SPEECH

OF

MR. EVERETT, OF MASSACHUSETTS,

DELIVERED

IN THE SENATE OF THE UNITED STATES, FEB 8, 1854,

ON THE

NEBRASKA AND KANSAS TERRITORIAL BILL.

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NEBRASKA AND KANSAS.

Mr. EVERETT said:

Mr. PRESIDENT, I intimated yesterday that if time had been allowed, I should have been glad to submit to the Senate my views at some length in relation to some of the grave constitutional and political principles and questions involved in the measure before us. Even for questions of a lower order, those of a merely historical character, the time which has elapsed since this bill, in its present form, was brought into the Senate, which I think is but a fortnight ago yesterday, has hardly been sufficient, for one not previously possessed of the information, to acquaint myself fully with the details belonging to the subject before us, even to these which relate to subordinate parts of it, such as our Indian relations. Who will undertake to say how they will be affected by the measure now before the Senate, either under the provisions of the bill in that respect as it stood yesterday, or as it will stand now that all the sections relative to the Indians have been stricken out? And then, sir, with respect to that other and greater subject, the question of slavery as connected with our recent territorial acquisitions, it would take a person more than a fortnight to even read through the voluminous debates since 1848, the knowledge of which is necessary for a thorough comprehension of this important and delicate subject.

For these reasons, sir, I shall not undertake at this time to discuss any of these larger questions. I rise for a much more limited purpose—to speak for myself, and without authority to speak for anybody else, as a friend and supporter of the compromises of 1850, and to inquire whether it is my duty, and how far it is the duty of others who agree with me in that respect, out of fidelity to those compromises, to support the bill which is now on your table, awaiting the action of the Senate. This, I feel, is a narrow question; but this is the question which I propose, at no very great length, to consider at the present time.

I will, however, before I enter upon this subject, say, that the main question involved in the passage of a bill of this kind is well calculated to exalt and expand the mind. We are about to take a first step in laying the foundations of two new States, of two sister independent Republics, hereafter to enter into the Union, which already embraces thirty-one of these sovereign States, and which, no doubt, in the course of the present century, will include a much larger number. I think Lord Bacon gives the second place among the great of the earth to the founders of States—*Conditores imperiorum.* And though it may seem to us that we are now legislating for a remote part of the unsubdued wilderness, yet the time will come, and that not a very long time, when these scarcely existing territories, when these almost empty wastes, will be the abode of hundreds and thousands of kindred, civilized fellow-men and fellow-citizens. Yes, sir, the time is not far distant, probably, when Kansas and Nebraska, now unfamiliar names to us all, will sound to the ears of their inhabitants as Virginia, and Massachusetts, and Kentucky, and Ohio, and the names of the other old States, do to their children. Sir, these infant Territories, if they may even at present be called by that name, occupy a most important position in the geography of this continent. They stand where Persia, Media, and Assyria stood in the continent of Asia, destined to hold the balance of power—to be the centers of influence to the East

and to the West.* Sir, the fountains that trickle from the snow-capped crests of the Sierra Madre flow in one direction to the Gulf of Mexico, in another to the St. Lawrence, and in another to the Pacific. The commerce of the world, eastward from Asia, and westward from Europe, is destined to pass through the gates of the Rocky Mountains over the iron pathways which we are even now about to lay down through those Territories. Cities of unsurpassed magnitude and importance are destined to crown the banks of their noble rivers. Agriculture will clothe with plenty the vast plains now roamed over by the savage and the buffalo. And may we not hope, that, under the ægis of wise constitutions of free government, religion and laws, morals and education, and the arts of civilized life, will add all the graces of the highest and purest culture to the gifts of nature and the bounties of Providence?

Sir, I assure you it was with great regret, having in my former congressional life uniformly concurred in every measure relating to the West which I supposed was for the advantage and prosperity of that part of the country, that as a member of the Committee on Territories, I found myself unable to support the bill which the majority of that committee had prepared to bring forward for the organization of these Territories. I should have been rejoiced if it had been in my power to give my support to the measure. But the hasty examination which, while the subject was before the committee, I was able to give to it, disclosed objections to the bill which I could not overcome; and more deliberate inquiry has increased the force of those objections.

I had, in the first place, some scruples—objections I will not call them, because I think I could have overcome them—as to the expediency of giving a territorial government of the highest order, to this region at the present time.

In the debate on this subject in the House of Representatives last year, inquiries were made as to the number of inhabitants in the Territory, and I believe no one undertook to make out that there were more than four hundred, or five hundred, or, at the outside, six hundred white inhabitants in the region in which you are now going to organize two of these independent territorial governments, with two Legislative Councils, each consisting of thirteen members, and two Legislative Assemblies of twenty-six members each, with all the details and apparatus of territorial governments of the highest rank.

*The idea in this sentence was suggested by a very striking editorial article in a late number of the *St. Louis Daily Intelligencer*.

It seems to me that this is not called for by the condition of the country, and is somewhat premature. It was the practice in the earlier stages of our legislation to have a territorial government of a simpler form. In the Territories which were organized upon the pattern prescribed by the ordinance of 1787, there was a much simpler government. A governor and judges were appointed by the President of the United States, and authorized to make such laws as might be necessary, subject of course to the allowance or disallowance of Congress; and that organization served very well for the nascent state of the Territories. There was a limit prescribed to governments of this kind. When the population amounted to five thousand male inhabitants, I think it was, they were allowed to have a representative government. This may, perhaps, be too high a number, and may not be in entire accordance with the character of our people, and the genius of our institutions; but still, sir, I do think, that a government of this kind which we propose now to organize, with a constituency so small as now exists, cannot be that which the wants or the interests of the people require, and is in many respects objectionable. It brings the representative into dangerous relations with the constituent; and bestows upon a mere handful of men too much power in organizing the government, and laying the foundations of the State.

