Laughter.]

Mr. BUTLER. I do not think so.

Mr. DAYTON. Mr. President, you can see the extreme notions which have taken possession of the head of our friend from South Carolina. He thinks it probable that a jury of twelve men, summoned at random in the North, might all concur in the peculiar opinions expressed, as he thinks, by the Senator from New York on this subject.

Mr. SEWARD. What peculiar views have I advanced on this point? Will the Senator ask——

Mr. DAYTON. Oh, no; I do not mean in this way to be pressed in between the two gentlemen, as a third object to be cut between the parts of a scissors. (Laughter.) They must settle the matter for themselves and *upon* themselves. I have said what I intended upon the subject of the fugitive slave bill. But before leaving the subject, I desire to say a few words in reference to the legislation of my own State. I feel that injustice has been done to New Jersey, although I know entirely unintentional, by the report of the Senator from South Carolina, (Mr. BUTLER.) My attention was not called to this until some short time since; but I find that in a report which the honorable Senator made at the last session of Congress, and of which ten thousand copies were then published, and ten thousand have again been published this session, he refers to the legislation of several of the Northern States, and to Pennsylvania in particular, not by way of invidious comparison, but because there had been a solemn decision upon her acts. He says:

"We refer to a law of Pennsylvania passed in 1826. It may be remarked here that New Jersey, Connecticut, Massachusetts, and several other States, *had* laws going beyond this in design and operation.

"The first section of that act provides that, 'if any person shall, by force and violence, take and carry away, or shall cause to be taken and carried away, or shall, by fraud and false pretence, seduce, or cause to be seduced, or shall attempt to take and carry away, or to seduce, any negro or mulatto, from any part of that Commonwealth, with a design of selling and disposing of, or causing to be sold, or of keeping and detaining, or of causing to be kept and detained, such negro or mulatto, as a slave or servant for life, or for any term whatsoever, every such person, by aiding and abetting, &c., shall, on conviction thereof, be deemed guilty of felony, and shall forfeit,' " &c.

The report also refers to the acts of Massachusetts and Rhode Island, prohibiting their State magistrates from taking any cognizance of cases under the act of Congress of 1793, making it a penal offence, and denying the use of the jails and other buildings belonging to the State, for the detention of fugitive slaves.

The first ten thousand copies of the report said these laws last named were in force in *all* the Northern and Eastern States; the last ten thousand say, in *many*, only. These last acts were retaliatory, I suppose, on the legislation of some of the Southern States for their course as to colored seamen. But New Jersey has not now, and never has had a law or laws of the description referred to. The section of the law under which Prigg was indicted for seizing and carrying a slave out of Pennsylvania, was in itself something like a section of a law existing in the State of New Jersey, passed in 1820.

Mr. BUTLER. That is the one I alluded to.

Mr. Dayton. I know that; but my learned friend did not look at the law itself, and did not examine the connexion of the sections. Had he done so, he would have seen that our act applied only to carrying, sending, or selling our own slaves out of the State, not fugitives. Our act of 1820 was a law for the gradual abolition of slavery in New Jersey. We had then about eight thousand slaves. Immediately upon the passage of that law, there was an inducement to slaveholders to export their slaves before the time came round when they were to be liberated; and this section was passed with a view to prevent the exportation to the South of our own slaves before the time came for their emancipation. But for this provision the whole object of the law might have been defeated. To take, carry, or export, or sell for that purpose, any slave out of the State was made a misdemeanor, and the slave so exported was made by the act free. Surely, they did not mean to set free fugitives from other States. The whole act shows that it was intended that its operation should be confined to our own slaves, and to prevent the fraudulent evasion of our law for their emancipation. As soon as final emancipation was consummated, this act in New Jersey was repealed, showing that it had no application to fugitives.

Mr. Butler. Will the Senator allow me to say that I scrupulously distinguish between the legislation before the decision in the case of Prigg, in Pennsylvania, and the laws passed afterwards, and I never suggested that New Jersey had any laws like those of Massachusetts and Rhode Island before that time?

