SPEECH

OF THE

HON. ROBERT TOOMBS, OF GEORGIA,

IN THE UNITED STATES SENATE,

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ON

NEBRASKA AND KANSAS.

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Mr. TOOMBS said:

Mr. PRESIDENT and SENATORS: Being somewhat indisposed, it may be difficult for me to enter upon the discussion of the question now before you to-day; but being desirous that it shall not be delayed, I shall proceed to offer some considerations in favor of the bill upon your table.

I come to the consideration of this bill with a heart filled with gratitude to the Disposer of human events, that, after the conflicts of more than the third of a century, this great question has found its solution, not in temporary expedients for allaying sectional discord, but in the true principles of the Constitution, and upon the broad foundation of justice and right, which form the only true basis of fraternity and of national concord. In the argument which I propose to submit, I would imitate the great Athenian orator, who never addressed an assembly of his countrymen without praying to the gods of his country that he should utter no word that might bring discredit upon the cause of truth, or injury to the interests of his country. There has been a marked difference in the mode of discussing this great question exhibited by its advocates and its friends. I have heard no argument that would stand the test of nationality, or which could be addressed to a mixed assembly of my countrymen, from the opponents of the bill; and I have heard none from its friends that might not be addressed to American citizens everywhere, north and south, except to freesoilers and abolitionists, who "live and move and have their being" and political hopes in sectional antagonism. The friends of the measure place their support of it upon its conformity to the Constitution, to the great American principle of popular sovereignty, and upon the absolute requirements of political justice and equality. It is not demanded as a measure of justice to the south, though such is its effect; but it is demanded as an act of obedience to these sound catholic national principles.

This quality of nationality is deeply felt by the abolitionists and freesoilers, and ludicrously exhibited in their frantic ravings against the friends of the measure north and south. Writhing under this great fact, the senator from Massachusetts and his confederates not only traduce the men of the south and their institutions, but pours forth the bitterest streams of their troubled eloquence against those senators and other citizens from the non-slaveholding States who dare to exercise the rights of American freemen, and differ from them on this question. It appears, from the speech of the senator from Massachusetts, that all such are "white slaves" whose manhood has been debased and enervated by the irresistible attractions of the "slave power." Others who have joined him on the same side of the subject, have declared that executive patronage, and other ignoble motives, and not the great question itself, controls these northern gentlemen. That, in my judgment, is a libel upon the north. But, if it were true, is this the argument which they offer to us to change our institutions, and to bring us to the adoption of theirs in their stead? But, sir, I have said that it is a libel upon the north; and recent events have furnished the most conclusive proof that it is a libel upon them.

What, sir, have we seen within the last twelve months? A large body of American freemen in the State of New York, belonging to the dominant party, some of them holding office under the administration, refusing to unite with freesoilers and abolitionists as the enemies of the country, and surrendering office rather than surrendering their principles. This sublime act of national patriotism, of disinterested devotion to truth for its own sake, we have all seen pass before our eyes within the last twelve months, and we have seen it backed by one hundred thousand freemen of New York. I say, then, that I am justified in saying that the senator in this charge is a libeller of his own fellow-citizens of the north. Sir, neither the north nor the south can truthfully make the boast of Ireland, that she never produced a reptile. Under the exuberance of our institutions even reptiles will spring up, and may be safely allowed to crawl on till smothered in their own slime.

Senators, you may disguise this question as you will; you may cover it up with sophistry; you may give plausible excuses for your opposition to it, but it is precisely the old naked question, of whether it is right and expedient

or not for Congress to restrict slavery in the Territories and the States applying for admission into the Union. That is the question. It is the sole question. Gentlemen have talked about compacts, sacred compacts, inviolable compacts, binding upon the national honor. I shall advert to and comment upon this point in its order; but I will now stop to inquire who are those who would now teach us lessons of personal or of national honor? Sir, they are men whom no oaths can bind, no covenants can restrain—men who despise and trample under foot the Constitution when it comes into conflict with their personal objects—men who have stood in moral complicity with treason, arson, and murder, from the day that the fugitive slave law became the law of the land even to this hour.

These are our teachers of honor. One of them, the honorable senator from New York, [Mr. SEWARD,] who, as governor of that State, sworn to support the solemn compact, the Constitution of the United States, failed to perform that duty, upon the ground, or rather pretense, that a slave could not be the subject-matter of felonious "exportation." Compacts, constitutional compacts, cannot bind them. These are our teachers of honor and of the inviolability of sacred compacts. What do they understand of compacts? I think in some of the northern States of this Union, against the popular will, against the American sentiment which begins to widen and spread and deepen throughout all our borders, ignominious compacts have been made—"coalitions," I think they call them—by which the officers of a great Commonwealth were bartered and sold for the sake of sending a man to this floor who does not represent Massachusetts sentiment—a compact so odious and flagitious as to be justly amenable to the low morality of the common law. These are the gentlemen who talk about sacred compacts.

But again: the honorable senators from New York, [Mr. SEWARD,] from Massachusetts, [Mr. SUMNER,] and from Ohio, [Mr. CHASE,] in their speeches on this floor, declare that they cannot and will not carry out even this compact which they commend to our honor. Yes, sir, with a total destitution of all shame, they declare the eighth section of the act of 1820 a solemn compact between the north and the south; that it extends to all the territory acquired from France as the Louisiana purchase; and then declare they will prohibit slavery in all the territory of the United States, not excepting that portion of the Louisiana Territory lying south of 36° 30′. They call it a compact, and avow their readiness to violate it. In this let them read their own, but not another's degradation.

In the discussion upon which I am about to enter, it is my purpose to show—

1st. That the bill upon your table is constitutional, and consistent with the true theory of our government.

2d. That it makes a wise, just, and proper disposition of the question of slavery.

3d. That the eighth section of the act of 1820 is unconstitutional, unequal, and unjust; that it is in no sense a compact, or obligatory on anybody, and therefore ought to be repealed. And

4th. I shall endeavor to show that the question assumed by the senator from Massachusetts, [Mr. SUMNER,] that we propose to violate the established policy of the fathers of the republic, is wholly without foundation, and not sustained by either principle or authority.