It is true, we are told, that the moment the intercourse act is repealed, there will be a great influx of population. I have no doubt that will be the case. There is also a throng of adventurers constantly pouring through this country towards the West, which requires an efficient Government. But even making all due allowance for these circumstances, I do think that it is somewhat premature to give this floating, and—if I may so call it—unstationary population, all the discretionary powers to be vested in a territorial government of the first class. I think it is giving too much power, too much discretion, to a population that will not probably amount at first to more than a few hundred individuals. Still, however, I admit that this is but a question of time. I do not think it a point of vital importance.

When I consider the prodigious rapidity with which our population is increasing by its native growth—when I consider the tide of immigration from Europe, a phenomenon the parallel of which does not exist in the history of the world, an immigration of three or four hundred thousand, of which the greater part are adults, pouring into this country every year, adding to our numbers an amount of population greater than that of some of the older States, and those not of the smallest size, and this

double tide flowing into the West, so that what is a wilderness to-day is a settled neighborhood to-morrow—when I consider these things, I do admit that a question of this nature is but a question of time; and if there were no other difficulty attending the bill, I should not be disposed to object to it on this score.

But, sir, the relation of the Indian tribes to the question is, I confess, in my mind, a matter of greater difficulty. Senators all know that the eastern strip of this Territory—I believe for its whole extent—certainly from the southern boundary of Kansas, far up to the north—is occupied by Indian tribes, and the fragments of Indian tribes. They are not in their original location. All the Indians who are there, I believe, have already undergone one removal, and some of them two. In pursuance of the policy which was carried into execution on so large a scale under the administration of General Jackson, a large number of tribes and fragments of tribes were collected upon this eastern frontier of the proposed Territories of Kansas and Nebraska, and have remained there ever since, some of them having made considerable progress in the arts of civilized life.

The removal of the Indians was one of the prominent measures of General Jackson's administration. It was my fortune, sir—it was twenty-four years ago, I believe—my friend from Tennessee [Mr. Bell] will recollect it—as a member of the other House, to take an active part in the discussion of this question. He will remember, I am sure, the ardent, but not unfriendly, conflicts between himself, as chairman of the Committee on Indian Affairs, and myself on that subject. I then maintained that it was impossible, if you removed these Indians to the West, to give them a "permanent home;" for that was the cardinal idea, the very corner-stone of the policy of General Jackson—to remove the Indians from their locations east of the Mississippi river, where they were crowded by the white population, and undergoing hardships of various kinds, so far west as would allow them to find a permanent home. I ventured to say then that, in my opinion, they could find no more permanent home west than east of the Mississippi. My friend from Tennessee thought otherwise, and said so, speaking, I am sure, in as good faith as I did in expressing the opposite opinion. But the policy was carried through, and an act was passed authorizing an exchange of the lands occupied by the Indians east of the Mississippi for other lands west of that river. I will read a single short section from that act:

"Sec. 3. *And be it further enacted*, That in making of such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them, and their heirs and successors, the country so exchanged with them; and if they prefer it, the United States will cause a patent or grant to be made and executed to them for the same: *Provided, always*, That such lands shall revert to the United States, if the Indians become extinct, or abandon the same."

This was the legislative foundation of the policy; and General Jackson deemed it of so much consequence that, in his Farewell Address, he congratulated the country on the success with which it had been carried out; and his successor, Mr. Van Buren, in one of his annual messages, spoke of it in the same glowing terms.

Now, sir, these were the hopes, these were the expectations on which the policy of removing the Indians west of the Mississippi proceeded. I do not recall the recollection of the subject reproachfully; I have no reproach to cast upon any one. Events which no mortal could have foreseen have taken place. The whole condition of our western frontier has been changed. Our territorial acquisitions on the Pacific, and the admission of a sister State in that quarter to the Union, have created a political necessity of an urgent character for improved means of communication, and I fear that it is not possible to preserve intact this Indian barrier. But I want information on that subject. I should like to hear other Senators, who understand the subject much better than I do, tell us how that matter stands; and whether it is absolutely necessary that this measure should go on, in the manner described by the bill, which, it seems to me, if not conducted with the utmost care, will be attended with great inconvenience, if not utter destruction, to those remnants of tribes.

If we must use that hateful plea of necessity, which I am always unwilling to take upon my lips; if we must use the tyrant's plea of necessity, and invade "the permanent home" of these children of sorrow and oppression, I hope we shall treat them with more than justice, with more than equity, with the utmost kindness and tenderness. Now, I am unable to say, not having ample information on the subject, how their condition will be affected by the clauses in the bill which were struck out yesterday. I am unable to say how it will be affected by leaving the bill without any provisions in reference to that subject. There are, of course, to be appropriations for negotiating with the Indians in other bills; the Senator from Illinois intimated as much; but what the measures to be proposed are, I should like to be better informed. I have no suspicions on the subject; I have no misgivings. I have no doubt that Senators and the

Executive will be animated with the purest spirit of humanity and tenderness toward these unfortunate fellow-men; but I should like to know what is to be done with them. I should like to know how the bill in its present condition, or with such supplementary measures as are to be brought in hereafter, will leave these persons who depend upon us, upon our kindness, upon our consideration, for their very existence. I hope that, before this debate closes, we shall hear something on this point from members of the body who are competent to speak on the subject. Unless the difficulty which I feel on this point shall be removed, I shall be compelled, on this ground alone, to oppose any such territorial bill.