Mr. Dayton. Well, New Jersey has, in my judgment, had none such since. The legislature of the State, *subsequent* to as well as before that decision of the court in 1842, made it the duty of the magistrates and executive officers of that State to assist in the surrender of fugitives under the forms of our own laws. They actually made this their duty, and made it a misdemeanor to refuse to perform it; and that is the law in New Jersey now. They have also given to the owners of fugitives the use of our jails, when they are not ready for trial; and in the last clause of the act which passed in 1846, there is an express reference to rights under the act of Congress. New Jersey has given a right to either party, as before said, to call a jury; and a wise law it is, and well for the slave-owner. But there is nothing in the legislation of New Jersey which brings her fairly within the scope of the Senator's condemnation. It is repugnant to the feelings of our citizens to deliver up fugitives. I admit that.

Mr. Seward. I am glad to hear you say so.

Mr. Dayton. There is no doubt about it; but still give a fair hearing, and if it be proven that the fugitive is a slave and the claimant his owner, it will be done. Our people are a law-loving and law-abiding people, and will not trample the Constitution of the country under foot. But I am doubly bound, not by loyalty as a citizen only, but by an oath to support the Constitution. I will not hesitate, therefore, to vote for a law proper in its character, for the purpose of carrying into effect this provision of the Constitution. But, sir, *we* are perhaps better judges of what that law should be than our friends of the South; we know what the feelings of our people are, and how much and in what way we can best accomplish the purposes of that

provision of the Constitution. I thus dispose, Mr. President, of the two matters of practical legislation which are before the Senate.

There has been much said, sir, in the course of this debate in reference to the subject of *compromise*—not a compromise of any specific character, but compromise as a general proposition. The South say they have nothing to offer but the Constitution. Now, sir, I am glad that they and I agree. That is my offer. That is my compromise. And that, I take it, is the very offer of compromise, that has been made to the South from the beginning. That is the Executive plan, the plan of the majority through its representative head. That plan, as I understand it, in reference to California and the Territories is *non-intervention*. California has settled the matter for herself. You say that you have a right to go to the Territories under the Constitution, and to take your slaves along with you. Very well. Go there. Try it. The South has asked that things remain as they are, that there may be no active interference on the part of the Government. Very well; there are the Territories. There is no legislation. Go to Deseret, go to New Mexico, take your slaves along with you, and see if the Constitution will protect you. That is my compromise.

Mr. Foote. Will the Senator allow me to ask him whether the South has at any time asked a non-intervention in the sense in which he is now describing it? whether our non-intervention is not in establishing Territorial Governments without the Wilmot Proviso?

Mr. Dayton. If the Senator had waited a few moments, I should have approached that part of the question, and shown that it is *intervention* the South seeks. Their object is to interfere actively, though indirectly, to plant slavery where it does not now exist. They have contended that the Constitution extends to the Territories, and gives them the right of carrying slaves as far as the Constitution extends. Very well. We say, Here is the Constitution; there are the Territories: now make the attempt. That I call non-intervention. As soon as you ask us to pass laws, the effect of which is to alter totally the existing state of things, you ask us to interfere actively in the matter. You ask us to intervene. You repudiate the doctrine of non-intervention. If the Constitution goes there, and gives you the right to carry slavery where it does go, it overrides of itself the Mexican laws. All Mexican laws that are repugnant to it will be void. Now, I say that, whether this plan of the Executive be wise or unwise, it is the *Constitution* as it is, without restriction and without enlargement. It may not be the most efficacious to a thorough and final settlement of the controversy, but it is good as far as it goes; and I can see no reasonable objection to it, except from those who wish us to interfere actively, and set aside, by territorial legislation, directly or indirectly, the existing laws of Mexico. If there be any other plan by which more can be accomplished, more done for the settlement of this exciting and heart-burning controversy, I will go for it with all my heart; but I very much fear that divided sentiment on this subject will prevent us from accomplishing as much, or at least as readily, what we should have accomplished by prompt and united action. For one, I have no doubt that the Mexican laws do remain in force in these Territories. I hold that slavery is a civil, a local institution, existing only by municipal law, and that law, whether to admit or prohibit it, is not abolished by the conquest or acquisition of the country by another

power. I hold, furthermore, that slavery is not a political institution of the Federal Government; that it is not an institution of this Government at all; it does not exist through or by its action; it has no control over it in the States to save or abolish it; and that consequently the Constitution of the Federal Government cannot carry it where it had not a prior existence. These questions I have argued before. My opinions are on record, and I do not intend to repeat them now.