That the provision affecting slavery contained in the bill does not violate the Constitution of the United States, I believe is admitted on all hands. We have differed and differed greatly, as to the power of Congress to legislate either upon the one side or the other of this question. Gentlemen from the north, in favor of restriction, whether in the form of the ordinance of 1787, as it is sometimes called, sometimes the Missouri restriction, sometimes the Wilmot proviso, while they claim the power to restrict, do not contend that its assertion is imperative. While the greater number, both at the south and the north, who wholly deny the power to restrain slavery in the common territories of the republic, insist that the omission to legislate against it, which the bill does, is, in obedience to the imperative commands of the Constitution itself.

Mr. President, the main difficulty and difference between senators on this and similar questions arises at the starting-point—the very basis of the constitutional construction, and from the school of politics to which we respectively belong. Those of the republican party hold that this government is one of limited powers, and is entitled to do nothing which is not expressly authorized by the Constitution or plainly necessary to carry out a granted power. When I look into the Constitution, and find that the power claimed is not there under this plain rule of construction, there the question with me ends. I have nowhere else to look for it. That is the true theory of the government; and I believe it is daily gaining more universal acceptance, at least in theory. The only difficulty on this point has arisen from some decisions of the Supreme Court of the United States. It is true they have talked vaguely about the doctrine of the general sovereignty of the federal government. I attach but little importance to the political views of that tribunal. It is a safe depository of personal rights; but I believe there has been no assumption of political power by this government which it has not vindicated and found somewhere.

I do not belong to this school. I view the Constitution in a different light. I stand upon the great principles which lie at the foundation of the American revolution—that sover-

eignty is with the people of the several States, and with no government whatever. When you desire to look at the powers which are conferred, go to your State constitutions; you find a portion of them there: go to your national Constitution; a portion are given there. But what is not found in one or the other, the Constitution of the United States tells you is reserved to the States respectively, or to the people. I believe those gentlemen who have argued against this bill have not alluded to that sacred instrument, the Constitution. They have no use for it; and it was wise for them not to allude to it. It gives no color to the usurpations of power which they would assert and maintain in this chamber.

I concur in the generally received opinion that the right to govern the Territories results from the power of acquisition, and must be used for the protection, and not the destruction, of the rights of those who are entitled to the enjoyment of the acquisition. In all governments the acquisitions of the State belong rightfully to the people—much more strongly does this principle apply to a purely popular government. Therefore any exercise of power to injure or destroy those who have equal rights of enjoyment is arbitrary, unauthorized by the contract, and despotic.

Every citizen of each State carries with him into the Territories this equal right of enjoyment of the common domain. Whether there be one, ten, one hundred, one thousand or one million who may emigrate thither, they have all the same indestructible right. If but one, he is one of the sovereign owners, and has the same right to look to his government for justice there as though there were a hundred thousand. Each and all of them are equally protected by the Constitution of the country, and are equally clothed with the indestructible and inalienable rights of American freemen. You have no power to strike from the meanest Indian trapper, the basest trader or camp follower, as the senator from New York [Mr. SEWARD] styled the people in these Territories, their equal privileges—this sovereignty of right which is the birthright of every American citizen. This sovereignty may, nay, it must remain in abeyance until the society becomes sufficiently strong and stable to be entitled to its full exercise as a sovereign State. But yet, even in abeyance, this sovereignty does not belong to the general government, and its exercise is a naked usurpation and unmixed despotism.

The power and duty, then, of this government, or the inchoate society in the Territories, is simply to protect this equality of right of persons and property of all the members of the society, until the period shall arrive when this dormant sovereignty shall spring into active existence and exercise all the powers of a free, sovereign, and independent State. Then it can mould, according to its own sovereign will and pleasure, its own institutions, with the sole restriction that they shall be republican. These great principles are fortified by the republican ideas of the right and capacity of the people for self-government. You leave to the people themselves the exercise of all just powers of government, and you repudiate the baleful and despotic principle of one people passing laws for the government of freemen to whom they are in no wise answerable or amenable.

These principles were firmly maintained by the acts of 1850, and met the almost universal approbation of the American people. It was solely upon them that California was admitted into the Union. Without any action of Congress she called her own dormant sovereignty into existence—by her own act planted her own "star" in the constellation of American States, where it was simply recognised as a fact by the American Congress. The free-soilers and abolitionists, who now oppose this bill, waived their arrogant pretensions to "bind the Territories in all cases whatsoever," because the people had exercised this sovereign right to mould their own institutions in accordance with their anti-slavery opinions. I vindicated their right to mould their own institutions according to their own pleasure upon the same principles which I am endeavoring to vindicate to-day.

After the passage of the act of 1850, commonly called the compromise, the governor of Georgia called a convention of the people to take into consideration the grievances which were alleged to have been inflicted upon her by their passage, and especially by the admission of California. I became a candidate for that convention, and put forth an address to the people reviewing and vindicating those measures. Upon the subject of the admission of California, I stated in that address:

"I have already attempted to vindicate the rights of a people, forming a constitution for admission into the Union, to admit or exclude slavery at their own pleasure, and to prove that Congress had no other power over such constitution thus presented than to see that it is republican. We demanded it and compromised it for Missouri. We have demanded it and secured it for New Mexico and Utah. We should adhere to it because it is right; but it is expedient as well as right."

And added:

"One hundred and fifty thousand American citizens, on the distant shores of the Pacific ocean, having met, by their representatives, to form a constitution for themselves, have adjudged it best, under their peculiar circumstances, for their interest, their prosperity, and their happiness, to prohibit the introduction of slavery into their new Commonwealth. It is their business, not ours. Whether they have decided wisely or unwisely, it is not for us to determine. We have settled the question differently for ourselves: it is not for them to disturb that judgment now or hereafter. *Both can stand upon the same great principle—the*

right of a free people, in entering the family of American States, to adopt such a form of republican government as in their judgment will best preserve their liberties, promote their happiness, and perpetuate their prosperity. If we are wise we will defend rather than resist this birthright of American freemen, so invaluable to us, so formidable to the enemies of our property, our peace, and our safety."