Trusting, however, that proper precautions will be taken, and that measures will be adopted, if possible, to give to the more advanced individuals of these tribes, personal reservations of land, to save them from being driven off to some still more remote resort in the wilderness; trusting that this, or some other measure of wisdom and kindness will be pursued, I think I could cheerfully support the territorial bill, which passed the House of Representatives at the last session, and was lost in this body, I believe, for want of time, in the very last hours, certainly on the very last day, of the late session of Congress. If I could have been assured that proper safeguards were contained in that bill for the Indians, I should have been willing to support it; and when it was revived at this session of Congress, by the Senator from Iowa, [Mr. Dodge,] and referred to the Committee on Territories, of which I have the honor to be a member, I did certainly hope that, if it were thought expedient to report any bill for organizing this Territory, that one would have been adopted by the committee. The majority thought otherwise, however, and they have reported the bill before the Senate.

I will not take up the time of the Senate by going over the somewhat embarrassing and perplexed history of the bill, from its first entry into the Senate until the present time. I will take it as it now stands, as it is printed on our tables, and with the amendment which was offered by the Senator from Illinois [Mr. Douglas] yesterday, and which, I suppose, is now printed, and on our tables; and I will state, as briefly as I can, the difficulties which I have found in giving my support to this bill, either as it stands, or as it will stand when the amendment shall be adopted. My chief objections are to the provisions on the subject of slavery, and especially to the exception, which is contained in the 14th section, in the following words:

"Except the 8th section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which was superseded by the principles of the legislation of 1850, commonly called the compromise measures, and is hereby declared inoperative."

On the day before yesterday the chairman of the Committee on Territories proposed to change the words "superseded by" to "inconsistent with," as expressing more distinctly all that he meant to convey by that impression. Yesterday, however, he brought in an amendment, drawn up with great skill and care, on notice given the day before, which is to strike out the words "which was superseded by the principles of the legislation of 1850, commonly called the compromise measures, and is hereby declared inoperative," and to insert in lieu of them the following:

"Which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Now, I agree with the remark made by the chairman of the committee yesterday, that this is a change in the phraseology alone. It covers a somewhat broader ground, but the latter part of it is explanatory; and as to the main point in which it is proposed to declare the Missouri restriction of 1820 "inoperative and void," I do not find any change between this amendment and the words contained in the bill on our tables. It seems to be the design of both to carry out the principle which was laid down by the chairman in his report. I will read from that report the following sentences, for I conceive them to be those which give the key to the whole measure:

"In the judgment of your committee, those measures [the compromise measures of 1850] were intended to have a far more comprehensive and enduring effect than the mere adjustment of the difficulties arising out of the recent acquisition of Mexican territory. They were designed to establish certain great principles which would not only furnish adequate remedies for existing evils, but in all time to come avoid the perils of a similar agitation, by withdrawing the question of slavery from the halls of Congress and the political arena, and commit it to the arbitrament of those who were immediately interested in, and alone responsible for, its consequences."

This I suppose is the principle and the policy to which it is intended, either as it stood at first or as it is now proposed to amend it, to give the force of law in the bill now before us.

Now, sir, I think, in the first place, that the language of this proposed enactment, being ob-

scure, is of somewhat doubtful import, and for that reason, unsatisfactory. I should have preferred a little more directness. What is the condition of an enactment which is declared by a subsequent act of Congress to be "inoperative and void?" Does it remain in force? I take it, not. That would be a contradiction in terms, to say that an enactment which had been declared by act of Congress inoperative and void, is still in force. Then, if it is not in force, if it is not only inoperative and void, as it is to be declared, but is not in force, it is of course repealed. If it is to be repealed, why not say so? I think it would have been more direct and more parliamentary to say "shall be and is hereby repealed." Then we should know precisely, so far as legal and technical terms go, what the amount of this new legislative provision is.

If the form is somewhat objectionable, I think the substance is still more so. The amendment is to strike out the words "which was superseded by," and to insert a provision that the act of 1820 is inconsistent with the principle of congressional non-intervention, and is therefore inoperative and void. I do not quite understand how much is conveyed in this language. The Missouri restriction of 1820, it is said, is inconsistent with the principle of the legislation of 1850. If anything more is meant by "the principle" of the legislation of 1850, than the measures which were adopted at that time in reference to the Territories of New Mexico and Utah—for I may assume that those are the legislative measures referred to—if anything more is meant than that a certain measure was adopted, and enacted in reference to those Territories, I take issue on that point. I do not know that it could be proved that, even in reference to those Territories, a *principle* was enacted at all. A certain measure, or, if you please, a course of measures, was enacted in reference to the Territories of New Mexico and Utah; but I do not know that you can call this enacting a principle. It is certainly not enacting a principle which is to carry with it a rule for other Territories lying in other parts of the country, and in a different legal position. As to the principle of non-intervention on the part of Congress in the question of slavery, I do not find that, either as principle or as measure, it was enacted in those territorial bills of 1850. I do not, unless I have greatly misread them, find that there is anything at all which comes up to that. Every legislative act of those territorial governments must come before Congress for allowance or disallowance, and under those bills, without repealing them, without departing from them in the slightest degree, it would be competent for Congress to-morrow to pass any law on that subject.

