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OF

JAMES MCDOWELL, OF VIRGINIA,

ON THE

WILMOT PROVISIO.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, TUESDAY, SEPTEMBER 3, 1850.

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THE WILMOT PROVISIO.

This bill, together with several proposed amendments thereto, including one for the imposition of the "Wilmot proviso" upon the territorial Governments of Utah and New Mexico, being under consideration—

Mr. McDOWELL said, that at this late hour of legislative proceedings upon the matters before the House, when the House and the country both were weary of any further discussion upon them, and were impatient for immediate decision, he felt that notwithstanding his own almost habitual forbearance of debate, he was now pushing his rights of speech to the very verge of offensiveness and intrusion. So strong, indeed, was this feeling, that much as he had intended and desired to discuss the Senate bills when they were first reported to the House, and have given to this and some others of them such support as he was able, he had relinquished his intention to do so, and but for the attempt to fasten the "Wilmot proviso" upon the territorial governments, he would not, at this moment, have risen to offer a thought to this House. But that proviso is in itself so hateful and hated—so revolting to the sense of constitutional equality and right amongst his own constituents and those of every other southern Representative—so filled with capabilities and issues of national commotion, and it may even be of national conflict and ruin—that he considers it his duty, as long as it is here, and is deliberately pressed upon this body for adoption, to do all that he can to resist and to put it down. Hence he has risen now. But before he proceeds to the general remarks upon this and its associate subjects which he desires to submit, and in order to disembarass them from any connection with a topic so unimportant to the House and to the public as himself individually, and to which he is somewhat constrained to refer, he considers it proper to say at the outset, that it was his fortune, eighteen or twenty years ago, when a member of the House of Delegates of Virginia, to make a speech in that body upon the institution of slavery, in which he inquired into and exposed its nature, claims, and consequences, with the fearlessness and freedom which became him, as he believed, in his double capacity of citizen and delegate. Portions of his speech have, again and again, during the present and past sessions of Congress, been referred to by gentlemen in the other wing of the Capitol as well

as in this, always, so far as he has noticed, with overwrought compliment, but almost always, too, with the apparent purpose of finding in them something to justify their own opinions and course, and to control or to condemn his. Whatever that speech is, Mr. Speaker, (said Mr. McD.) I mean to leave it to itself, unrevoked, unchanged, and undefended. Whether its sentiments be true or false, wise or foolish, it is at least, undeniable that they were spoken at the right place, to the right audience, and invoked action of the right parties. They were addressed to the people of Virginia, through their Legislature; to those who had established by their laws the institution spoken of, and who, and who only, within the limits of their State, had any rightful authority to modify, abolish, or maintain it. If the relation of Congress to this subject, in authority or in any other respect, were the same with that of the Legislature of Virginia, it would be obviously fair and just in that case, but in that only, that my opinions and course upon it in that body should be held up for acknowledgment or disavowal in this.

Whatever the opinions I have expressed or entertained upon the institution of slavery in the abstract, I have never doubted for a moment, that as the white and the black races now live together in the southern States, it is an indispensable institution for them both. Physical amalgamation between them is impossible, and would be ruinous if it were possible. Political and civil amalgamation, allowing an equality of power in the government, and of rights under it, is just as impossible; and though thought of and attempted in a few of the States, where the number of blacks, instead of being equal to or greater than the whites, as in some of the southern States, amounts to but a small per cent. of the whole, has even there been rejected as inadmissible and improper. Emancipation, with rights of residence and property, but exclusion from social, civil, and political equality, would conduct, sooner or later, through the irrepressible heart-burnings and passions of human nature, to a war of colors, the bloodiest and cruellest of all wars, because founded upon an ineffaceable distinction, and therefore only capable of being stopped by the extermination of one or other of its parties. Regarding this as the dreadful, but inevitable fatality of giving freedom to the southern slaves without removing them to some other land, I can-

not and do not doubt but that their present condition is the only happy and suitable one for themselves or their masters, *as long as they live together in the same community*; and that melancholy, in some of its aspects, as it may be, theirs is a case in which the restraint by the power of one man over the rights and liberty of another is a wise and beneficent one for the safety, the prosperity, and the life of both.

The public policy in regard to this institution (said Mr. McD.) which is strikingly inculcated by its development and progress, is just that which every rational and temperate consideration of it will confirm, and that is, simply, to let it alone. Though it entered, in some sense, into our Confederation, and makes up some of the fundamental guarantees in our present Constitution, yet during the whole existence of our Government, for sixty-five or seventy years, it has never been the occasion of any national disturbance, except when it has been made the subject of aggression for political ends. On the contrary, it has coexisted throughout the whole of that time with a growth in public wealth, power, and greatness, and with an individual happiness, safety, and prosperity, neither of which, it may be confidently said, has any equal in any other country or age. Then let it alone; leave it with every responsibility it may impose, every remedy it may demand, every pressure of difficulty or danger it may reach,—leave it, with all of its consequences, to the wisdom, interest, and conscience of those upon whom the providence of God and the Constitution of the country have cast it.

Be assured that until it is competent for Congress to go with its power into the slaveholding States, and exert it there over master and slave, all its tamperings with slavery in the Territories, or in this District, in order to weaken, discourage, or break up the institution, will never be effectual for anything but mischief, wrong, and disaster. If it is an ordinance of Heaven, as some suppose it to be, it is, in that case, the wisest philosophy and religion to leave its development and solution to the power that ordained it. But if an ordinance of man only, then, too, it is wisest and best to leave it to those who are identified with its interests and dangers, and not to others who are disconnected from both.

Mr. McD. then said, that in addressing himself to the "proviso," as he would now do, he would discuss it in a few of its leading aspects only. And first, he objected to it that it was not only an unconstitutional, and, as to the free States, an unnecessary measure, (points that he had, in some degree, examined on a former occasion in this House,) but that it was a harsh, offensive, and dangerous violation of the equal rights of the States, and of the citizens of the States.

The first great political effect of it is to establish a principle which will not only give to the free States all the territory that now belongs to the Union, but all that may ever belong to it hereafter. Whatever territory, in the vicissitudes of our national career, may be acquired by war, diplomacy, annexation, or other act of Government—all of it, under this principle, is to pass into the hands of the northern or free States; whilst the southern—no matter what their contributions of means, talents, exertions, or anything else, to secure it—no matter though they stood in the front rank of sac-

rifice and of service in the day of acquisition—yet must they fall back into the rear-rank in the day of remembrance and reward, and there, disowned, mortified, and thrust out from their associates, look for their share of the national wealth in the honor of their copartnership connection, and in the burdens, buffetings, bruises, and woundings of spirit which that copartnership may impose. Fasten your proviso upon the territorial bill before us, with the avowal, upon your part, that it is the beginning of your system of "eternal non-extension" against slavery and slaveholding States, and what is it but the direct division of our States into two great classes, one of which only is never to advance in numbers or extent, and both of which are to become more and more offensively distinguished from one another every day by deepening hostilities of sympathy and interest? What is it, in truth, but a clear, direct, deliberate disunion act, not conceived, as Mr. McD. believed, in a disunion spirit, nor looking to a disunion object, but capable of working out no other result, and pressed upon us, too, at a moment when everything which wisdom can suggest or patience and patriotism can bear, will not be more than enough to keep the Union together? "If the position of North and South, in the matters now pending between them, had been reversed—if the South had stood in the place of the North, having twice its territory, twice its population, and all the majorities which our political system admits of, and thereby having the absolute control of the Government in its own hands, and entertaining withal the most unappeasable hatred of its anti-slavery institutions of labor and society—if the South, being thus situated, had not only proposed to bind the North hand and foot to the territorial limits which it now occupied, and to exert every power of the Government to prevent, as much as the breadth of its little finger, from being stretched beyond the walls of its territorial prison, but to exert the same power to take to herself all the territory now held by the United States, and all it may ever hold, for the purpose of establishing an endless multiplication of slaveholding States upon it,—had the South made such a proposition for such a purpose, and followed it up by a relentless assault at this spot for months together upon the tastes, morals, habits, and institutions of the North, could you, who represent her, in candor say that your confidence in the equity and equitable intentions of the South was not shaken? Nay, would not your indignation and resentment have boiled over upon her? Would you not at once have told her that her proposition was not only inadmissible but insufferable—not only inequitable but insolent, and made in utter contempt of those covenant relationships of which it was the utter destruction? And so thinking of it, would your people have had no tongue to speak out the thought? Would they have laid silently and passively by, and permitted a great anticipated wrong to be pushed on to its worst before they would have risen up to remonstrate and resist? Would Faneuil Hall have been voiceless and dumb, whilst measures were going forward in this body directly calculated, if not designed, to impair the rights, interests, and power of Massachusetts? No, Mr. Speaker; if the South had but made this proposition, (which is just that of the North to her,) and pressed it with every influence and power she could have commanded,

there is not a spot of New England that would not have glowed like a living coal. Nor is there a single spot in the far and the free West where the people would not have risen up instantly and indignantly to resist and resent as coming from the South, but affecting them, the very measures which they have for years past been striving so strenuously and anxiously to fix and fasten upon her.