While on this branch of the subject, and in reply to the broad declaration of the senators from New York, Massachusetts, and Ohio, [Messrs. SEWARD, SUMNER, and CHASE,] that no person, either at the time the measures of 1850 were before Congress, nor in the discussions afterwards before the country, did any one pretend that these measures were in opposition to or inconsistent with the principles of the Missouri act. I will take occasion to say that their statements are wholly gratuitous and unsupported by the facts of the case. I was an humble actor in those great events. My own conduct, especially at home, was subjected to much animadversion on account of my connexion with them, and I vindicated them, in the address to which I have referred, upon the precise ground that they recovered and firmly planted in our political system the great principle bartered away in 1820.

I give the following extracts from the same address, for the purpose of showing my interpretation of the compromise of 1850.

"Congress passed four bills in relation to territory acquired from Mexico: a bill to admit California into the Union; a bill to settle the boundary between Texas and New Mexico; and bills establishing territorial governments both for New Mexico and Utah. By them, in my opinion, the government has not performed its whole duty to us; by them the south may not have secured all of her just rights; but *she has firmly established great and important principles, and she has compromised no right, surrendered no principle, lost not an inch of ground in this great contest.* She stands as free and untrammelled to assert any just right in relation to the common territories as she did before the bills for the establishment of governments over them were passed, with the advantage, at least, of having recovered the principle unwisely surrendered in 1820."

In speaking of the Missouri compromise, I said:

"The struggle was violent and protracted; the republic was shaken to its foundation; and wise, and good, and patriotic men believed its hour of dissolution had come. In an evil hour the south bought this clear, plain, and palpable constitutional right for Missouri, only at a great price—a price that ought not to have been paid—a price worth more to her than the Union. Instead of striking from the limbs of her young sister, with the sword, the fetters which the north sought unjustly to impose upon them, the south ransomed her by allowing slavery to be prohibited in all that part of the Louisiana territory lying north of the parallel of 36° 30′ north latitude, and west of Missouri. This *great principle, thus compromised away in* 1820, *has been rescued, re-established, and again firmly planted in our political system by the recent action of Congress.*"

The principle of this bill is in conformity with another important principle of the Constitution, which its opponents disregard and violate. I mean the equality of the States. It is impossible, under the structure of this government, that you can have unequal States. By the Constitution, each State grants precisely the same powers to the general government. The grant is from each separately, each State respectively, or the people thereof, retaining all powers rightfully belonging to a sovereign State, except those thus granted. The powers of the general government are incapable of enlargement by special grants from either old or new States, or, indeed, in any other manner than that especially pointed out in the instrument; therefore equality among the States is a fundamental necessity of the system.

This principle of the equality of the States was fully maintained by Jefferson, and Madison, and Monroe, and all of their contemporaries, whose opinions are entitled to any consideration upon questions of constitutional construction. It is necessarily destroyed by the construction of the Missouri restrictionists.

The argument of the senator from New York, on this point, scarcely rises to the merit of astuteness. He says Congress may admit new States; therefore Congress may reject new States; and therefore Congress may place conditions upon the admission of new States. Admit the premises, and the conclusion by no means follows. The right to admit and reject does not include the right to put an unconstitutional condition upon admission. This is the very question at issue which the senator is compelled to take for granted to make his proposition logically correct. There is no express power to prohibit slavery in the Territories; it has not been attempted to be shown that such a power is necessary to carry out any express grant in that instrument. If these two simple propositions be true, the arguments in favor of the unconstitutionality of the restriction is complete. But I am willing to place it on the most advantageous position which can be claimed by its friends. If the power to legislate for the Territories was expressly granted by the Constitution, it must, if possible, be so exercised as not to conflict with any other power granted to the government, or right reserved to the "States respectively, or to the people."

That such an exercise of the power is possible, is not denied. It is just what the territorial acts of 1790, 1798, and many others, including these of 1850, have done, and precisely what this bill proposes to do. To hold that an undefined power, expressly granted, would necessarily, in a limited Constitution, absorb all other powers, would of itself be a monstrosity in construction; but the senator from New York attempts to clothe with this attribute an implied disputed power. The republican party,

through all the exponents of its opinion, have not only held that this government possessed no power but that which was expressly granted, or which was necessary and proper to carry out a granted power, but that express grants of power must be controlled in their exercise by other grants in the Constitution. They utterly denied the whole doctrine that undefined powers, whether express or implied, were necessarily unlimited powers.

This great principle was ably and elaborately discussed by the fathers of the republic in 1796, on Jay's treaty. Then the principle was asserted by General Washington, whose great name and just consideration with his countrymen gave great strength to any position he might assume, that the treaty-making power, being undefined, was unlimited. A debate sprung up on that question in the House of Representatives which lasted two months. Mr. Madison closed that debate on the side of privilege against prerogative; and when the vote was taken, it was found that there were fifty-four in the affirmative and thirty-seven in the negative upon the question that, although the treaty-making power was undefined, it was not unlimited. There was a plain grant of power to the President to make treaties, by and with the consent of the Senate. It was an undefined grant. There were no express words of limitation upon it. Still, the republicans of that day, with Mr. Madison at their head, (even when the power was assumed by the father of his country,) declared that, though it was an undefined grant, it was a limited one, and that you could not, by treaty, exercise any power which was granted by the Constitution to the other departments of the government. This is a very important principle, and one which I shall have occasion to discuss before the close of the session, in regard to a treaty which is said, by the public prints, to have been negotiated, and to be before the Senate.