Mr. President, I concur in the sentiment which has been expressed, that it is time that the North and South understood each other upon these questions. I desire, therefore, to say, that as far as I know the sentiment of the North in reference to the extension of slavery to free territory, it is settled, fixed, determined in its opposition. Its representatives here may sit in quiet while the South is tempest-tossed; while Southern feeling rolls in on us here, like foam on the crest of the billow; but, when the storm shall have passed, when its fury shall have spent itself, the North will be found just where it was in the beginning—calm, settled, determined in its opposition to the extension of slavery to free territory. That is my view of the feelings of the North. This feeling may be sought to be carried out by different persons through different means. One may be content only with a positive law passed to prohibit slavery there; another may content himself with laws of Mexico as they are; and yet another may say that God has decreed against it, and that it is useless to re-enact his decrees; but they all have the same object, the same purpose. He who used this last expression, (Mr. WEBSTER,) which has been much carped at both in this chamber and by the press, used it, I presume, not in reference to the re-enactment of the moral laws of God, but of those laws which God had stamped upon the physical condition, upon the outward form of the universe, and to which the laws of man *could* add no sanction. But I may add, in passing, that it is not customary for human codes to re-enact God's other laws. I believe no one of us has ever seen the Ten Commandments re-enacted. Who has seen a statute saying "Thou shalt not kill, or steal, or bear false witness." The human law does not create, but recognises these as crimes, and merely attaches the penalty. But this is digression. I add that, while we are opposed to the extension of slavery, we are disposed to carry out these views only in good feeling and in what we believe to be the spirit of the Constitution. It has been a leading principle with the Whig party at the North from the beginning (both in and out of Congress) to oppose the admission of slavery to Territories now free. But, very unfortunately I must say for us, a party—no, not a party, but *a sect*, a *political sect*—has sprung up in our midst, who, taking advantage of a good principle in itself, have pushed it to extremes, connected it with abolition in all its phases, and have, I fear, done more hurt to us and the cause of human freedom than they ever have or ever will do to our adversaries and the system of slavery.

Mr. UNDERWOOD. That is true, no doubt.

Mr. DAYTON. That party disclaims with great unction against slavery and all compromises with slavery; they deprecate as an unworthy thing that half-and-half virtue which leads us to tolerate it for a moment, or tamper with it at all; they denounce it as weakness, cowardice, because we see the right, and yet dare not pursue it. Mr. President, I always suspect, not the motives, but the moral and

mental perceptions of that class of men who, forgetting the possible infirmities of their own little sect of *one idea*, hold up their one principle, their single light, perhaps a farthing candle, with which to view and pronounce upon the opinions of all mankind. The Whig party North have other principles besides free-soil; and, without depeciating this, I trust that the party will live and flourish North and South when free-soilism and abolitionism, as mere party tests, shall have found one common grave. It has other and high principles of conservatism, which ultimately must regulate and control its destiny.