You cannot wonder, then, that she, who has a "pulse to riot and a blood to glow" as well as yourselves, should have had her feelings moved to their innermost depths at the dishonoring and despoiling schemes which have been maturing against her, or that, being so moved, she should here and there have poured out those feelings in terms of exasperation, bitterness, and defiance. But passing from this aspect of the subject before us, (which, in truth, said Mr. McD., is rather too exciting for the perfect calmness that it was his wish and purpose to maintain,) he would say of the proviso, in the next place, that it puts the South in a situation which makes it certain, that do as she will in regard to it, she is sure to be a sufferer. If her citizens, in order to get their share of a common estate, go into the Territories, they must, under this proviso, leave their slaves behind them, and thereby increase that actual or tending over-proportion of blacks to whites, in the slaveholding States, which is an increasing evil in the system of slavery that has always been felt and known as the most threatening and irrepressible of any other. But as this evil, in the natural progress of population, is of gradual and slow development, it carries along with it its own means of mitigation and relief. The operation of that proviso, however, going to the removal of the master and the retention of the slave in his place, takes away all such means of mitigation and relief, and brings on this evil of an over number of blacks instantly and irreparably. And this it does, not simply by changing the relative number of the two races and thus the basis of increase, but by enabling the black race, as the result of this increased disproportion, to absorb into itself all the common and all the handicraft labors both of the field and the shop, and thereby compel whole masses of laboring white people to seek for employment and subsistence in other States. Every emigration, therefore, which can take place from the South, under the proviso, can have no other effect upon it than that of crippling and exhausting it in its highest capacities of well being, by stripping it of its best population, and leaving its worst behind. Thus operating, the alternative which is held out to the South by the proviso is just this: either that her citizens shall not go under it to the Territories at all, and so the South have no more direct participation in them than if they had never been acquired, or that if they do go, it shall be upon terms onerous, perhaps, to themselves, and certainly disastrous to their States.

Look at the consequences of this proviso measure as they affect the property and security, and go to unsettle, in vital respects, the whole social structure of the slaveholding States: and does it not occur to gentlemen here, that its enactment would be virtually the exercise, by the General Government, of high powers of legislation within the borders and upon the affairs exclusively belonging to State jurisdiction? But if this is denied, can it be said of this Government, when it exer-

cises its power over a public property in such way as to render its use easy and advantageous to a portion of the States, but inconvenient and even disastrous to another portion, that it is honestly and equitably fulfilling its high trust of applying its powers for the common honor and interests of a common country?

There is yet another objection, Mr. Speaker, to this "proviso," which Mr. McD. said was so especially offensive to the judgment and feelings of southern people, that though often commented on, he could not pass over without a remark or two; and that is, that it destroys all individual equality between the citizens of the slaveholding and the citizens of the free States, in the use and enjoyment of a common property. Is that so? But first, Mr. Speaker, the South is told, that whatever the effect of this proviso or restriction upon slavery, she has on two solemn occasions agreed to it heretofore—once in the ordinance of 1787, and then in the Missouri compromise of 1819—and is thus estopped by her own acts from making any objections to it now. It is true that on the occasions mentioned, which were those of great national exigency and trial, the South, acting, as it is believed, upon the principle that the public safety is the supreme law, did agree to this restriction. And this agreement is an estoppel to objections! Take this idea in the abstract, and will any one say that it is sound and satisfactory logic to infer, that because one of two great parties agreed, in a case of extreme international difficulty, and as a special provision to meet and relieve it, to take less than its full rights would entitle it to, that therefore these rights are extinct and can never be set up or maintained by that party again? Take this idea as a practical one, and who is there that will not say that this double relinquishment of a part of its rights by one great geographical party of the United States for the benefit of the whole, is not merely enough to discharge it from all further demands of a like kind, but enough also to lay all other geographical parties under the clearest obligations of reciprocity and of honor to perform kindred services for the country, whenever kindred occasions should exist to require them? If such acts of national generosity nobly rendered, to protect and to save a people at their hour of utmost need, are to be followed up by exactions and outlawry upon the rights and feelings of those who perform them, then will the strong spirit of a nation's ultimate reliance be stricken down and broken.

As to the ordinance of '87, a word or two may be offered.

Before the Northwestern Territory was ceded by Virginia to the United States, and whilst it remained as a component part of her domain, it will not be denied that it was competent to that State, as sovereign proprietor, to establish or to refuse the establishment of slavery upon it. Nor will it be denied that it was just as competent to her to do the very same thing by conditions of cession, when ceding away her proprietorship to another. These are equivalent acts of the same authority. The only question of power in the case is, not whether Virginia had the power of creating or prohibiting the institution of slavery over the Northwestern Territory, (for of that there is no question,) but whether Congress, controlled by the terms of the Federal Constitution and acting under

population

them, had the power of binding itself to take and hold the territory under any conditions whatsoever upon the subject of that institution? There is no express grant of such authority, unless it is to be found in the first clause of the sixth article of the Constitution, in which it is declared that "all debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation;" and here, accordingly, the direct authority is commonly believed to be found. The deed of cession for this territory having been made under the Confederation, is precisely one of those "engagements" which, it is thought, this article of the Constitution was intended to recognize and provide for. Suppose it to be so, what then? To be valid under the new Constitution, it must first have been so under the Confederation. This is the precedent condition in the case—"as valid against the United States under this Constitution as under the Confederation" are the terms. What was not valid, then, as an "engagement" under the Confederation, was never made so by those terms.

Now, it is well known to the members of this House, that Mr. Madison, in one of the numbers of the *Federalist*, (38:h,) expressly affirms of this cession of the Northwestern Territory, that it rested upon the necessity of the case alone, and was entered into by the Congress of the Confederation "without the shadow of constitutional sanction." Mr. Madison does not give the reasons for this opinion, as he need not have done, for no one can read the Articles of Confederation without seeing them.

The compact for the cession of the Northwestern Territory, providing for the perpetual exclusion of slavery from its limits, having been made by Congress, in the opinion of this statesman, without even the "shadow of constitutional sanction," and, therefore, incapable of becoming one of the valid "engagements" recognized by the present Constitution of '89, it follows, that that territory was made free by the act of Virginia alone, and that whatever the blessings are which have resulted to it and its citizens on that account, and which have so often and so ardently been discoursed upon here, are to be referred back to her as the legitimate and parent source of them all.

But quitting this digression, Mr. Speaker, and going back to the objection stated to the "proviso," that it destroys all equality between the citizens of the slaveholding and of the free States in the use and enjoyment of a common property. Is this objection a true one?

Appreciating the perfect familiarity of the House with this point, Mr. McD. would make out the case it presents as briefly as he could.

Let us suppose, then, that a citizen of Massachusetts desires to emigrate to, and settle upon, some part of our Mexican territory. He accordingly goes there, buys a piece of land where it is most agreeable to him, and immediately fixes himself upon it with all the property which he possesses or which he believes to be best for the improvement and comfort of his new abode. A citizen of Virginia also desires to emigrate to, and to live in some part of this same territory. He, too, goes there, buys land and prepares to occupy and improve it with all the property, including slaves, which he can command; but when

in the very act, as you may suppose, of seating himself in, and enjoying his new home, he is, for the first time, told by his Massachusetts neighbor that he cannot do so until he shall dispose of his slaves. "What!" is the natural exclamation, "is not this the land of the United States?" "Certainly." "And are we not equally the citizens of the United States and equally entitled, as such, to own it and reside upon it with every lawful property that belongs to us and that we want to employ?" "Certainly—every property but slaves; they only are prohibited. And in this prohibition no difference is made between us; for it is no more allowable for a Massachusetts man than it is for a Virginian to bring a slave into this territory with him. Therefore, we are equals under this prohibitory law, though at first sight it may seem otherwise to you." Is not this statement a sophism? Both of these emigrants are citizens of the same country; both seek a home upon the common property of that country; one of them with, the other without slaves.