I hold to this construction of the Constitution; and if you depart from it, where are you to stop? If, by a territorial bill, you can regulate one domestic institution of the people, you can regulate another, unless limitation is found in the Constitution. If you can go beyond the plain express grant of power, may you not say that new States shall have but one senator, and but half the number of representatives that the other States have? If you adopt such a principle, you would have a great confederacy composed nominally of equal, sovereign, and independent States, "but whimsically dove-tailed, and crossly indented," so that the States themselves could not understand their respective rights; and they would have to refer to laws passed by Congress to find their constitutional rights. Then, sir, I appeal to gentlemen to stand by the landmarks of the fathers of the republic; leave the States where the Constitution leaves them—sovereign and independent equals; leave our fellow-citizens who seek homes in the distant Territories all the rights of freemen, and they will discharge to you and themselves all the duties of freemen.

Senators, I have endeavored thus far to commend this bill to your consideration, on the ground that it is in strict conformity with our Constitution. I have said, also, that it is wise, expedient, and just. Justice is the highest expediency, the supremest wisdom. Applying that test to the principles of this measure, I say that no fair man in any portion of this country can come to any other conclusion than that it establishes between the people of this Union, who are bound together under a common Constitution, a firm, a permanent, and lasting bond of harmony. What is it that we of the south ask? Do we make any unjust or unequal demand on the north? None. Do we ask what we are not willing on our side to grant to them? Not at all. We say to them: "Gentlemen, here is our common territory. Whether it was ceded by the old States, whether it was acquired by the common treasure, or was the fruit of successful war, to which we all rallied and in which we all fought, we ask you to recognise this great principle of our revolution; let such as desire go there, enjoy their property, take with them their flocks and their herds, their men-servants and maid-servants, if they desire to take them there; and, when the appropriate time comes for the exercise of the dormant sovereignty of the people, let them fix the character of their institutions for themselves."

This demand on the government is nothing more than to perform the duty of all governments. It is wise and just in all governments to defend every citizen in the peaceful enjoyment of his life, his liberty, and property. It is the life blood of a republic; it can do no injustice that will not recoil upon it. Resting upon the people, upheld and defended and administered by them, a republic is impotent in a career of injustice; therefore such a policy is as foolish as wicked.

I feel that I need spend no more time in defending the principles of the bill on your table. Neither their constitutionality nor expediency have been successfully assailed; but their opponents have relied upon other considerations to sway the judgment of the Senate. They are sanctioned by the all-pervading principles of the Constitution, which is a bond of equality of rights and equality of burdens, binding together these States and all others that may hereafter be added to them. Strike from it the features of equality and State sovereignty, and instantly it perishes; some States will be dependent, and some will be independent, and masters of the rest. I appeal to you, then, to preserve that equality which the Constitution was intended to perpetuate. Under it, little Delaware, with a small population, asserted the rights of an equal, and is treated as an equal here. She

stands here to-day, with her one hundred thousand population, to confront in debate and argument, on a footing of equality, the senators from New York, with three millions at their back.

Instead of arguing this question like statesmen, the freesoilers and abolitionists who oppose the bill seem to rely on intimidation to effect their objects. We are invited to listen to the mutterings of the distant thunder of popular indignation (not yet audible) which is about to burst upon our ears, and we are warned of the earthquakes which are about to burst from under our feet. Even if all this was as true as it is baseless, it should in no wise control the action of American senators in determining upon the constitutional rights of American freemen. But this is not real, but melo-dramatic thunder—nothing but phosphorus and sheet-iron. The people of the north as well as the south have deliberately affirmed the principles of this bill; they have risen in the might of their nationality, and crushed and overwhelmed these enemies of public peace, order, and liberty. They will find but few friends among American freemen anywhere who would gladly now, but for constitutional impediments, dismiss them from their service with contempt. This clamor has not even the merit of novelty.

Why, sir, I heard the gentleman from New York here, two or three years ago, talk just as he does now. He and his coadjutors think that all the world is moved because they are excited. He declared, on the occasion to which I have referred, in the discussion upon the bills of 1850, that he would arouse the north, and that the cry of "repeal, repeal, repeal!" would ring throughout all this broad land. What, however, was the result of the threatened rousing of the people? What was the result of all this vaunting? He went home, and there were two or three riots got up; but the good sense, the patriotism, and the nationality of the people of the north came to the rescue; and he was one of the first to sneak into a political organization which declared that the measures of 1850 were a final settlement, in principle and substance, of the various questions to which they related. Wherever the storm is to come from, it will not be from that quarter. Senators may compose themselves; these are not the men either to get up or guide revolutions.

There was another Senator here, [Mr. HALE,] whose desk I have the honor now to occupy, who again and again taunted Senators from the north who sustain those measures, that they would be driven from their seats; that the mighty north, the free north, would rise and drive them from these benches, and send men here who would represent the northern sentiment. Among others, the distinguished Senator from Michigan [Mr. CASS] was the especial object of his assaults. But the result is, that the gentleman who made those declarations is not here. We see, therefore, that these prophesies do not necessarily become history, and we need not be alarmed at them. But, judging from the past three years, we may look hopefully for the next three years to finish the work so happily begun, and to relieve the Senate of these common disturbers of the peace and quiet of the Republic.

The senator from Massachusetts, not content with perverting the history of his own country, misapplies even the ancient and familiar story of Themistocles and Aristides. Themistocles wished to take an unjust advantage of the enemies of Athens, or those who were expected shortly to become so. Forgetful of justice and right, he desired the Athenians, under prospect of advantage, to destroy the fleets of their friends and allies. The scheme was referred by the Athenians to Aristides. He said: "True, you can do it; you have got the power; but, Athenians, it is unjust." We stand in the same relation to the north. They have a majority in the Senate and in the House; therefore the power is in their hands, and not ours. What argument have we to offer them? We say to them: "We have no power; we stand in a minority; but we appeal to the true and honest men of the north, as Aristides did to the Athenians; gentlemen, you can do this, for you have the physical power, but it is unjust." We said that in 1850; and, in spite of the senator from Massachusetts and all his coadjutors here, the free north, the honest north, took the same course which the honest Athenians did under the advice of Aristides. They said: "It is unjust, and we will not do it."