How then can it be said that the principle of non-intervention on the part of Congress in the subject of slavery was enacted and established by the compromise measures of 1850? But, whether that be so or not, how can you find, in a simple measure applying in terms to these individual Territories, and to them alone, a rule which is to govern all other Territories with a retrospective and with a prospective action? Is it not a mere begging of the question to say that those compromise measures, adopted in this specific case, amount to such a general rule?

But, let us try it in a parallel case. In the earlier land legislation of the United States, it was customary, without exception, when a Territory became a State, to require that there should be a stipulation in their State constitution that the public lands sold within their borders should be exempted from taxation for five years after the sale. This, I believe, continued to be the uniform practice down to the year 1820, when the State of Missouri was admitted. She was admitted under this stipulation. If I mistake not, the next State which was admitted into the Union—but it is not important whether it was the next or not—came in without that stipulation, and they were left free to tax the public lands the moment when they were sold. Here was a principle; as much a principle as it is contended was established in the Utah and New Mexico territorial bill; but did any one suppose that it acted upon the other Territories? I believe the whole system is now abolished under the operation of general laws, and the influence of that example may have led to the change. But, until it was made by legislation, the mere fact that public lands sold in Arkansas, were immediately subject to taxation, could not alter the law in regard to the public lands sold in Missouri, or in any other State where they were exempt.

There is a case equally analogous to the very matter we are now considering—the prohibition or permission of slavery. The ordinance of 1787 prohibited slavery in the territory northwest of the Ohio. In 1790 Congress passed an act accepting the cession which the State of North Carolina had made of the western part of her territory, with the proviso, that in reference to the territory thus ceded Congress should pass no laws "tending to the emancipation of slaves." Here was a precisely parallel case. Here was territory in which, in 1787, slavery was prohibited. Here was territory ceded by North Carolina, which became the territory of the United States south of the Ohio, in reference to which it was stipulated with North

Carolina, that Congress should pass no laws tending to the emancipation of slaves. But I believe it never occurred to any one that the legislation of 1790 acted back upon the ordinance of 1787, or furnished a rule by which any effect could be produced upon the state of things existing under that ordinance, in the territorry to which it applied.

I certainly intend to do the distinguished chairman of the committee no injustice; and I am not sure that I fully comprehend his argument in this respect; but I think his report sustains the view which I now take of the subject: that is, that the legislation of 1850 did not establish a principle which was designed to have any such effect as he intimates. That report states how matters stood in those new Mexican territories. It was alleged on the one hand that by the Mexican *lex loci* slavery was prohibited. On the other hand that was denied, and it was maintained that the Constitution of the United States secures to every citizen the right to go there and take with him any property recognized as such by any of the States of the Union. The report considers that a similar state of things now exists in Nebraska—that the validity of the eighth section of the Missouri act, by which slavery is prohibited in that Territory, is doubtful, and that it is maintained by many distinguished statesmen that Congress has no power to legislate on the subject. Then, in this state of the controversy, the report maintains that the legislation of Congress in 1850 did not undertake to decide these questions. Surely, if they did not undertake to decide them, they could not settle the principle which is at stake in them; and, unless they did decide them, the measures then adopted must be considered as specific measures, relating only to those cases, and not establishing a principle of general operation. This seems to me to be as direct and conclusive as anything can be.

At all events, these are not impressions which are put forth by me under the exigencies of the present debate or of the present occasion. I have never entertained any other opinion. I was called upon for a particular purpose, of a literary nature, to which I will presently allude more distinctly, shortly after the close of the session of 1850, to draw up a narrative of the events that had taken place relative to the passage of the compromise measures of that year. I had not, I own, the best sources of information. I was not a member of Congress, and had not heard the debates, which is almost indispensable to come to a thorough understanding of questions of this nature; but I inquired of those who had heard them, I read the reports, and I had an opportunity of personal intercourse with some who had taken a prominent part in all of those measures. I never formed the idea—I never received the intimation until I got it from this report of the committee—that those measures were intended to have any effect beyond the Territories of Utah and New Mexico, for which they were enacted. I cannot but think that if it was intended that they should have any larger application, if it was intended that they should furnish the rule which is now supposed, it would have been a fact as notorious as the light of day.

Look at the words of the acts themselves. They are specific. They give you boundaries. The lines are run. The Territories are geographically marked out. They fill a particular place on the map of the continent; and it is provided that within those specific geographical limits a certain state of things, with reference to slavery, shall exist. That is all. There is not a word which states on what principle that is done. There is not a word to tell you that that state of things carries with it a rule which is to operate elsewhere—retrospectively upon territory acquired in 1803, and prospectively on territory that shall be acquired to the end of time. There is not a word to carry the operation of those measures over the geographical boundary which is laid down in the bills themselves.

It would be singular if, under any circumstances, the measures adopted should have this extended effect, without any words to indicate it. It would be singular, if there was nothing that stood in the way; but when you consider that there is a positive enactment in the way—the eighth section of the Missouri law, which you now propose to repeal because it does stand in the way—how can you think that these enactments of 1850 in reference to Utah and New Mexico were intended to overleap these boundaries in the face of positive law to the contrary, and to fall upon and decide the organization of Territories in a region purchased from France nearly fifty years before, and subject to a distinct specific legislative provision, ascertaining its character in reference to slavery? Sir, it is to me a most singular thing that words of extension in 1854 should be thought necessary in this bill to give the effect supposed to have been intended to the provisions of the acts of 1850, and that it should not be thought necessary in 1850 to put these words of extension into the original bills themselves.