The emigrant who has no slaves, who never had any, who never, perhaps, desired to have any, and who never had the right to have any, under the constitution and laws of the State from which he came, goes into the territory, buys, builds, and settles where he pleases, without a word or question or a moment of delay. But the other emigrant who has slaves—who has always had them, and who has always had the right to have them under the constitution and laws of his State—is not permitted to settle in the same way, but is first required to give up his slaves, no matter what the inconvenience, or what the sacrifice of interest or of feeling, even to the slaves themselves, which it may produce. Can you say that these two citizens stand, in all that is essential to the use and enjoyment of a common right, upon a footing of perfect equality with one another? Can you say that they have the same facilities and encouragements to seek for and possess themselves of a common property? Is not one of them discouraged, incommoded, and hindered in this object? And is not every hindrance to its whole extent, be it little or much, just so far an abridgement of right? Why, the whole legal idea of a right is, that it is one which can be enjoyed unmolested, undiminished, and freely. An obstruction thrown in the way of such enjoyment, if done by an individual, is an offence for which he is liable to action of law and payment of damages. If done by a government, it is in the very nature of confiscation, and is just as allowable in principle, though it is less lawless in degree, when forbidding the removal of a slave into a Territory, than the removal of his master.

In the ease out of the emigrants from Massachusetts and Virginia, is not one of those hindered and embarrassed by conditions of settlement which are very onerous to him, but not in the least so to the other? Is not that one required, before he is allowed to settle upon one single acre of the land which belongs, individually, as much to him as to anybody else, that he shall first give up another right of his own which he holds under the constitution of his State, and under the guarantees of that which we profess to administer here? Is he not required to abandon one right as the condition of using another, whilst no kindred condition, nor one of any kind at all, is required of the other

How, then, can you say that these emigrants are equal—that no difference is made between them in the use of a property which they hold alike, and by the act of a Government which is bound to treat them alike? How can you say this, and think this, when the contrary is so obviously the case?

No doubt many are misled upon this point by the idea, that because all persons, after going into the Territory, are under the operation of the same anti-slavery law, therefore, there is no inequality amongst them. This is true after they become citizens of the Territory. But the inequality which this "proviso" produces is established against the slaveholding citizen before he goes in it. It is put upon him as the precedent condition of his going there at all. It is in our original position of citizens—citizens of the respective States, and before our entrance into the Territories is attained, that this anti-slavery scheme makes the distinction of rights which we complain of. It is here in this position that this scheme assails us—assails us by proposing to you, who hold the Territories only as a trustee for the benefit of all the States, the passing of a law which shall deprive every slaveholder in America of any personal participation in them, except upon the surrender of rights which he holds under the recognition of both the Federal and State Constitutions, but which law, at the same time, shall throw them wide open to all the rest of mankind, without question, condition, or restraint. If this would not be inequality amongst equals in the administration of an equal right, it is impossible for the human understanding to conceive, or for human government to enact what would be.

Still, there are those amongst us who consider the passing of such a law right and proper. But if it is right and proper—if it is constitutional and just to regulate the rights of settlement in the Territories on the slaveholding principle, is it not equally so to regulate the appropriation of the moneys which arise from the sale of these territories upon the same principle? What is the difference between refusing to a citizen of Florida the right of settling upon your territory of New Mexico, except upon the surrender of his slaves, and refusing to appropriate a single dollar for which that territory may be sold for the uses of Florida, except upon the surrender by her of her slaveholding system? There seems to be no good reason why you may not just as well demand of a southern State that she shall give up her slaveholding rights as the condition of appropriating any part of the land proceeds to her benefit, as demand of a southern citizen that he shall give up his share of these rights as the condition of allowing to him an acre of the land itself.

In fact, this whole plan of restriction upon a particular property is a plan of inequality amongst emigrants; and nothing else can be made of it, as long as it is agreed that the territories are the common property of the United States, and Congress the common Government of the States and the people to administer it. If the territories are, indeed, common property, then the exclusion from their use of any part of the people by conditions not affecting all of them alike, is clearly and offensively unequal. And are they not common property? Many of them are made so by actual stipulation to that effect, and the rest of them are no

less so by necessary operation of the constitutional provisions under which they have been acquired, and can only be held. Those that were relinquished by the several States that claimed them, were so relinquished by deeds of cession which set forth, with scarcely any variation of language, that they were to be held for "the common use and benefit" of the United States, the ceding State included. The tenure of those is thus fixed by compact. And without resorting to any analysis of the Constitution to show that the tenure of all the territories is obliged to be the same with those—for the common use and benefit—it would be more conclusive, perhaps, to prove, from the records of the Government, that such has been the judgment and action of our ancestors concerning them.

When Virginia, responding to certain overtures from Congress upon the subject of her western territories, proposed, in 1781, to make a cession of the northwestern portion of them upon the several conditions which Congress had suggested, but with a superadded one of her own, her proposition was so hateful to several of her sister States that they frequently and indignantly remonstrated against it; and not only that, but refused, on account of it, to sign the Articles of Confederation; and so continued to refuse until the Confederation itself was in danger of falling to pieces. They boldly declared the territories to be the common property of all the States; and as such, belonging to them, not qualifiedly and conditionally, but absolutely and of right; not for the aggrandizement of any one or a few, but for the common use and benefit of them all. Though lying within the chartered limits of Virginia, they nevertheless regarded these territories as being, in fact, the Crown lands of the King of England, as thereby put into issue by the war of independence, and thus falling to the confederated parties generally, as the spoil of such successful revolution.

"We cannot be silent, (says New Jersey, in her legislative remonstrance upon this subject, of June, 1783,) when viewing one State aggrandizing herself by the unjust detention of that property which has been procured by the common blood and treasure of the whole; and which, on every principle of reason and justice, is vested in Congress for the use and general benefit of the Union they represent."

If these clear and strong terms by which New Jersey describes the territorial acquisitions of the Revolution (supposing the territories to be really Crown lands) are the right ones, and if her deduction is also right, that as these acquisitions were made by the common blood and treasure of the whole, that, therefore, they vested, in every principle of reason and justice, in Congress for the general benefit of the Union it represented: are they not just as truly the terms, and the only terms by which the war acquisitions of this day can be described? And do these acquisitions not belong just as certainly, on the same principles of reason and justice, to Congress, as the common and representative government of the States and the people, and so belong to it for their general benefit? How else can our war acquisitions, and the rights which proceed from them, be more accurately described and defined? Are they not made now, as then, by the common blood and treasure of all? and what are they, therefore, but the common property of all? and how can they rest but in the common

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government of all, by virtue of whose authority they were made? and to what end can they be applied, but to the common use and benefit of all?

Upon this sound view of the revolutionary case, New Jersey, and her associates, demanded that there should be no withholding by one of the States, nor, consequently, by any fractional number of them, of the acquired territory; but a full and unconditional surrender of every part of it to the whole of the States, that the whole of them might share in its uses and advantages alike. And this, because of its indisputable justice and expediency both, there is much reason to believe, was the very ground on which Virginia, impelled, also, by her habitual generosity, ultimately abandoned the condition complained of, and gave up her territorial domain precisely in the way that Congress had desired. Her claim to the territory as a strictly legal one, was believed, by those who directed her councils and were entitled to her confidence, to be perfectly valid. Mr. Jefferson said it was. Mr. Madison said it was, and called the opposition which was made to it in Congress, (as will be seen in his published letters,) "a factious and unprincipled opposition"—words of unparalleled harshness for him. And since their day, the Supreme Court of the United States has sanctioned their opinion, in a case in which the chartered limits, or territorial rights of Virginia were put in contest.

The prominent position of New Jersey in this matter of the territory is referred to, not only because it is exactly in point, but because it is hoped that her present representatives will not repudiate and disown its wisdom, but will cheerfully give their voice to reavow and confirm it.