The senator from Massachusetts has also talked about this measure disturbing the peace of the country. Sir, there is another story of ancient history, by which the gentleman might have profited. A minister once came to the Roman Senate to sue for peace. They asked him: "What security do you offer us that, if we grant you this peace, it will last and be observed?" He said: "Grant us a just peace, on fair terms, and it will be durable and permanent; but give us an unjust one, and it will not last long." All your patchings up will not last. You should stand upon a broad national principle, that gives the man of the south equal privileges with the man of the north. Make them all feel that, in peace or war, at home or abroad, they stand everywhere upon an equal footing, as brothers and citizens of a common country. Then you will have peace. The great pacification of 1850 adopted this basis; and if that be carried out, we shall have a permanent peace.

These measures received the popular approbation; that now proposed to be displaced (the Missouri restriction) never did. It was odious to the north, and not less so to the south.

I think I once heard Mr. Clay say on this floor that none of the northern representatives, except three or four, who sustained the Missouri act, were ever returned to Congress. And three years ago Mr. Hale, then a senator from New Hampshire, taunted northern senators with that fact, and said the same result would follow the adoption of the adjustment measures of 1850. It does not occur to me now, however, that a single man lost his place in this Senate, or in the other House, for supporting those measures. I know that the democratic party met at Baltimore in a national convention, and affirmed those measures; and I know that they carried every State in the Union, except four, mainly on that issue. I know also that the delegates of the whig party also went there and affirmed the measures, with sixty-six dissenting votes, and the fact that those sixty-six dissented, aroused the indignation of the country everywhere; and many would not support the candidate put forward by that convention mainly on this ground. I would take no other security but that those who had so atrociously run the race of sectionalism so long should not be allowed to injure my country if they would. Every southern whig, I believe, but one, voted for these measures in 1850, and but few whigs from the north did. I believe now that the opposition of our political friends in the northern States to these measures has struck down the whig party in nearly every State in the Union. I believe there are but two States now which have a whig governor, and they are Maine and Massachusetts; and they were not chosen by a majority of the people. That is the effect of that action. The senator from New York and others say they have a commission to represent the north here. It is true. But I have a right to go behind their credentials, and inquire whether they speak the true voice of their constituents? I admit their full right, by virtue of their commissions, to be heard on this floor; but I am not obliged to receive their opinions as those of their constituents; but when the senator from New York assumes to speak for New York, I oppose him with the voice of New York herself, speaking through her own records and her own ballot-box. I believe her people, by a majority of near thirty thousand in 1852, spoke against the senator, and for the Constitution and the adjustment of 1850.

The objections of the senator from Connecticut were discursive and unique. The additional objections which he urged to those already taken were, chiefly, that the bill was offensive to his moderation, and may lead to the lamentable consequences of bringing Brigham Young and his forty wives into the national councils. I do not think we should give ourselves much concern about the first objection. His moderation upon the slavery question exists nowhere except in his own declarations. I have served with that gentleman in the national councils for the last nine years; and, from the day that I entered Congress up to the passage of the adjustment measures of 1850, I never knew that gentleman to vote on any slavery question different from the most extreme abolitionist that during all that time sat in either branch of Congress; and we find him to-day, in his vote, with the same company. But the gentleman has, in his speech, happily illustrated his own moderation. He tells us repeatedly in his speech that Mr. Webster did him the honor to say that he demonstrated that the Wilmot proviso was a humbug; yet, after his own satisfactory demonstration, he still clung to his humbug, and voted for it to the end. If this is moderation, what would the senator call ultraism?

But the Wilmot proviso is not a humbug; it is a principle in deadly hostility to the Constitution of the country, the union of the States, and the happiness of the people. It subverts justice, perpetrates wrong, and overturns the corner-stone of republican institutions—the right of the people to govern themselves. His second objection is an attempt to weaken a principle, by suggesting the possibility of abuse. He suggests, that if you yield the right of the people to govern themselves they may do it very badly. This argument, in its last analysis, is equally good against all popular governments, and has always been the despot's plea for enslaving the people. But I admit the fact, that, if you yield to the people the right to mould their institutions, it necessarily includes the right to define the relation of husband and wife, and that the establishment of polygamy may legitimately result therefrom. But it is just what they have a right to do.

When the people of Utah make their organic law for admission into the Union, they have a right to approximate as nearly as they please to the domestic manners of the patriarchs. Connecticut may establish polygamy to-morrow; the people of Massachusetts may do the same. How did they become possessed of greater rights in this, or any other respect, than the people of Utah? The right in both cases has the same foundation—the sovereignty of the people. The senator from Massachusetts adverts to the same fact which so greatly disturbs the senator from Connecticut, and has made the profound discovery, that if Brigham Young carried his many wives to Pennsylvania he would not be permitted to practice polygamy there. That is very true, but why? Simply because the sovereign power of Pennsylvania forbids it; and for no other reason whatever. Every citizen of each State must conform to the laws of the State in which he resides, and this position strengthens rather than weakens the position assumed by us, that each separate community has, and of right ought to have, the power to regulate its own institutions, subject only to the Constitution of the United States. You may

imagine as many cases of what you may choose to call abuse of power as you please, but you cannot crush out popular sovereignty to get rid of its abuses. It will outlive you and your follies and prejudices. It is strong in the strength, and rich in the vitality of truth. It is immortal. It will survive your puny assaults, and will pass on and mingle itself "with the thought and speech of freemen in all lands and all centuries."

Mr. President, one of the most curious things I have witnessed in this discussion is the effort upon the part of the abolitionists and freesoilers on this floor to press into their service the great names and authority of Mr. Webster and Mr. Clay. The senator from New York, [Mr. SEWARD,] in spite of the declaration of Mr. Clay that he did not originate the eighth section of the Missouri act, that it did not even originate in the House, of which he was a member, and that he did not even know that he voted for it, yet still calls it Mr. Clay's work, "his greater work" than that of 1850. What protection has any public man against such pertinacious misrepresentations as this? He has even dared to call the spirit of that gallant old patriot from the spirit world; but whoever recollects the events of 1850 will bear me out in the statement, that the senator from New York is the last man in this Senate who would have evoked that spirit if he had supposed it would have come to his bidding.