But, sir, this free-soil feeling at the North has not been, I am persuaded, a mere matter of sentiment, as the Senator from Kentucky (Mr. CLAY) seemed to intimate at an early stage in this debate. He said that he thought he might fairly ask of the North a greater sacrifice than was claimed in his compromise resolutions. That with the North it was "sentiment, sentiment, sentiment," while with the South it was a question of domestic security. Sir, if that were so, I grant that the South could call upon us for greater sacrifices; they could call upon us to sacrifice every thing to their safety. But, sir, in reference to the extension of slavery to these distant territories, this claim has no support; it is rather matter of sentiment upon the part of the South; and if it were sentiment on both sides, the propriety of concession, and how much, would depend upon the value of the sentiment advocated by the parties respectively. But the vivid picture portrayed by the distinguished Senator of a servile insurrection, burning dwellings, shrieking wives and children, as applicable to these distant territories, has no place; or, if a place, the picture must serve but as a warning, telling us to beware in season how we transfer to a soil now free institutions pregnant with such anticipated horrors. They warn us in time of the responsibility which we incur to posterity, if we plant slavery where it is not. We are about now, to lay the foundations of other commonwealths; the North say it is our duty, as statesmen and as men, to lay their foundations in such wise, that our children and our children's children, to the remotest generation, "may rise up and call us blessed!"—that they may not at some distant day say of us, in bitterness and in sorrow, "The stone which the builder did refuse, the same" should have been "the chief of the corner." This is the origin of Northern feeling; it is no sickly sentiment, but judgment, a sound discretion, which induces the feeling of the North upon these questions. Sir, draw the slave and free line from the ocean to the Mississippi, and mark the difference between the two sides. "Comparisons are odious." I have no wish to make them, but I know the magnanimity of Kentucky will excuse me. Kentucky, in 1790, had a free population of 60,000 souls. The sun shines upon no better soil, or stronger hands or stouter hearts than her own. Ohio, her neighbor, with no better soil, if so good, and no superior facilities, then or now, was then an unbroken, howling wilderness. Fifty years have rolled round. Kentucky has a free population of less than 600,000. Ohio has a free population of one million and a half! The same difference exists in reference to their productions, agricultural, mechanical, and manufactured. I ask, whence comes the difference? It comes, sir, from the single fact that Kentucky carries *dead weight*. She has been paralyzed in her efforts by the crushing influence of one institution. I do not wonder that

her people are attached to it; he who has been bred in its midst, nursed by the slave in infancy, followed by him in manhood, looked after by him in age—he may be unwilling to give up the comforts which attend this kind of domestic servitude. But, sir, when we are laying the foundation of empires, the question is not how a few may live in ease, but the question is, how the many shall best live, increase, beautify, and fructify the earth.

I repeat, again, that it is not sentiment only, but judgment, which operates upon the North in reference to its duties to these Territories. But, sir, this inequality in results has been accounted for by the distinguished Senator from South Carolina (Mr. Calhoun, whose absence I regret, and the cause of which I regret still more,) with an ingenuity peculiar to himself. He has overlooked all trite truths and obvious causes, and has attributed it, among other things, to the result of the mode of levying duties and its distribution through the North. Well, I think the West, which has improved fastest, has derived no particular advantage from this operation.

Mr. Clemens. The honorable Senator has drawn a parallel between Kentucky and Ohio, without reference to their respective extent of territory. I ask him to run a parallel now between New Jersey and Alabama—the one a free, and the other a slave State.

Mr. Dayton. I have not the material at hand to run such a parallel, nor do I think such a parallel would be a fair one. New Jersey is not only much smaller, but was an old State, of less fertility and different productions, and filled with population, comparatively, in 1790.

Mr. Clemens. That is precisely what I say of the other parallel. It is not a parallel.

Mr. Dayton. There may be some difference in the size of the States of Kentucky and Ohio, but certainly not such a difference as to account for this great disparity, while their soil and general productions, I suppose, are alike.

But it is said that the distribution of the revenue is the cause of it; that we have sucked the life's blood out of the South, and distributed it through the North; that the effect of it has been to draw immigration to the free States, and that that immigration and its increase make the entire difference in population. Now, Mr. President, this idea struck me as a little peculiar; let us test it by facts, because it is a very easy thing to advance theories, if you may of right assume the necessary facts to support them. In 1790, the Senator from South Carolina says the population of the free States was 1,977,829; the population of the slave States 1,952,072—making a difference in favor of the free States of 25,827 only. In 1840, this difference had increased, he says, to 2,394,483, or, in round numbers, 2,400,000. And this increase is all accounted for by immigration and its increase. But to obtain an accurate knowledge of what has been the relative growth of the two sections of the confederacy, you ought to throw out the slave population from both sides, because, although they add to the property, they do not add to the citizens of the country. Take that rule. In 1790, the slave population of the North was 49,257, that of the South 648,440; deduct these from the population of the two sections of the country to which they belonged, and it leaves a difference in the free population in 1790, in favor of the North, of 625,010. Now, take the population in 1840,

and deduct the slaves in the same way from the free, and it leaves a difference of 4,880,403, or, in round numbers, near five millions in favor of the North. That is the actual increase on the original difference of 625,000.