We of the South, with even clearer justice, stand this day upon the former ground of New Jersey, and demand, as she did, that there shall be no holding back of anything that is due; no distinction of rights amongst parties that are equal; no endowments of some and disfranchisements of others; but full protection and perfect equity to all in their use, enjoyment, and appropriation of a common estate. Can you give her less than this, and yet fulfill the Constitution, and do the justice it intends?

None knew better than the framers of that instrument, many of whom were lawyers of the highest national eminence, how possible it was for its general objects to be sacrificed by plausible but perverted views of particular parts. In order, therefore, to prevent this, and to make the Government correspond in its action with what it was intended to be, they declared, in the most emphatic and authoritative manner, that "nothing contained 'in the Constitution should be so construed as to 'prejudice any of the claims of the United States, 'or of any particular State." In this they provided a practical, simple, and comprehensive test by which to judge of and to restrain the evils of construction, and to secure the Constitution in the fulfillment of its objects. No matter how clearly at first view any proposed measure might seem to lie within the range of constitutional sanction, yet, if at last it was seen to involve in any of its bearings even the smallest prejudice to the United States, or to any particular State, it stood, *ipso facto*, inadmissible and forbidden. How is it with the "proviso," when tried by this test? Does not the permission which it gives to emigrants to introduce into the Territories every kind of property which

they may choose, excepting only the slave property of the South, carry along with it no prejudice to the claims of the South?—claims to have her property rights, and the property rights of her citizens, protected and respected?—claims which are fundamental to every well-governed State? Does such repudiation of the property of a State, affecting its uses and its value, create no prejudice against the claims of that State? If it does do so, as it obviously does, then is it interdicted by this prohibitory clause of the Constitution, and ought to be abandoned.

Besides, is it forgotten that whenever, under one system of double constitutions, one for federal and one for local purposes, a citizen has any interest lying without the cognizance or jurisdictional limits of his State, but within those of the Federal Government, he has the very same right to call upon that Government to protect it that he would have to call upon the State to do so, if it were embraced by its authority? Of this nature is the interest which every citizen of Virginia has in the Territories, and his right to go to them and live in them as he chooses; and this interest and right of his, it is as much the duty and business of the Federal Government to make good to him, and that without hindrance or disadvantage of any kind, as it would be that of Virginia if the Territories were hers.

Relying upon these and other grounds, which he had no time at present to submit, Mr. McD. appealed with earnestness and with confidence to Congress to maintain all the immunities of the Constitution, and so relieve the South from the flagitious wrong which the "proviso" threatens against her. We of the South have bated nothing, but borne to the uttermost with others every sacrifice and burden which our territorial acquisitions occasioned. We demand, therefore, to have measure for measure—to share to the uttermost with others also in the benefits which these acquisitions have brought. Above all things do we hope to be spared the indignity of being asked to submit to conditions in their use, which neither our rights nor our feelings can warrant—conditions, too, which we are almost the only people in the world to be insulted by, and yet the only one who are fully entitled as you who threaten us, to be shielded and exonerated from.

The felons who are annually disgorged upon our shores from European dungeons; the foulest and most unwashed of that vast multitude which comes upon us, throng after throng, from the whole earth—"Parthians, Medes and Elamites, Jews, proselytes, Cretes, and Arabians," no matter who or what they are,—all—all are invited to go in upon this property, pick, choose, and live upon it where they please, excepting only the southern citizens who have given of their money, labor, and life to attain it! They only are to have the door slammed in their faces, and to be required to stand back until they produce their ticket of admission.

When our right to the restoration of our fugitive slaves is practically denied us; when our unfortunate citizens who go into your States to prosecute it, relying in good faith upon the Constitution and laws of the Republic upon that subject to aid them, and are there received as outlaws themselves, harassed by your officers of justice and pursued and overwhelmed by mobs of your people with re-

proach, insult, violence, and sometimes even with death—when this takes place, we feel ourselves wronged, aggrieved and outraged—literally and abusively stripped of a right which you who offend and we who suffer both know to have been so fundamental to the Union that it never could have been formed without a guarantee to maintain it. We reiterate against this conduct—we do it angrily and indignantly; we consider it a willful abandonment of your constitutional obligations and a grievous injury to our public as well as private interests. But we do not feel that it dishonors us. Aggrieved by it we are, but it does not wound us in that keenest, quickest and most delicate sense so characteristic of us as individuals and as a people, the proud, unconquerable, exultant sense of every American heart—that of absolute and inviolable personal equality. This you cannot assail without producing a pang. And yet this is the very sense which the “*proviso*” does assail—which it wounds causelessly and deeply, and hence, for the most part, the convulsions which you see. We could not claim to be Americans, and we would not be Americans, if we did not resist, as alike insulting and injurious, any exercise, especially any deliberate and systematic exercise of the powers of this Government by which the rights of it, in any matter whatever, were to be dispensed to the South upon terms of inferiority to others. Such distinctions cannot be endured. Yet such is that which your proviso involves—a distinction utterly alien to the relationships and the interests of the parties, and portending, if imposed, a hateful future of strife, hostility, and rupture between them.

As a Representative from Virginia, then, he (Mr. McD.) invoked the House to threaten that State with this measure no longer, but to abandon it now and forever. Having mentioned the State of Virginia, Mr. McD. was thereby reminded of the frequency with which it had been the pleasure of gentlemen here to taunt that State with the decay of her political fortunes, reproaching her with the difference between what she is and what she was, and with the difference also, in material wealth, between her and some of the younger and thriftier States that have sprung up around her. In all this he did not think that that Commonwealth had suffered in any way or to any extent whatsoever that called, under existing circumstances, for retaliation or defence at the hands of her Representatives. Indeed, it would be a very false estimate of the value of these reproaches, to deny them the generous impunity of the legal maxim, “*de minimis non curat lex.*” They have done no harm and left no sting; and, though they glared for a moment with signs of disaster to the “*Old Dominion,*” yet they have fallen upon her as the meteoric lights which, rising up from regions of swamp and disease, float and gleam for a while, and then explode upon the earth without jarring, jostling, or disturbing for an instant its onward and its massive movement. Whenever the blow is struck that is hard enough to hurt, it will be time enough then to defend.

Meanwhile, I commend to the Representatives of Virginia, that they lay their heads calmly down upon the pillow of her renown, and enjoy in quiet their fortunate birthright in a Commonwealth whose long annals exhibit her in many a patriotic and proud association with duty and achieve-

ment, but in no solitary one of improbity or dishonor. I commend also to our assailants the culture of a kindlier temper, and the selection of a more manageable subject. And may I be pardoned for adding that the kindest spirit is the only suitable and wise one for us all. No other one at such an hour of difficulty as the present can go so far, or do so much to settle it aright. The more perfect our personal intercourse and union with one another, the more hearty and triumphant will be our labors for that national one which is in danger. And till that preservation is complete, and that danger gone—till we shall stand on the other shore of the Red sea, safely delivered from all the perils of its passage, with our precious burden uninjured in our arms—till that is accomplished we should belong, soul, spirit, and body, to it, without division and without distraction with anything else. It is an object large and grand, and dear enough to absorb every faculty that we have, in itself—to shut out every alienating and prejudiced passion from the heart, and bind us up in a sense of brotherhood so real and so consecrating as to make each of us feel that he who doeth the best for the greatest interest of that brotherhood—he who doeth, at this hour, the work of the Union in righteousness and in justice—he it is who embodies the most precious of all relations into one, and is our “*mother, and brother, and sister.*”

In the early and magnificent day of the fortunes of Virginia, when her will was almost the law of the country, and her arm almost its defence, no emergency ever arose in its affairs in which she was not ready and willing to do or to suffer, to serve or to sacrifice, in any way which that emergency demanded, or which the loftiest standard, not of national duty merely, but of national magnanimity, could call for. If asked for contributions to the general good, she gave them in no faltering, hesitating, truckling spirit—trimming, clipping, and paring them down to the meagrest and most miserly minimum that might suffice—but laying a bold and a free hand upon the best of her means, she would draw them forth without stint, and, putting them in the hands of the nation, with a blessing upon them, would say, as she did so, “*There, take that; and if more is necessary, you shall have it.*” When the country was convulsed with disensions upon the subject of the Northwestern Territory, (the first of our great territorial contests,) and the Confederacy was tottering to dissolution on account of it, she gave the whole of that territory up, without the reservation of a single acre, except for the satisfaction of the revolutionary officers and soldiers whom she had generously employed in the common cause, upon pledges of bounties, pensions, and wages, to be paid by herself. Nay, more than this: she not only gave up her property in the soil, but she gave up, in a great degree, also her share in its common use, by stamping it forever with a domestic policy which was not her own. Thus she made it the inexhaustible dowry of “*free labor and free soil;*” and thus she rocked the cradle, and sheltered the head, and nourished the manhood, of many a one who has risen up even in this Hall, not to recall the beneficence which had blessed him, but to mock at the wasted condition which that very beneficence had helped to produce. Unlike the Roman daughter who gave her own virgin bosom to sustain the life of her sinking and famishing parent,

some of our daughter Commonwealths of America decry and deride their parent Commonwealth, for the weakened condition which her gifts of life, and strength, and power to them have occasioned.