Now, sir, let us look at the debates which took place at that time, because, of course, one may always gather much more from the debates on one side and the other on any great question, as to the intention and meaning of a law, than can be gath-

ered from the words of the statute itself. I have not had time to read these debates fully. That is what I complained of in the beginning. I have not had time to read, as thoroughly as I could wish, those voluminous reports—for they fill the greater part of two or three thick quarto volumes; but in what I have read, I do not find a single word from which it appears that any member of the Senate or House of Representatives, at that time, believed that the territorial enactments of 1850, either as principle, or rule, or precedent, or by analogy, or in any other way, were to act retrospectively or prospectively upon any other Territory. On the contrary, I find much, very much, of a broad, distinct, directly opposite bearing. I forbear to repeat quotations from the debates which have been made by Senators who have preceded me.

The proviso itself, which forms so prominent a characteristic and so important a part of this bill, the proviso that when the Territory, or any part of it, shall be admitted into the Union as a State or States, it shall be with or without slavery, as their constitution at the time of admission may prescribe, was no part of the original compromise, as I understand it. The compromise consisted in not inserting the Wilmot proviso in the Utah and New Mexico bills. That was moved and rejected, and the Territory was to come in without any such restriction. That was the compromise in reference to those Territories; and after the Wilmot proviso had been voted down, a distinguished Senator from Louisiana, [Mr. Soulé,] not now a member of this body, but abroad in the foreign service of the country, moved the proviso which I have just recited; and he did it, as he said, "to feel the pulse of the Senate." Mr. Webster, in voting for that motion of Mr. Soulé, as he had just voted against the Wilmot proviso, used these remarkable words:

"Be it remembered, sir, that I now speak of Utah and New Mexico, and *of them alone.*"

It was with that *caveat* that Mr. Webster voted for the proviso which forms the characteristic portion of this bill, and which is supposed to carry with it a law applying to this whole Territory of Nebraska, although covered by the Missouri restriction of 1820. Mr. Webster had on a former occasion, in the great speech of the 7th of March, 1850, to which I shall in a moment advert again, used the following remarkable language:

"And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not at this moment within the United States a single foot of land the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrepealable law, beyond the power of the action of the Government."

He meant, of course, to give to the Missouri restriction the character of a compact which the Government in good faith could not repeal; and there was in the course of the speech a great deal more said to the same purpose.

And now, sir, having alluded to the speech of Mr. Webster, of the 7th March, 1850, allow me to dwell upon it for a moment. I was in a position next year—having been requested by that great and lamented man to superintend the publication of his works—to know very particularly the comparative estimate which he placed upon his own parliamentary efforts. He told me more than once that he thought his second speech on Foot's resolution was that in which he had best succeeded as a senatorial effort, and as a specimen of parliamentary dialectics; but he added, with an emotion which even he was unable to suppress, "The speech of the 7th of March, 1850, much as I have been reviled for it, when I am dead, will be allowed to be of the greatest importance to the country." Sir, he took the greatest interest in that speech. He wished it to go forth with a specific title; and after considerable deliberation, it was called, by his own direction, "A Speech for the Constitution and the Union." He inscribed it to the People of Massachusetts, in a dedication of the most emphatic tenderness, and he prefixed to it that motto—which you all remember—from Livy, the most appropriate and felicitous quotation, perhaps, that was ever made: "True things rather than pleasant things"—*Vera pro gratis:* and with that he sent it forth to the world.

In that speech his gigantic intellect brought together all that it could gather from the law of nature, from the Constitution of the United States, from our past legislation, and from the physical features of the region, to strengthen him in that plan of conciliation and peace, in which he feared that he might not carry along with him the public sentiment of the whole of that portion of the country which he particularly represented here. At its close, when he dilated upon the disastrous effects of separation, he rose to a strain of impassioned eloquence which has never been surpassed within these walls. Every topic, every argument, every fact, was brought to bear upon the point; and he felt that all his vast popularity was at stake on the issue. Let me commend to the attention of Senators, and let me ask them to consider what weight is due to the authority of such a man, speaking under such circumstances, and on such an occasion, when he tells you that the condition of every foot of land in the country, for slavery or non-slavery, is fixed by some irrepealable law. And you are now about to repeal the principal law which ascertained

and fixed that condition. And, sir, if the Senate will take any heed of the opinion of one so humble as myself, I will say that I believe Mr. Webster, in that speech, went to the very verge of the public sentiment in the non-slaveholding States, and that to have gone a hair's breadth further, would have been a step too bold even for his great weight of character.

I pass over a number of points to which I wished to make some allusion, and proceed to another matter. The chairman of the Committee on Territories did not, in my judgment, return an entirely satisfactory answer to the argument drawn from the fact that the Missouri restriction, or the compromise of 1820, is actually and in terms recognized and confirmed by the territorial legislation of 1850, in the act organizing the Territory of New Mexico. The argument is this: that act contains a proviso that nothing therein contained shall be construed to impair or qualify the third article of the second section of the resolutions for annexing Texas. When you turn to that third article of the second section of the resolution, you find that it recognizes by name the Missouri compromise. Now I understood the chairman of the Committee on Territories to say, that all that part of Texas to which that restriction applied, north of 36° 30′, was cut off and annexed to New Mexico.

Mr. DOUGLAS. Not all annexed, but a large portion annexed, and all cut off.