Mr. FOOTE. Will the Senator bear with me for one moment? (Mr. DAYTON yielded the floor.) I would put it to him, whether it is fair and reasonable to argue as though the prosperity of a country depended on the extent of its population? Why, according to that rule, China and other countries, where, in consequence of superabundant population, they are compelled from time to time to put to death large numbers of children in a few days or hours after their birth, to prevent the population becoming too numerous, are in an extraordinary state of prosperity.

Mr. DAYTON. I was not speaking of the merits or wealth of the two sections, but of the increase of population, from which I think, in this new country, their prosperity may be inferred. I do not mean to *argue* the effect of that increase.

Well, it is said that this increase of five million is to be attributed to immigration and its increase. Now, I have looked a little into the statistics upon this subject. Mr. Macgregor published a work upon this subject in 1847, and he has given the results upon this subject from calculations made from the census of 1790 up to that of 1840, inclusive, and gives the result of each decade, some with more and some with less accuracy. But he has collected and collated all the known facts relative to this immigration and their increase for the last fifty years, and the whole number of foreign emigrants and their increase, he says, amounts to one million souls; that is to say, just one-fifth of the actual excess or difference between the increase of the North and the South. The emigration from the South must have been comparatively unimportant. And yet, sir, the Senator from South Carolina assumed, without giving the smallest data, that the entire difference was accounted for by immigration and its increase. This is a mistake. You cannot account for the unparalleled growth of the free States, and the unnatural and comparatively dwarfed condition of the slave ones, on any such ground. I call it unnatural, because the Southern States were first settled; they have, as a whole, as good a climate, a better soil, a good water power, a fine inland navigation, and a high-minded, intelligent population. It can be attributed, I think, to nothing but the result of their peculiar institution—to the fact that the labor of slaves is less productive, in proportion to the number employed; is more expensive to the employer, though habit makes it unfelt; and repels from its side that labor which labors for itself, and will only labor where labor is respectable.

Well, Mr. President, I shall be asked, What then! will you vote for the Wilmot Proviso? Is that your principle? My answer is, that I am willing to stand upon the doctrine of "non-intervention" as to New Mexico and Deseret. But if you force me to a vote on this question, if a territorial bill be presented, and the ordinance of 1787 is moved, I will vote for it; but if voted down, I may yet vote for the bill; that will depend upon other circumstances. I have no doubt that the power to insert the ordinance exists. The power has been often exercised, but I do not care to see it exercised now in this case, if you are willing to stand upon the doctrine of non-intervention. But

then it will be asked, Do you think slavery will go into the Territories? If you do not, why should you vote for the Proviso? I do not think that slavery will go into these Territories as a *permanent* or principal institution. The adaptedness of this territory to negro slavery may be judged of, not only from the general character and features of the country, but from the additional fact that negro slavery has not gone there during the one hundred and fifty or two hundred years when it was open under the Spanish power, whilst it has gone into all the other Spanish colonies. It must be remembered that St. Augustine and Sante Fe are the oldest European cities on this continent; that the Gila was explored before the Mississippi was known, and that California gold was sought after before the first white man found a home on the barren shores of New England. Still, I think that if you will fill Texas with slaves up to the line, they will go over, just as they went into Illinois, where, at the last census, there seemed to be still some three hundred and twenty-odd. But if there were doubt in my mind, I confess a strong repugnance to having my vote stand on the record against the application of the ordinance of 1787 to territory now free; posterity will not stop to analyze very closely our reasons or scrutinize our motives, but the vote will stand of record, carrying with it its own malconstruction. If it is understood that slavery cannot reach that country, it seems to me that the question has come down to a small point indeed. Why not insert the Proviso? We are told that it will offend the South; that it will touch their sensibilities. Now, I do not want to do that; and yet, if it be a question of sensibility between the North and South, I suppose I may say that there are as many persons in the North whose sensibilities will be touched by its omission, as there are persons in the South whose sensibilities will be touched by its insertion. But now this great question (if it be admitted that slavery cannot go there) is whittled down to a point like this: a question of delicacy, a point of etiquette between the North and the South, and we have had all this war of words and intense excitement about a question of this kind! Why, California out of the way, never before was there such an insignificant cause for such an uproar! We have the North and the South contending with each other to desperation upon the small chance (an admitted decimal only) of slavery going where it is said it cannot—into these Territories now free! The subject-matter is not worth the effort; "the play is not worth the candles."