Again, too, when our Federal Constitution had been wrought out to its present form in all material points, except in the representative structure of the Senate, and when the contests upon that—whether it should rest upon numbers or upon States—were pressed to an extremity that threatened the instant and inevitable defeat of the whole scheme of the Constitution, and the probable dissolution of the Confederacy itself—when this came to be the case, and there was no remedy for it but in the concession, by the larger or the smaller States, of the ground of struggle between them, then it was that Virginia, though the first in political importance—the first in the number and the renown of her public men—the first in territory and in population, and in all the capabilities and calculations of a progressive and powerful future—yet renounced them all for the common good, and generously making the concession which the case required, abandoned the principle of numbers for that of equality in the Senate, and determined, thereafter, to rely upon her equals there for that justice to her rights which her own power, upon the principle abandoned, would have been so perfectly sufficient to have enforced for herself.

For all this she neither expects nor desires any special requital; she is no beggar for the gratitude or the compassion or the help of communities who have grown rich and great upon her spirit and her acts; she makes no suppliant appeal to them nor to any other portion of this earth for “a penny to blind Belisarius.” She asks for nothing and wants nothing from her associates but that simplest and slightest justice which Governments, or which individuals can show to one another—that of immunity from wrong. This she is entitled to demand, and does demand. Is it too much? Is a demand so small, yet so righteous and so needful to the restored peace of an agitated and contending country, too much for the North cheerfully and freely to grant to her early friend and ally of the South?

This South has been the intimate political partner of you of the North for more than seventy years; you have grown up from feebleness to maturity together, aiding, comforting, sustaining one another at every turn in the career of national life, with every resource of means, counsel, and arms which either had to give. You of the North have found her true and steadfast in every scene and every hour that could try her; making your friends her friends, your enemies her enemies, maintaining your honor as her own, and ever ready to back you with her life in every conflict of power to which you have been called by the passions and the acts of others. Together you laid the foundation of your political Union; together you worked upon, watched over, and advanced it; shaped, selected, interlocked, and clamped all of its parts into one solid and massive whole by mutual counsels for mutual ends; together you bore it onward day by day, and as it grew under your forming hands from greater to greater, and spread out into grace after grace, and towered up by little and little into still loftier height and larger dimensions, until at last its colossal head gleamed in the sun, and it stood forth upon these ends of creation, the praise and the glory of the whole earth;

you still labored upon it, through all this, as at first, with one object, one heart, one common and fervent invocation to the Father of all, that he would prosper, preserve, and perpetuate it forever.

Whatever that Union or country is; whatever the peace it has bestowed; whatever the developments of energy and happiness it has encouraged; whatever the radiance it has shed upon the principles of human government; whatever the power of organization and defence it has given to the spirit and the hope of freedom amongst the masses of mankind; whatever the throbbing love of liberty which it has lit up in the heart of the world; whatever in these and all things else that country is, it is the common offspring of the cares, contributions, counsels, and labors of you both.

That true and faithful partner—your co-laborer and co-equal, unaltered in her domestic condition from what she was when you first knew and covenanted with each other—that partner, the South, stands here to-day, in the persons of her sons, and asks through them, with the profoundest consciousness of its necessity and justice to you both, that no cause of disaffection and of quarrel be allowed to grow up and mature between you; that in adjusting your mutual interests, no wrong be meditated or inflicted upon such as are peculiar to herself; that no cup of bitterness be pressed to her lips, no immedicable wound be given to her affections. Nay, she stops not here, but goes still further, and adjures you by the memories of the past, by the sympathies of your long and happy connection with each other; by all that you have or that you hope for, in the glories of your land; by your own, and by your children's good, that you strive with her to extinguish at once, and forever, every ungenerous, and every separating purpose or passion between you, and go on peacefully and happily to the complete fulfilment of the destiny you have begun; turning the labors and wisdom of your past into a still wiser and grander future, and bearing forward to its utmost perfection a Government which has no equal upon earth, by a fidelity to one another, which nothing upon earth can weaken or destroy. Do this, and when centuries shall have come and gone, the fire upon your altar, the light of your example will shine forth as radiantly and cheerily as now, and your spirit—that of your Union and Constitution and laws, be made the guiding and renovating spirit of every age and of every clime, so that when that mysterious and dread succession which limits all human things, and crowds nations as well as individuals into the tomb, shall sweep us off, our principles and our blessings shall survive, and though this loved temple of ours be cast to the ground, and all its pillars lie broken and buried in the dust, yet like the bones of the buried prophet, the nation that touches them, though it were dead, yet will it quicken into life.

It is (said Mr. McD.) with something of revulsion that I turn from this idea of a prospered and perpetuated people, to that ill-omened and obnoxious measure for the Territories which I have been examining, and which has hung with its “shadows, clouds, and darkness,” so long over the fortunes of the country. What, I ask, is the necessity which calls for its adoption? Is there any necessity?—any so supreme in its connection with the public security or public peace, as to override and frown down all probable and

contingent consequences, and make it a matter of absolute and imperative duty to adopt it? No, sir; there is no such necessity nor anything akin to it, either existing or expected. Apart from the strong but false ground of sectional advantage upon which it rests, the other considerations upon which it is supported are the abstract ones—that it is more compatible than its opposite measure, with the genius of our Government—that it better consists with morals and religion, with the laws of nature and of general liberty, and with all that is sound, or just, or admissible in the composition and structure of civil society. These, with their correlatives, make up the considerations—the justifying and impelling considerations—upon which this measure is to be driven on and driven through, no matter what the sectional wounds it may deal, or what the general convulsion to the States it may endanger.

For the purpose of securing to every portion of the people a practical government, the best suited that could be to their protection and their interests, our Republic, not consolidated into one, was kept divided into separate and smaller Republics or States, each one of which within its own particular limits was assumed to be, and made to be the judge of whatever legislative act was most agreeable to itself, and best suited, in his opinion, to its affairs. Of the thirty States into which we are now divided, fourteen have already come up here with their protestations and remonstrances against this measure of restriction; declaring it to be, in their judgment, not only wholly inadmissible to them, but so offensive and so subversive of their local rights, that some of them have averred, again and again, that rather than submit to it, “they would resist it at all hazards, and to the last extremity.”

Here, then, under the regular action of our system, we have the opinions of those who are the recognized and absolute judges of their local interests; and having these, can we doubt—nay, do we not know, that this measure, even before its passage, stands, and must continue to stand in uncompromising and dangerous hostility with the judgment and tranquillity of near one entire half of this Union?