The same senator, with intrepid coolness, quotes from Mr. Webster's Buffalo speech to vindicate his present position; and the very quotation which he makes denounces with the bitterest invective the very men with whom that senator was then and is now acting. To whom did he apply the epithets quoted by that senator? The national eye involuntarily turned to those men who were aiding and abetting in Jerry rescues; national men involuntarily turned to those who, at Syracuse, were the libellers and defamers of the expounder of the Constitution. The senator, however, does not believe in spirit-rapping. He did not think the spirits would come, and therefore he could call on them with safety. But, sir, those great men yet live; they speak by their votes; they are heard through their immortal speeches; and by them they will be vindicated through all time.

Dismissing the lesser objections to this bill, as rather pretexts than reasons, I will proceed to the consideration of the third point in the discussion. We are told that this bill ought not to pass because it is in violation of the eighth section of the Missouri act of 1820, which the freesoilers and abolitionists insist is a compact—a sacred and inviolable compact, to which the honor of the nation, and especially that of the south, is pledged. I hold this act of 1820 to be no compact, binding upon no man's honor; but, on the contrary, a plain and palpable violation of the Constitution and of the common rights of the citizen, and ought to be immediately abrogated and repealed. What is a contract or compact? Its essential requisite is, that there should be parties able to contract, willing to contract, and who do actually contract. This Missouri act lacks every one of these essential ingredients of a contract. There were no parties competent to make a compact. Congress can pass laws within their constitutional sphere, and within that it can command the people of the whole United States, but it can make no bargain with them.

By the act of 1820, Congress did not attempt to do any such foolish thing; it passed a law, and a very bad law, that was all. But if they were able to contract, they did not contract. If the North bound herself, she certainly must have been bound by her own representatives; but a very large majority of her representatives voted against accepting the eighth section of the act of 1820 in lieu of the restriction on the State of Missouri, which she claimed until beaten off from it by the members from the southern States, with the addition of some twenty northern representatives. Then, if any bargain was made, it was by these twenty members. Therefore, the North neither made the contract nor ratified it after it was made, but, on the contrary, her representatives came up to Congress the very next session, and, in the face of the pretended bargain, voted against the admission of Missouri into the Union, under an entirely different and distinct pretext. Missouri had a clause in her constitution against the admission of free negroes into her boundaries; just such a clause as Massachusets then had, and many of the free States now have. Seizing upon this pretext, in spite of the "solemn compact," a large majority of the northern representatives voted against her admission into the Union; but we are now told, by the freesoilers and abolitionists, that the admission of Missouri was our part of the bargain—that we have that, and ought therefore to abide by the restriction. Even this pretext is fallacious. Missouri is not to-day in the Union through the votes of a majority of northern members. She is here in spite of their votes. It does seem to me, Mr. President, that the senators from Massachusetts (Mr. SUMNER) and Ohio, (Mr. CHASE,) and his colleague, (Mr. WADE,) have had sufficient experience in political bargains and compacts to have clearer ideas of what constitutes a bargain.

While there can be no such thing as a legislative compact in this Union, people frequently called this Misssouri act a compromise, because fair-minded and moderate men yielded much of their personal opinions to prevent dangers to the country. In this sense alone, to get rid of the greater outrage of the exclu-

sion of Missouri on account of slavery, the south supported the eighth section, in lieu of the total exclusion clause of the House of Representatives, united with a few moderate northern men, and carried it; but the majority of the north did not assent to it then, and never have since. I have looked carefully through the history of those times, and I have never yet found a particle of evidence that a single northern or eastern State ever did assent to or affirm the Missouri compromise. And the abolitionists and freesoilers, who are now clamorous for it, support it solely because, as it is now presented, it is a naked question of prohibition. This is the sole reason of their support of it, and all the rest is but fraudulent pretexts with which to delude and deceive better but simpler people than themselves. When Arkansas was admitted into the Union, it was also opposed by over fifty northern men on account of slavery, as that was the only question made on her admission. When Oregon was admited as a Territory the principle of the Missouri compromise was again repudiated by the north. It was again repudiated by her when California and New Mexico were acquired, and attempts were made to apply the principle to those acquisitions; and at all times, and through all organs of her opinions, has the North uniformly refused to recognise the act or the principle of territorial division upon which it is founded.

Suppose the Missouri compromise was a compact or a treaty, with whom was it made? Was it with Rufus King, the predecessor of the senator from New York, who made the motion in this body, and stood by it for weeks, and months, and years, to put the prohibition upon the State of Missouri, and who never voted for the Missouri compromise? Was he one of the contracting parties? If he was, he did not sign the bond. Who, then, represented the north? How can any honest man look me in the face, and say that that was a contract, which the north then, yesterday, to-day, now, and forever repudiates? Let all the world know it. Let the next meeting at Faneuil Hall know it. Let the next meeting at the Tabernacle know it. Let the true men of the north know it; and they will come to a just decision on this question as readily as my constituents. The freesoilers falsify history to make it a contract, and would have to falsify their own principles to maintain it.

Such is the true history of this pretended compact, rejected by the north when passed, rejected by her twelve months afterwards, rejected by her in 1836, on the admission of Arkansas, rejected by her in the formation of the territorial government for Oregon, rejected by her when we attempted to apply the principle to California and New Mexico, rejected everywhere, and in every form, except when it worked prohibition; and I doubt whether there is an opponent of this bill, on this 23d February, 1854, who will rise in his place and say that he is willing to apply it to the country west of Arkansas and south of 36° 30′ north latitude. There is not one! Yet they have the effrontery to say to us: "Stand by the bargain," "maintain plighted faith;" "public faith and honor is pledged to it." Mr. President, I can command no language strong enough to express my abhorrence of such abandonment of all public principle.