But, sir, there are other questions that have been called into this debate, to wit, the abolition of slavery in this District, in the forts, arsenals, dock-yards, &c., the slave trade between the States, and the boundary of Texas. My answer to all this matter now is, these questions are not pressing. I should be happy to see them all settled, but I do not desire to anticipate events. I fear that to this subject, more than to any other, applies the remark, "sufficient for the day is the evil thereof." We may settle these things in detail, may work them off piecemeal when it could not so well be done as a whole, all at once. If we bring all the combustible material together, we but increase the chances of an explosion. I do not care to see every question of dissension and discord, like witches' "hell-broth, boil and bubble" in the same cauldron. I am no admirer of that domestic philosophy which prefers that when the child has the measles it should take the

mumps, the scarlet fever, and chicken-pox, just that it may go through with and end the series. It is all well enough perhaps, if the series did not sometimes end the child. Let us dispose of California first, and then the fugitive slave bill; we will thus have gotten rid of two of the greater elements of excitement. Then, as to New Mexico and Deseret, let them alone; the South cannot very well secede, because we do nothing. In the meantime Nature will work off the disease herself. It is true the country will be fevered a little longer by this process, but that is better than any legislative pill or bolus, "warranted to kill or cure." Let Nature take her course, and she will work her way through without ultimate injury to the *constitution* of the patient. The Territories will take care of themselves.

I have no idea, Mr. President, that any considerable portion of the people of this country desire disunion. At the North I am sure they do not; and the South, I think, can have no wish, with a view of getting rid of trivial evils, to rush into a state of things that will multiply them a thousand-fold. The Senator from South Carolina said the other day that he did not see how the North could be sincere in their professions of attachment to the Union and love to the Constitution; that if we had but half the love for it we professed, the thing would be easily settled. I would not for one moment doubt the sincerity of that Senator. His late speech (the most extraordinary of his life, I think) stands and will stand its own exponent. I am glad that it was delivered; it will, I think, satisfy some of the admirers of that Senator in what direction his doctrines tend. I could not but feel that in it, and through it, were strange inconsistencies. He assails us for want of sincerity, and yet how does this speech run? He tells us, in substance, that he loves the Union; he comes to speak of it, not at its funeral, not to "bury Caesar," but to save him. And yet how he pointed to those gaping wounds; "those poor, poor, dumb mouths;" how he called the already excited South around the mangled body of the Constitution, and pointed it *here!* and *here!* and *here!* without doing us even the grace to say "they are all, all honorable men!" And after the South had been excited to madness, if they saw things as he did, he says, "We alas! can do nothing. We have yielded so much that we have little left to yield. The North can easily do all; we ask but justice; let them restore the equilibrium, give us guaranties, amend the Constitution, (things as likely to happen as that the stars shall fall,) and then all will be well, and the Union safe."

I would not, under the circumstances, for the world, question the sincerity of the Senator, nor give utterance to an unkind thought; but surely there is an idiosyncrasy about him when he touches this subject that I do not understand. I yield to him, what I claim for the North and for myself, love to the Union and attachment to the Constitution. This I believe to be the feeling of the country at large. We may differ as to the best means of securing a common end, but let us differ in the spirit of friends, and not of foes. Let us gather in here, if we can, as to one common centre, not the harsh and discordant, but the kindly feelings of our countrymen. If the ship be among breakers, the more need that pilots and helmsmen be calm; the more need that they have an eye steady to the Union and the Constitution, those only beacon-lights which can save from wreck the hopes and happiness of millions that are, and the millions that are to be.