Now, therefore, as the Government of that Union, bound by the strongest obligations of honor and of duty to execute its high trusts with reference to the good of all, and not to the good alone of any particular parts,—bound so to execute these trusts as “to promote the common defence and the general welfare,” and “to establish amongst the people and the States an intimate and perfect union with one another,”—can we, looking on the one hand to the clear conditions upon which our trusts are to be performed, and on the other to the wide-spread and intense execration with which this proposed measure has been received,—can we say, deliberately, that it is an expedient one which ought to be passed, and shall be passed? Can we say, that it is expedient for the “general welfare,” when half the country for which it is intended rises up in advance of its adoption, to denounce it as insupportable? Can we say that it goes to promote a closer and kindlier union amongst the people and the States, and in that respect to fulfill a declared purpose of the Constitution, when we all see and know that the whole power of its action is to embitter them with, and peradventure to sever them from one

another? Can we say that any measure is expedient which admits, by possibility even, the supposition that its want of acceptability may be such as to compel the executive in the end to enforce it by the sword? Gentlemen cannot surely forget, that whilst nearly all other governments are but modifications of the principle of force, and very naturally, therefore, depend upon it for support; ours, on the contrary, in all its parts, is a government of consent, depending not upon the power of arms, but upon that of general approbation to maintain it. Whenever, then, in any given case, the measures of this Government are so opposed to public approbation as to require a resort to arms to enforce them, that resort, if undertaken, is in its whole nature monstrous, revolutionary, and incapable of resulting in anything else but evil and disaster to the country. Why, then, insist upon any one which portends such a course and such results? Why, especially, should the North push this measure of the proviso to extremity upon the South, and so push it in the very wantonness of its numerical strength in this body, as if it was resolved, vindictively and at all hazards, to force her into an ignominious retreat from her declarations about it or into open and ruinous conflicts with the Government? And whether it be the one or the other, it is a purpose only for passion, and not for reason, patriotism, or statesmanship, to pursue or desire. The high functions which it is ours to execute are for the prosperity, the defence, the satisfaction, and the happiness of every part of the Republic, and not for any particular part of it. They are national means for national ends; they make up the power of all for the good of all, and that power could not be perverted from its proper purposes more inexcusably or more grossly than when exerted to foster into maturity a state of public affairs or public feeling prejudicial to the Union, which it was solely given to establish and to maintain. Looking at the unsatisfiable impertunity with which the proviso has been urged upon Congress, in perfect defiance of its hostile, if not fatal effect upon the Union, a southern man cannot but ask in amazement, Why is this? Is it done to try the strength of our political system, and to see from actual proof what the agencies are that can tear it apart? Nothing so irrational can be charged. Does the North suspect the loyalty of the South? and is not this measure a reckless experiment upon it? Is it not meant as the *experimentum crucis* of our southern attachment to the Union? And are not the fine and subtle, but strong chords of that attachment to be operated upon like so many coarse strands of water-rotted Kentucky or Illinois hemp, subjected to extremity of trial for some object of naval equipment, and therefore to be strained and stretched by weight after weight until its utmost power of tension shall be discovered? To us it seems as if this was the very spirit and purpose with which this hated proviso is so insatiably and so cruelly pressed upon us. If its injustice is less obvious to the North than it is to us, its hostility to the continued and prosperous union of them is, at this day, too palpable to all sections and to all eyes, to be overlooked or denied. Define it as you please, it is really and substantially, in its operations and effects, a first measure for the dissolution of the Union. So I regard it, and hence, to a great degree, the unrelaxing opposition with which I consider it my duty, and the duty of every

member here, representatively and individually, to expose and to resist it.

Suppose the southern attachment to the Union, which you gentlemen of the northern States think proper to distrust, should sink overpowered under the cruel and ceaseless tests which you are preparing for it in your "proviso," what public good will you have accomplished as the price of its sacrifice? What greater or better addition will you have made to yourselves, to your country, or to mankind, in the measure you will have carried, than you had in the attachment, support, and national peace you will have lost? You will, indeed, have gotten your proviso—that will be safe; but the moral and social, if not the political unity of your country will be broken up and destroyed. You will have thus gotten comparatively about as much as Adam and Eve did after their obedience had been abandoned. They got the beguiling serpent and the forbidden fruit as the reward of their experiment, but their peace with Heaven and their paradise on earth were swept away.

Without looking, however, to that extreme and incomprehensible aggregate of national and individual evil—the breaking up of our Federal Union—there are other associated evils which are only short of this one, and only less to be dreaded and avoided because they contain the causes and elements that involve it.

In all of our reflections upon this Union, and upon the innumerable influences that go to affect it, we are never to forget that the highest of its high powers—that only one which renders it supreme, and which truly entitles it to the epithet of "glorious," with which it is our pleasure and our habit to speak of it—that only "higher power" is a moral one. It is not to be found in your table of statistics. It does not exist in the number nor in the muscle of your sons—in your armies nor your navies—in your iron nor gold—your weapons of war nor your hoards of wealth—in your continents of land nor of sea—but in the boundless confidence, interest, attachment, love, and hope of your people; in the mysterious and exultant feeling which warms the heart of every American from the hour of his birth, and goes with him from his cradle to his grave as the invisible, but the cherished and cheering companion of his life, that God, in his mercy, never gave such a Government or such a country to man before, and never will give such another again.

Let us beware, then, how this feeling is disturbed. If kept unimpaired as the inspiring and the common one of our whole people, our Union can never be anything else than "glorious," and must even become progressively more and more so every day. But, strong as this feeling is, it must be fostered to be preserved; it is not too strong, though it is infinitely too precious and too vital, to be weakened or destroyed. As long as the Constitution, which is the written and covenanted bond of the Union, shall be carried out with perfect fidelity in all its purposes and provisions; as long as Congress shall have but one object, one heart, one law of universal equity and kindness to all sections of the country in the exercise of its law-making functions, so long we may be sure that the Union will continue to be, what it ought to be, and what it has been, the one supreme object of trust, and love, and hope to every citizen within it—the home of his loyalty and the habitation of

his peace. But if the contrary course of action be pursued—the Constitution fulfilled in part and denied in part, and the Government willfully and willingly perverted to objects of sectional legislation, and portions of the country outraged by acts of injury and wrong—if this be so, we all feel and know that the great power spoken of, the moral power of this Union, will be gone, and that the Union itself, when it ceases to be the source of common blessings, will rapidly degenerate into nothing better than an unnatural bond of mutual discord, contest, and hatred to all of its parties.

Why, then, insist upon a measure (your "proviso") whose entire tendency is to this very result? Is any one of you ready to say, whatever be the consequences to this Union from the passage of that measure, whether they be those of instant conflict, or of corroding, undermining, destroying discontent, whatever the form of the consequences—whatever the fate they may involve, come what may of it, give me—give me the "proviso." Are any of you ready to say this, and to say it in this spirit of reckless and utter daring? If so, all history, perhaps, can furnish but a single case of analogy for a more infatuated or more undoing desperation. When the hardened inhabitants of Jerusalem gathered around the cross and resolved to take upon themselves the blood of the crucifixion, they cried out with one voice, "Loose unto us Barrabas"—give us the rioter and the murderer, but let the Lord of life, the Saviour of us all, let him hang upon the tree.

Infatuated and irrational under any state of national circumstances as it would be to risk the stability or the peace of our Union upon the passage of any measure of untried and conjectured advantage, how much more so would it be for you, who advocate the proviso, to insist upon its adoption by Congress at all hazards, in the very face of the California example? There it has been quietly and willingly adopted by a community composed, in part, of a slaveholding people, and so adopted, without any enactment, intervention, or influence of Congress. Why, then, not leave this whole matter of the proviso to be disposed of in like manner by the remaining communities whom it may concern, according to their own will, and without any intervention, or influence of any kind, first or last, from this body?

We of the South, for the most part, are content with this; and why not you also, who have already profited by it in so marked a case? We are content with this plan of non-intervention, because in our judgment it has principle, expediency, and justice to support it, and because, too, it furnishes not a temporary rule only, but a sound and a permanent one, through all time, for the satisfactory settlement of this agitating and delicate subject. The Territories are so many embryo States, which it would best consist, both with our national peace and with the general spirit of our federative system, to withdraw as early and as much as possible from the shaping and fashioning hands of Congress, and admit as early and as fully to the functions of States as their circumstances will, in anywise, allow. Happily for them, their ultimate association with our family of States is placed upon a rule which it is easy, in North America at least, to comply with. That rule, the fundamental one, with all the States, is, that the Constitution of each shall be republican. That

it shall be so, is the only condition which our Constitution puts upon the otherwise perfect liberty of the Territories, when organizing themselves for States, to adopt any kind of government they please, or which it puts upon their admission into the Union; and hence the only authority which the Constitution gives to Congress to look into the government of the States, is the mere authority to see that this condition is complied with, and that the republican form of government required has been actually and fully secured. We—all of us—hold it to have been right, and wise, and proper, on the part of our original States, and well worthy of everything it cost them, to have formed their own constitutions and systems of government according to their own will and pleasure; and, in what can it be considered less wise, or just, or proper, that our Territories should exercise the very same right of self-government when they are in a situation to do it?