Mr. EVERETT. But it does not seem to me that this is an adequate answer. In the first place, the Senator tells us that all north of 36° 30′ was cut off from Texas. But there was a considerable portion of territory, as large as four States of the size of Connecticut, which was not incorporated into New Mexico, and to which the proviso still attaches. But whether that be so or not, would it not be a strange phenomenon in legislation that a subsequent act should be construed to supersede, to nullify, to render inoperative and void, by any operation, or in any way or form, a former act, which it expressly states nothing therein contained shall qualify or impair? It does seem to me that this is so formal a recognition, that it is unnecessary to inquire whether there is or is not any portion of territory to which, in point of fact, it attaches, especially when the question now is, not whether it operates in Texas, but whether it operates in Nebraska in its original location.

The Senator stated that, in point of fact, to some extent the Missouri compromise was actually repealed by the territorial legislation of 1850; and the facts by which he supported that statement were these: that a portion of territory was taken from Texas, where it was subject to the Missouri restriction, and incorporated into New Mexico, where it came under the compromise of 1850; and, in like manner, that a portion of the territory now embraced in Utah was taken from the old Louisiana purchase, where it was subject to the Missouri restriction, and was incorporated into the Territory of Utah, where, in like manner, it came under the compromise of 1850. But I think the answers to be given to these statements are perfectly satisfactory.

In the first place, it was a very small portion of territory, very small, indeed, compared with the vast residuum; and can we suppose that the few hundred, or it may be the few thousand, square miles taken off in this way from Texas and the old Louisiana purchase, and thrown into New Mexico and Utah, can, by way of principle or rule, or in any other way, qualify, or modify, or repeal a positive enactment covering the remaining space, which is as large as all the British Islands, France, Prussia, the Austrian Empire, and the smaller Germanic States put together?

In the next place, in reference to New Mexico, if I understand it, the territory which was thus transferred never was subject to the restriction of 1820—to the real Missouri compromise, now proposed to be declared "inoperative and void." It was subject to the Texas annexation resolutions, which extended the Missouri line, but it was no part of Louisiana, never had been, and was not subject to the restriction which it is now proposed to repeal.

Then, in the next place, it was a mere question of disputed boundary. I do not wish to do the statement of my worthy friend, the chairman of the Committee on Territories, any injustice, but I think he was incorrect if he said, that "the United States purchased this strip of land from Texas." These are not the terms of the act. They are very carefully stated more than once. The United States gave a large sum of money to Texas, not to sell this strip of land, but to "cede her claim" to it. That was all. Texas claimed it. The United States did not allow or disallow the claim, but they gave Texas a large consideration to cede her claim. It was, therefore, a matter of disputed boundary; and it is not decided whether the ceded territory originally belonged to Texas or New Mexico.

In reference to Utah, it is true, there is a small spot, a very small spot in the Sierra Madre, that was taken from the old Louisiana purchase and thrown into Utah; but I venture to say that probably not a member of the Senate, except the worthy chairman of the Committee on Territories,

was aware of that fact. I do not mean that he made any secret of it, but it was not made a point at all. The Senate were not apprised that if they took this little piece of land, which Colonel Frémont calls the Middle Park, out of the old Louisiana purchase, and put it into Utah, they would repeal the Missouri compromise of 1820, which covers half a million of square miles. I say, sir, most assuredly the Senate were told no such thing; nor do I think it was within the knowledge or the imagination of an individual member of the body.

I may seem to labor this point too much; but as it is the main point to which I solicit the attention of the Senate, I will state one more consideration. It has been alluded to already, but I propose to put it in a little different light, which seems to me to be absolutely decisive of the whole subject. The proposition to organize Nebraska Territory is not a new one. The chairman of the Committee on Territories has had it in view for several years—as far back, I believe, as 1844 or 1845. It is so stated in Mr. Hickey's valuable edition of the Constitution. Whether it was actually before the Senate in 1850 I know not; but it was certainly in the mind of the Senator from Illinois. Now, sir, during the pendency of these compromise measures, while the Utah and the New Mexico bills were in progress through the two Houses of Congress, if they carried with them a principle or rule which was to extend itself over all other Territories, how can we explain the fact, that there is not the slightest allusion in those bills to the Territory of Nebraska, which the vigilant Senator must have had so strongly on his mind? Is it not a political impossibility, that if it was conceived at that time, that measures were going through the two Houses which were to give a perpetual law to territorial organization, the Nebraska bill would not then have been brought forward, and in some way or other made to enjoy the benefit of it, if benefit it be? But not a word to this effect was intimated that I know of. It was entirely ignored, so far as I am aware; or, at any rate, no attempt was made at that time to pass a Nebraska bill, containing the provisions of the Utah and New Mexico bills.

The compromise measures were the work of the Thirty-First Congress, and at the Thirty-Second Congress a Nebraska bill was brought in by a member from the State of Missouri, in the other House. It passed that body by a majority of more than two to one. It was contested on the ground of injustice to the Indians; but, as far as I know—I speak again under correction—I have not had time to read all these voluminous debates—nothing, or next to nothing was said on the subject of slavery. At any rate there was no attempt made to incorporate the provisions of the present bill on the subject of slavery. It came up here, and was adopted by, and reported from, the Committee on Territories, and brought up in the Senate towards the close of the last session, and on that occasion contested on the same ground; and no attempt was made, or a word said, in reference to these provisions on the subject of slavery. If at that time the understanding was, that you were enacting a principle or a precedent, or anything that would carry with it a rule governing this case, is it possible that no allusion should have been made to it on that occasion?

I conclude, therefore, sir, that the compromise measures of 1850 ended where they began, with the Territories of Utah and New Mexico, to which they specifically referred; at any rate, that they established no principle which was to govern in other cases; that they had no prospective action to the organization of Territories in all future time; and certainly no retrospective action upon lands subject to the restriction of 1820, and to the positive enactment that you now propose to declare inoperative and void.