One of the excuses offered in extenuation of the conduct of senators, in not carrying out the principle of the Missouri compromise to territories of the United States subsequently acquired, is that it applied specially to the country acquired from France. Admit that to be true; yet, if it was settled upon honest and sound principles, it ought equally to be extended to all other territory. Its principle was territorial division between the north and south. If that be a correct principle, it can be applied to all cases; but its present advocates have opposed every proposition for any division whatever, and still oppose it. This position confesses the superiority of the settlement of 1850 over that of 1820, and justifies our preference. We say the settlement of 1850 was based upon sound, just, and constitutional principles, and we are willing to apply them to all territory; and the people have affirmed it, both the people of the north and of the south.

Sir, I have already argued upon principle the power of Congress to pass such a restriction as that now proposed to be abrogated. It will be found to be equally well sustained by authority. Mr. Jefferson, Mr. Madison, Mr. Munroe, General Jackson, General Harrison, and most of the distinguished men of the revolution, who were living in 1820, when the Missouri restriction was sought to be imposed, opposed it; and many of them both on the grounds of constitutionality and expediency. Mr. Jefferson, in his letter to John Holmes, of Maine, dated the 29th of April, 1820, strongly condemns both the geographical line and the attempt to restrain the "diffusion of slavery over a greater surface," and adds:

"An abstinence, too, from this act of power would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different descriptions of men composing a State. This certainly is the exclusive right of every State, which nothing in the Constitution has taken from them and given to the general government. Could Congress, for example, say that the nonfreemen of Connecticut should be freemen, and that they shall not emigrate into any other State?"

He then goes on to denounce the restrictionists of his day as political suicides, and traitors "against the hopes of the world." Such were the opinions of the author of the ordinance of 1787, of the Missouri restriction of 1820.

Again, Mr. Jefferson, in a letter to Mr. Madison, says:

"I am indebted to you for your two letters of February 7 and 19. This Missouri question, by a geographical line of division, is the most portentous one I have ever contemplated." * * * * "Is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is" * * * * "without his hopes, nor scrupulous as to the means of fulfilling them?"

Mr. Madison, in a letter to Mr. Monroe in 1820, says:

"On one side it naturally occurs, that the right being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further, nor continued longer than the occasion might fairly require."

Mr. Madison says further:

"The questions to be decided seem to be—

"1. Whether a *territorial* restriction be an assumption of illegitimate power; or,

"2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point, there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the *restriction was not within the true scope of the Constitution.*"

This was the opinion of Mr. Madison, the father of the Constitution, who participated in the deliberations of the convention which formed it, and who, the senator from Massachusetts says, was imbued with the early policy of the government, which he contends was against slavery.

Mr. Monroe expressed the same opinions in a letter to Judge Roane.

General Jackson, who was also an actor in those exciting scenes, in a letter to Mr. Monroe, spoke in very strong language in regard to the Missouri restriction. He was a man of strong words, and strong will to back them. He said:

"I hope the majority will see the evil of *this rash, despotic act*, and admit the State and prevent the evil."

In the same letter, he says that the feelings of the south and west are aroused, and that Missouri should not retrograde or humble herself. All these eminent men, whom the gentleman from Massachusetts called up as authority for his position, are directly against him.

Upon these facts, principles, and authorities, I submit my third proposition to the Senate as proven, to wit: that the Missouri act of 1820 was not a compromise, in any sense of that term, but an unconstitutional usurpation of power, repudiated by both the north and the south, and should be repealed as violative of the fundamental law of the land, and of the unquestionable rights of American citizens.

I now proceed to invite the attention of senators to the last point which I propose submitting to them. It is one much "relied upon," especially by the senator from Massachusetts. That senator upon a former occasion, as well as in his speech yesterday, said that the early policy of the government was to restrain and localize slavery, and that this bill is therefore in opposition to that policy. I shall proceed to show that that senator has totally misapprehended, or wholly misrepresents, the early policy of the country, and has failed to make out even a *prima facie* case in support of his theory. The great error of that senator in the threshold of his argument is in assuming the individual anti-slavery opinions of many of the leading men of the last quarter of the eighteenth century to be the policy of the government. It is undoubtedly true, that opposition to slavery was, during that period, the almost universal idea of the northern States, and by no means limited in the southern States. But it is equally true that that idea was not impressed on the national policy. And it is a fact well worthy of the consideration of that senator, that this anti-slavery idea has not advanced an inch, but, on the contrary, has receded during the first half of the nineteenth century.

Now, anti-slavery opinions are unknown at the south, and are certainly greatly modified in the north since the formation of our Constitution. The lessons of British and French emancipation in America have not been lost upon the American people. Men have now greater experience of the workings of emancipation, and a clearer conception of the whole subject, which has not redounded to the advancement of abolition ideas. The nineteenth century has cast off many of the follies of the eighteenth, and this among others. I have sought for the policy of our fathers, not in the individual opinions of some of them, but in the collective will of the whole society. We must look to the Constitution and laws for this collective will. They, and they alone, utter the early policy, public policy of the republic.

When we look to the Constitution, we find no anti-slavery policy planted in that instrument. On the contrary, we find that it amply provides for the perpetuity, and not the extinction of slavery. It provides for the recapture and return of fugitives from labor from every portion of the republic. It provides for additional securities in the form of increased representation for slave property. It provides for the suppression of insurrection among slaves, and pledges the whole power of the republic for that purpose. It provides for the increase of their numbers, by the prevention of the suppression of the African slave-trade for twenty years, and permitting it forever. The history of this last provision is worthy of special note. Virginia and Maryland had forbidden the African slave-trade at the time the Constitution was formed, and North Carolina had greatly trammelled it; yet the Constitution swept away

these restrictions, and compelled thoses States to permit the slave-trade against their declared policy; and this was done by the votes of New England against Virginia and Maryland.

I repeat, these clauses of the Constitution provided for the perpetuity, and not the extinction of slavery. Here the policy of our fathers was unmistakably written down, and the writing cannot be perverted. There is not a single clause in that instrument which provides for, or looks to the abolition or restriction of slavery anywhere. It is undoubtedly true that many of the framers of the Constitution, both from the north and the south, were anti-slavery men. They freely proclaimed their opinions; but they planted none of them in the organic law, but left the whole subject to be managed by those interested in it. Therefore, so far from its being true that the Constitution localized slavery, it nationalized it; and it is the only property which it does nationalize except the works of genius and art.