Instead of Congress, then, undertaking to provide complete systems of government for the Territories, and thus, really, to act in suspension of one of the most precious and vital of all the rights which a community can enjoy—the right of governing itself,—instead of this, how much more just and wise would it be for that body to restrict its authority over the Territories to the exercise of only so much as their protection may demand, and leave all else—the whole problem of their municipal rights and institutions, to be regulated and determined by themselves, whenever their wishes or condition may require it?

The Congress of 1787, instead of acting thus, and leaving the Territories of that day to provide for their own government, as each one of the States had just done for itself, even at the extreme expense of war and revolution, was the first to set the example—the unwise and misleading example—of subjecting them to the supreme supervision and control of Congress. Although peculiar necessities for this act were believed, at that time, to exist, and were urged in justification of it, yet the act itself, and the celebrated ordinance which forms a part of it, have never ceased to be plead from that day to this as constituting a sort of common and consecrate law, by which all of our Territories, no matter how circumstanced, ought to be governed. So true is this, in relation to the very Territories of which those that now engage our deliberations are a part, that the main feature of that ordinance was attempted to be ingrafted upon them, in both Houses of Congress, even before the acquisition of them had been fully completed! The result of it all has been, to leave the Territories without any regular territorial government at all—to distract our national councils with agitation, and to bring the different sections of our quiet Union into an inflamed and dangerous state of irritation and contest with each other.

Such, in truth, is the condition of affairs which our wrangles on the subject of the Territories have brought about, that it is now evident to every one, that there can be no healthy administration of the Government, and no repose—perhaps even no security to the country—until both of them, both Government and country are extricated, and effectually extricated from the harassments and dangers of that condition. Happily, it is yet possible for this to be done, and to be done, too, without difficulty, if we have but the spirit and the virtue to

practice a little forbearance of power, and to stand by the general principles of our system. Try the efficacy for this purpose, of simple *non intervention*. Keep the schemes and the theories—the plots, passions, and interests of ambitious politicians from all legislative connection with the Territories; *let there be no constitution-making by Congress for them*, but let that be reserved as an essential first right, to be exercised when need be, by themselves,—forbear the exercise of congressional power just to this extent, and if no good should come of it, you will, at least, have the satisfaction of knowing that you were acting for good, and upon a reasonable plan of securing it.

Whatever our course of action on this subject may be, or ought to be, it is certain that our present one must be changed. We have now been government-making, and trying to government-make for the Territories until, without effecting anything valuable for them, we are like to bring the utmost injury and ruin upon ourselves. Under such circumstances to persist in the same course of self-sacrificing efforts, would be as wicked as it would be foolish, and is, in no sort, allowable in the execution of a national trust. Admonished, then, of the evil of interference in this matter, let Congress at once abandon it, and try the benefit of the contrary course. Nothing could be simpler than that contrary course—nothing freer from every species of embarrassment—nothing in more perfect keeping with the principles and the structure of our system, general and local—and nothing more auspicious for the settlement of all questions concerning the institution of slavery in the Territories, and in the States growing out of them, without agitation, offence, or complaint of any kind, or in any quarter whatsoever. We are invoked to the work of deliverance and security by every consideration which reason, justice, necessity, and love of country can supply. Let us venture upon it, then, in the manner suggested, in good faith, and in good earnest, and fear not to trust the issues of our action to time and Providence.

Let us now, Mr. Speaker, (said Mr. McD.,) consider for a moment or two some of the grounds upon which the Texas boundary bill, with the ten millions of dollars therewith connected, ought or ought not to be supported.

This bill comes to us with the approval of the Senate. Is it also entitled to ours?

A consideration standing in the foreground of all others in this case is, that if this, or some kindred act of legislation is not adopted by Congress, and adopted without delay, a conflict of arms between the United States Government and that of Texas, is apparently inevitable. The President has advised Congress, by message, of his determination to take and maintain for the United States, by the sword, if necessary, the actual possession of all the territory of New Mexico, which was relinquished to the United States by the late treaty of Guadalupe Hidalgo. On the other hand, the Governor of Texas is preparing, under an act of the Legislature of Texas, to establish the jurisdiction of that State over a considerable portion of this very same territory. Each of these executive officers in this matter is acting under a sense of official obligation, from which neither one of them, doubtless, considers himself as having the slightest liberty to depart; and hence a collision, which may speedily draw

the whole Union into its vortex, is apparently inevitable, unless Congress, that has the necessary power in the matters of difference between them, shall so adjust them as to make collision impossible. Without going into any exposition of the constitutional doctrines of Executive power and duty which the President has laid down in his late message upon this subject, (and which it would require a good deal of time properly to do,) Mr. McD. can only say of them, in passing, that his impressions are against them.

Whatever else may be thought of the adjustment of those differences which is now offered in the boundary bill before us, it will hardly be denied that it is a well-timed and a reasonable effort on the part of Congress to discharge its duties in the premises, and to protect the country from the causes and calamities of civil war. Should this bill have the effect of preventing any bloodshed between the Federal and the State authorities, and have no other, it would for that one alone be well worthy of the wisdom and patriotism of Congress to pass it,—for no one can disguise from himself the fact, that a blow struck, or a musket fired between the parties, in the present distempered condition of the public feeling, would, in all probability, convert the whole Union into a battle-field, and thus plunge it, and all in it, into a depth and duration of ruin and woe which the mind shudders even to think upon.

That it would, and must, have this one good effect cannot be doubted. *But this is not all. It commends itself to our sanction in other aspects also. Indeed, if it be taken as a whole, if the many delicate and disputed points which it embraces and provides for be candidly considered, it will be found to contain, at least, the main elements of a sound and equitable settlement of them all—a settlement which violates no right of Federal or of State Government, which wrongs no section, which coöperates with no partisan purposes, and which thus comes up to and satisfies the obligations of national impartiality and national justice.

So far as the interests, the policy, or the duty of Texas are affected by this bill, they may be safely confided to the guardianship of Texas herself, without any enlightenment or discussion from us. She is the constitutional judge of all such matters, and is, no doubt, as competent in fact, as she is in law, to dispose of them justly and wisely. Her absolute and perfect right to decide upon them as she pleases, is a fundamental part of the bill, and herein the great principle of State sovereignty is kept intact and inviolate.

Mr. McD. has always been of the opinion that the claim of Texas to the whole of the country east of the Rio Grande, from its mouth to the northern limit of the United States, was a sound one, and ought to be allowed by Congress. But he is, at the same time, not insensible to the strength of the argument against that opinion, nor is he unaware of the profound conviction with which that contrary opinion to his own is relied upon by members of eminent ability in both Houses; and hence he cannot resist the conclusion, that the adjustment of that claim which is provided for in the bill, is, upon the whole, a just and proper one, and as near the exact right of the case as either of the parties—the Government and people of the Union on one side, or the government and

people of Texas on the other—could ever have any reason to expect. It ought, therefore, as he thinks, to be received, and carried through as satisfactory by both. According to a careful examination which was made into this subject by one of the officers of the Land Office at the request of Mr. McD., it appears that the boundary line of the bill will give to Texas more, by some twenty odd thousand square miles, than that of the “*omnibus compromise*” would have done, but less by eighty-eight thousand square miles than her whole claim amounts to. In other words, the bill cuts off and leaves out of Texas eighty-eight thousand square miles of the Mexican country lying east of the Rio Grande. Of this eighty-eight thousand square miles, about one half ($\frac{1}{2}$) lies north of $36^{\circ} 30'$ north latitude, (the Missouri line,) and the other half south of it. It seems, Mr. Speaker, that the ultimate situation of this excluded territory of eighty-eight thousand square miles—whether it shall be slaveholding or free—has taken stronger hold of the anxieties of this House than any other portion of the bill, or even the whole bill itself. On one side we are told that an unfounded and worthless claim of a slave State to a large amount of the national domain is not only to be sanctioned, but to be paid for out of the public Treasury, with an immense sum of money, in order to enlarge the extent of the slaveholding empire. On the other hand, it is said that this claim is a perfectly sound claim, which no one would think of refusing to Texas, but that she is a slave State, and that the ten millions of dollars which it is proposed to give her for it is nothing but a device to get her territory out of her hands, in order to convert it into free soil. Judging from these and like suggestions, which we hear on all sides around us, it would seem that our whole action here is a deceptive one, and that our real object in this boundary bill is so to shape it as to turn it into an act for the ultimate benefit of free soil or of slavery. What may be the ultimate effect of it in either of these respects, it would not only be extremely difficult for any one to say, but almost idle for any one even to conjecture. One thing about it, however, seems to be pretty clear, and that is, that its instrumentality for these purposes is not likely to be much either way, and certainly not so much as to afford, other matters considered, any reasonable or sufficient ground for its rejection. What that ultimate effect may be, may, perhaps, be conjectured with some plausibility when Congress shall settle upon the territorial government of New Mexico—that community which is to receive, by this boundary bill if it passes, all the territory east of the Rio Grande which is refused to, or which is taken from off, the State of Texas.