I trust that nothing which I have now said will be taken in derogation of the compromises of 1850. I adhere to them; I stand by them. I do so for many reasons. One is respect for the memory of the great men who were the authors of them—lights and ornaments of the country, but now taken from its service. I would not so soon, if it were in my power, undo their work, if for no other reason. But beside this, I am one of those—I am not ashamed to avow it—who believed at that time, and who still believe, that at that period the union of these States was in great danger, and that the adoption of the compromise measures of 1850 contributed materially to avert that danger; and therefore, sir, I say, as well out of respect to the memory of the great men who were the authors of them, as to the healing effect of the measures themselves, I would adhere to them. They are not perfect. I suppose that nobody, either North or South, thinks them perfect. They contain some provisions not satisfactory to the South, and other provisions contrary to the public sentiment of the North; but I believed at the time they were the wisest, the best, the most effective measures which, under the circumstances, could be adopted. But you do not strengthen them, you do not show your respect for them, by giving them an application which they were never intended to bear.

Before I take my seat, sir, I will say a few words in a desultory manner upon one or two

other statements which were made by the chairman of the Committee on Territories. He said, if I understood him, that the North set the first example of making a breach in the Missouri compromise; and I find out of doors that considerable importance is attached to this idea, that the nullification or repeal of the Missouri compromise at this time is but a just retort upon the North for having, on some former occasion, set the example of violating it. I do not think that this is correctly stated. The reference is to the legislation of 1848, when the non-slaveholding States refused to extend the line of 36° 30′ to the Pacific Ocean, which was done, the Senator said, under the influence of "northern votes with free-soil proclivities," or some expression of that kind. I do not think the Senator shows his usual justice, perhaps, I may say, not his usual candor, on this occasion. That took place two years before the compromise of 1850, and that compromise has been commonly considered, if nothing else, at least as a settlement of old scores; and anything that dates from 1848 must be considered, in reference to those who took part in it, as honorably and fairly settled and condoned in 1850. But, sir, how was the case? This was not a measure carried by northern votes with free-soil proclivities. Far from it. If I have read the record aright, the amendment which the Senator moved in the Senate, to incorporate the Missouri line into the territorial bill for Oregon, was opposed by twenty-one votes in this body. Among those twenty-one voters was every voter from New England. There was the Senator from Massachusetts, Mr. Webster. There was the lately deceased Senator from New Hampshire, Mr. Atherton. Both of the votes from Ohio: Mr. Allen one of them; and both from Wisconsin, were given against this extension of the Missouri compromise. Mr. Calhoun voted in favor of the amendment; but if I am not in error, when the question next came up upon the engrossment of the bill, as amended, he voted with those twenty-one; he voted side by side with those who were included in the designation of the Senator from Illinois. In the House, the vote stood, if I remember the figures, 121 to 82—a majority of 39. This was, I suppose, the whole vote, or nearly the whole vote of the entire non-slaveholding delegation. That surely, then, ought not to be said to be brought about by northern voters with free-soil proclivities, using those words in the acceptation commonly given to them, which I suppose the Senator wishes to do.

No, sir, that vote was given in conformity with the ancient, the universal, the traditionary opinion and feeling of the non-slaveholding States, which forbid a citizen of those States to do anything voluntarily, or except under a case of the sternest compulsion, such as preserving the union of these States—and really I would do almost anything to effect that object—to acquiesce in carrying slavery into a Territory where it did not previously exist. It was that feeling which, in the revolutionary crisis, was universal throughout the land; for the anti-slavery feeling of that time I take to have been mainly a political sentiment, rather than a moral or religious one. It was the same feeling which, in 1787, led the whole Congress of the Confederation to unite in the Ordinance of 1787. Mr. Jefferson, in 1784, had proposed the same proviso, in reference to all the territory possessed by the United States, even as far down as 31°, which was their southern boundary. It was the same feeling, I take it, which led respectable southern members of Congress, as late as 1820, to vote for the restriction of slavery in the State of Missouri—of which class, I believe, there were some. And, sir, it is a feeling, I believe in my conscience, which, instead of being created, or stimulated, or favored, by systematic agitation of the subject, is powerfully repressed and discouraged by that very agitation; and if this bill passes the Senate, as to all appearance it will, and thus demonstrate that that feeling is not so strong now as it was in 1820, I should ascribe such a result mainly to the recoil of the conservative mind of the non-slaveholding States from this harassing and disastrous agitation.

A single word, sir, in respect to this supposed principle of non-intervention on the part of Congress in the subject of slavery in the Territories. I confess I am surprised to find this brought forward, and stated with so much confidence, as an established principle of the Government. I know that distinguished gentlemen hold the opinion. The very distinguished Senator from Michigan [Mr. Cass] holds it, and has propounded it; and I pay all due respect and deference to his authority, which I conceive to be very high. But I was not aware that any such principle was considered a settled principle of the territorial policy of this country. Why, sir, from the first enactment in 1789, down to the bill before us, there is no such principle in our legislation. As far as I can see it would be perfectly competent even now for Congress to pass any law that they pleased on the subject in the Territories under this bill. But however that may be, even by this bill, there is not a law which the Territories can pass, admitting or excluding slavery, which it is not in the power of this Congress to disallow the next day. This is

not a mere *brutum fulmen*. It is not an unexecuted power. Your statute-book shows case after case. I believe, in reference to a single Territory, that there have been fifteen or twenty cases where territorial legislation has been disallowed by Congress. How, then, can it be said that this principle of non-intervention in the government of the Territories is now to be recognized as an established principle in the public policy of the Congress of the United States?