In the face of these provisions of the Constitution, the Senator from Massachusetts [Mr. SUMNER] continues to assert that the uniform policy of our fathers was opposition to slavery. The policy of the government after the formation of the government, up to 1820, was equally decisive against the statements of that Senator. He asserted, in a speech on this floor, two years ago, and reiterated it as an important fact, I think as many as three times, in his late speech, that when President Washington took the oath of office, in 1789, the national flag did not float over one inch of slave territory belonging to the national Union. I cannot appreciate the importance of the statement to the argument, even if it were true; but as unimportant as it is, even that statement is unfounded in fact. Before the Constitution was formed, the Northwest Territory was ceded to the United States, with a prohibition of slavery; but at that very moment the United States claimed and held a large extent of territory in the southwestern portion of the Union, which was settled and occupied by slaveholders, under the protection of the flag of the Union.

I will explain its history in its order. That senator, to make out his case, suppresses a material portion of the action of the first Congress under the Constitution. That Congress accepted the cession of the Northwest Territory with a provision against slavery, and provided for its government; and the same Congress accepted the cession of Tennessee from North Carolina, with a provision protecting slavery, and provided for its government; extended the ordinance of 1787 over that cession and its territory in the southwest, excluding the sixth and last item, which was the anti-slavery clause of that ordinance. Therefore, if it had been true that when Washington took the oath of office the American flag did not float over an inch of slave territory belonging to the Union, he and his first Congress soon altered this state of things, and hoisted the American flag over slave territory larger than all of the then free States of the Union.

The ordinance of 1787 was declared by Madison to be without a shadow of Constitutional authority; but the first Congress accepted a compact already made, with all of its provisions; and another compact with North Carolina, with a different provision in regard to slavery; and protected both with the army and power of the republic. Therefore it is not true that the first Congress took pains to exclude slavery, or did in fact exclude it from a single inch of the public domain.

The next territorial act in the southwest was that of 1798, over the country to which I have referred. This territory was peculiarly situated. After the peace of 1763, when Florida was severed from Spain, and passed into the hands of England, the boundary of Georgia west of Chattahoochee river was along the 31st parallel of north latitude; but, upon the petition of the Board of Trade of London, representing that the southwestern portion of the territory of Georgia was too remote from the local government, the British government altered the boundary of Georgia by annexing all that portion of the State beginning at the mouth of the Yazoo river, running due east to the Chattahoochee, thence down that stream to the 31st parallel of north latitude, thence west to the Mississippi, and thence up the Mississippi to the mouth of the Yazoo, to the territory of West Florida. The boundary of Georgia stood thus at the time of the revolution; and, upon the peace of 1783, Britain retroceded Florida to Spain, leaving the territory before described within the limits of the United States, but not within the boundary of any State.

The general government therefore claimed, and, in 1798, erected a territorial government over it, extended the ordinance of 1787 over it, (expressly excluding the sixth, or anti-slavery clause of that ordinance.) This was the clearest indication of national policy on this subject which we had up to that time. This territory was claimed by the government, without any restriction whatever from any quarter. It was the first exercise of original, primary, unfettered jurisdiction over the public domain; and, in giving it a government, the Congress of 1798, with John Adams President, expressly excluded the prohibition of slavery from it—as the senator would say, dedicated it to savery. Therefore, during the whole of the administration of General Washington, and during every administration from that day to this, the flag of the Union has floated over slave territories belonging to the Union, and protected under its broad folds every interest of every American citizen. Such has been the domestic policy of this government.

What has been its foreign policy in relation

to this question? Here it is equally opposed to the statement and the policy of the senator from Massachusetts. Since the Constitution was framed, we bought Louisiana from France, and agreed by treaty to protect slavery in it. We purchased Florida from Spain, with a like treaty-protection to slavery. We have annexed Texas, with express stipulations in favor of slavery; and by these acquisitions made larger additions to the slaveholding territory than the whole area of the thirteen original States. I do not say that these acquisitions were made because of slavery; I know they were not. But they show that it was no part of the policy of our fathers to limit or restrain it. These are the facts upon which the senator has attempted to weave his ridiculous theory that the early policy of this government was to limit, restrain, and finally abolish slavery.

Sir, I have shown that the senator from Massachusetts has wholly mistaken or misrepresented the early policy of the government. This policy was uniform until 1820, when the "new lights," as Mr. Jefferson termed them, began a sectional warfare to restore themselves to power. They were anti-republicans, who had broken themselves down all over the country by their alien and sedition laws, by their disloyalty to their country in time of war, by their general hostility to popular rights everywhere, and they sought to elevate themselves again to power on the wave of sectional prejudices. They failed, as their successors have failed and will fail. The republican people of this country understood the fundamental principles of their own government. They knew that the liberties of America were won by white men for white men, by our race for our race, and that both in this country and in England the sympathizers with the negro race are generally enemies and oppressors of white men everywhere.

Senators, I have endeavored fairly to present the argument on this bill. I have endeavored to show that it is constitutional, wise, and just; that it violates no compacts, but sustains the solemn compact of the Constitution; that it is not opposed by the policy of our fathers, but in consonance herewith; that it is but the affirmance of the principles of the measures of 1850, which gave such universal satisfaction to all parts of the republic, and for these reasons it calls loudly upon every truly national man to stand by and sustain it. By doing so, we sustain the Constitution—we sustain the just rights of every portion of the republic, and the great right of the people to self-government. We should want no other reasons to commend it to our support. The senator from New York asks where and when the application of these principles will stop? He wishes not to be deceived in future, and asks us whether, when we bring the Chinese and other distant nations under our flag, we are to apply these principles to them? For one, I answer, yes; that, wherever the flag of the Union shall float, this great republican principle will follow it, and will continue to follow it, even if it should gather under its ample folds the freemen of every portion of the universe.