Do gentlemen recollect the terms, almost of disdain, with which this supposed established principle of our constitutional policy is treated in that last valedictory speech of Mr. Calhoun, which, unable to pronounce it himself, he was obliged to give to the Senate through the medium of his friend, the Senator from Virginia. He reminded the Senate that the occupants of a Territory were not even called *the people*—but simply *the inhabitants*—till they were allowed by Congress to call a convention and form a State constitution.

Mr. President, I do regret that it is proposed to repeal the eighth section of the Missouri act. I believe it is admitted that there is no great material interest at stake. I think the chairman of the committee, [Mr. DOUGLAS,] the Senator from Kentucky, [Mr. DIXON,] and perhaps the Senator from Tennessee [Mr. JONES] behind me, admitted that there was no great interest at stake. It is not supposed that this is to become a slaveholding region. The climate, the soil, the staple productions are not such as to invite the planter of the neighboring States, who is disposed to remove, to turn away from the cotton regions of the South, and establish himself in Kansas, or Nebraska. A few domestic servants may be taken there, a few farm laborers, as it were, sporadically; but in the long run I am quite sure that it is generally admitted that this is not to be a slaveholding region; and if not this, certainly no part of the Territory still further north.

Then, sir, why repeal this proviso, this restriction, which has stood upon the statute-book thirty-four years, which has been a platform of conciliation and of peace, and which it is admitted does no practical harm? You say it is derogatory to you; that it implies inferiority on the part of the South. I do not see that. A State must be either slaveholding or non-slaveholding. You cannot have it both at the same time; and a line of this kind, taking our acquisitions together, considering how many new slave States have sprung up south of the line, and how few non-slaveholding States north of it, makes a pretty equitable division between the slaveholding and the non-slaveholding States. I cannot see that there is anything derogatory in it—anything that implies inferiority on the part of the South. Let me read you a very short letter, which I find in a newspaper that came into my hands this morning, just before I started to come to the Capitol. It is a very remarkable one. It was written by the Hon. Charles Pinckney, then a distinguished member of the House of Representatives from South Carolina, and addressed to the editor of a newspaper in the city of Charleston:

CONGRESS HALL, *March* 2, 1820, 3 o'clock at night.

DEAR SIR: I hasten to inform you that this moment we have carried the question to admit Missouri and all Louisiana to the southward of 36° 30′ free of the restriction of slavery, and *give the South, in a short time, an addition of six, and perhaps eight, members to the Senate of the United States.* It is considered here by the slaveholding States as a great triumph. The votes were close—ninety to eighty-six, [the vote was so first declared]—produced by the seceding and absence of a few moderate men from the North. To the north of 36° 30′ there is to be, by the present law, restriction, which you will see by the votes I voted against. But it is at present of no moment; it is a vast tract, uninhabited only by savages and wild beasts, in which not a foot of the Indian claim to soil is extinguished, and in which, according to the ideas prevalent, no land office will be open for a great length of time.

With respect, your obedient servant,

CHARLES PINCKNEY.

So that it was thought at the time to be an arrangement highly advantageous to the southern States. No land office was to be opened in the region for a long time; but that time has come. If you pass this bill, land offices will soon be opened; and now you propose to repeal the Missouri compromise!

A word more, sir, and I have done. With reference to the great question of slavery—that terrible question—the only one on which the North and the South of this great Republic differ irreconcilably—I have not, on this occasion, a word to say. My humble career is drawing near its close; and I shall end it as I began, with using no other words on that subject than those of moderation, conciliation, and harmony between the two great sections of the country. I blame no one who differs from me in this respect. I allow to others, what I claim for myself, the credit of honesty and purity of motive. But for my own part, the rule of my life, as far as circumstances have enabled me to act up to it, has been, to say nothing that would tend to kindle unkind feeling on this subject. I have never known men on this, or any other subject, to be convinced by harsh epithets or denunciation.

I believe the union of these States is the greatest possible blessing—that it comprises within itself all other blessings, political, national, and social; and I trust that my eyes may close long before the

day shall come—if it ever shall come—when that Union shall be at an end. Sir, I share the opinions and the sentiments of the part of the country where I was born and educated, where my ashes will be laid, and where my children will succeed me. But in relation to my fellow-citizens in other parts of the country, I will treat their constitutional and their legal rights with respect, and their characters and their feelings with tenderness. I believe them to be as good Christians, as good patriots, as good men, as we are; and I claim that we, in our turn, are as good as they.

I rejoiced to hear my friend from Kentucky, [Mr. Dixon,] if he will allow me to call him so—I concur most heartily in the sentiment—utter the opinion that a wise and gracious Providence, in his own good time, will find the ways and the channels to remove from the land what I consider this great evil; but I do not expect that what has been done in three centuries and a half is to be undone in a day or a year, or a few years; and I believe that, in the mean time, the desired end will be retarded rather than promoted by passionate sectional agitation. I believe, further, that the fate of that great and interesting continent in the elder world, Africa, is closely intertwined and wrapped up with the fortunes of her children in all the parts of the earth to which they have been dispersed, and that at some future time, which is already in fact beginning, they will go back to the land of their fathers the voluntary missionaries of Civilization and Christianity; and finally, sir, I doubt not that in His own good time the Ruler of all will vindicate the most glorious of His prerogatives,

"From seeming evil still educing good."