As things now stand, all the country which this bill may take from Texas above $36^{\circ} 30'$ is absolutely free soil by the terms of annexation, so that things continuing as at present, the slavery and free-soil contest can relate only to the country which was claimed by Texas but refused by this bill, below $36^{\circ} 30'$. If that country were now made a component part of Texas, and put under her jurisdiction and laws, it is not to be doubted that the chances of establishing slavery upon it when it shall hereafter be divided off from Texas, and be formed into a State, or part of a State, by itself are far greater than if the contrary course be

adopted, of now cutting it off altogether from the dominion of Texas and making it a permanent part of New Mexico. In this aspect of the case, then, free-soil would seem to triumph; and so it would, in fact, if there were no counter considerations bearing upon it. Recollect, then, that Texas is not the owner, but the claimant only of the country spoken of; and that her claim, which is one of perplexity and doubt, if tried before the Supreme Court of the United States, might, peradventure, be decided against her. But be that claim what it may, it is by this bill, made good for ten millions of dollars to her and to the maintenance and extension of slavery within the vast boundaries proposed to be left to, and to be established for her—boundaries which include an area of 237,321 square miles, four times the size of Virginia, and capable of being finally divided into four States besides herself, or into five in all, of more than 40,000 square miles each. Weighing those offsetting parts of the case with one another, and considering more especially the peace-giving character of the bill, it is not easy to see why this harassing dispute about slave soil and free soil, as connected with this bill, should be continued any longer, or be permitted to prejudice and defeat its passage. Let us, at least, wash our hands of it for the present, as we may well be allowed to do, having had our share, and more than our share of it already, and dismissing it from this Hall, let us, if possible, commit it to other tribunals and to other times.

We are not to forget, Mr. Speaker, in the midst of our contentions with one another upon smaller matters of policy or of duty, that there is one great, solemn, and overawing duty belonging to this body, which comprehends all others, and by which the adjustment of all others must, more or less, be controlled—that, namely, of restoring peace to an agitated and contending country. Ours, in a peculiar and eminent degree, is the high duty of replacing and maintaining the Union in which that country, as a whole, consists, not upon the hesitating consent—not upon the broken confidence—not upon the discontented but quelled spirit, and not upon the surrendered safety of any of its parts, but upon the honorable conciliation, the responding faith, and the cordial agreement of them all. In the approbation and consent of the people and of the States, we have the foundation of the Union; and in that Union—in the concentration and the hostility of power it involves—we have at one and the same time, both the strength and the weakness of our system. It is the vital point, therefore, which every effort of wisdom and patriotism should be habitually put forth to defend. If we are to judge either from the general principles of national intercourse and action, or from the ordinary, well-understood, and unchangeable passions of the human heart, no event in the progress of public things is more probable, or more certain even, than this, that whenever our Federal Union is dissolved, whether violently or by consent, and its several States are rearranged into new confederacies, or remain independent and alone, their present peaceful, prosperous, and happy relations with one another will be gradually, if not instantly, changed into relations of jealousy, enmity, altercation, and war. Look at their immense inequalities of geographical advantage and physical power—at the dangerous and tempting vi-

city of the weak to the strong—at their long lines of border-connection and the perpetual provocations and facilities which those will afford to every species of jurisdictional trespass and border feud. Look at the lakes, bays, and rivers intervening among the States, the noble bonds at present of mutual peace because of mutual prosperity and interest, but if separated, the never-failing sources of quarrel, because of contested rights, privileges, and purposes of navigation. Besides these there are the radical and disaffecting differences which attach to their different texture and habits of society,—and then also the vindictive and revengeful passions which all ruptured intimacies, national or personal, are sure to excite; take all together, and we have in them a mass of materials, which, however providentially harmonized under our Federal head, could lead so certainly to nothing else amongst separated States as to jealousies, dissensions, aggressions, and bloodshed. When aggressions, or any other of the thousand causes of war, which national folly and national wrong are always at hand to supply—when this or any cause shall bring two or more of these separate States into actual conflict with one another, then the evil hour of them all will have come, and their after fortunes will be no better than mere spasmodic struggles to keep alive. But if war comes, or is threatened, or is expected, then all the muniments and resources of war must be had; levies of men and levies of money must be made; garrisons and armies, and navies provided, and that, too, the more lavishly because of the proximity of the parties and their innumerable accessibilities to mutual and vital attack. And all these again will be followed here, as they have been in like cases everywhere, also by standing armies, and by a new and more powerful organization of executive authority to raise and command them. But with standing armies and supreme executives, nothing of our birthrights will be left to contend for. Cast off, then, your national bond, rearrange the separated States into any new combinations that you please, violently or peaceably, and your vast strength of influence and of power, foreign and domestic, is gone; your lofty mission of deliverance and of liberty to the nations is gone; the example, which fell, like the shadow of Saint Peter, with healing and hope upon the despairing and the diseased, is gone; that master spirit which was bringing the whole world into communion with itself, rousing and regenerating its millions, and bearing all things onward for good by the resistless energy and might of its own beneficent and profound progression—that spirit, too, will be gone. State after State will sink under conflicts with each other, and all will be swayed by the law of the sword, until some American Maximin, or American Alexander, conquering all, shall again consolidate all, and stamp his foot upon the bold and the free heart, which throbs at this hour with so strong a sense of human liberty and so rich a hope of renovating the governments and people of the world.

But the range and the horrors of such a catastrophe do not terminate with ourselves. They extend also to other lands than our own, whose hopes, interests and freedom are deeply complicated with ours. Indeed, our whole position as a people, the unparalleled physical and moral capabilities into which we have been wrought up for our own welfare and for auspicious action upon the

welfare of others, is, itself, hardly less than a miracle in human story; and in the whole course of that story has never, in any other case, been realized so providentially or so responsibly before. From the empire of Nebuchadnezzar to that of Napoleon, how immense the distance, how stupendous the revolutions that have intervened, how intense the fiery contests which have burned over continents and ages, changing their theatre and their instruments, and leaving upon the whole surface of the globe scarce a spot unstained by their desolating and bloody track; and yet no national offspring has sprung from them all so fitted as our own united America, to redeem for the world the agonies they have cost it. Whatever, in that long period, other nations may have risen up to be, and however truly and illustriously a few of them may have prolonged their day and advanced the civilization, and the wisdom of themselves and the world, ^{verily} one of them has ever embodied such an aggregate of national happiness or political truth as our own Republic, and none like it has ever fulfilled the ultimate problem of all government, that, namely, of making the utmost freedom of the citizen and the utmost power of the State the coexisting and the upholding conditions of one another.

With a freedom only inferior to that of Rome in the worst qualities of hers, those of aggression and conquest; and superior to that of Greece in its best, those of civilization and defence; with nothing but this freedom, its story and its triumphs, our Republic has become confederate alike with the liberty sentiment of the world; and with the majestic power of human sympathy to propagate itself, and hence its flag is destined to wave not only over an empire of illimitable means, but over the illimitable empires of reborn and self-governing man.

And now that this Republic of freedom, happiness, and power, is a heritage of ours, who that has shared as we have done in the countless blessings that belong to it—who that knows it, as we do, to be the heritage of every good which human nature can enjoy, or human government secure—who, so situated, could make it or could see it the sport of violent, selfish or parricidal passions? Who of us, without putting forth every faculty of soul and body to prevent it, could see it go down—down under some monstrous struggle of brother with brother, an eternal crush upon ourselves, an eternal example for the shuddering, the admonition, the horror and the curse of universal man?

There have been those who, impelled only by their own noble and generous nature, have rushed forward on the field of battle, and given their own bosom to the blow of death; that, thereby, some loved comrade or commander might be spared, or some patriotic purpose vindicated and secured. There have been those who have gone into the dungeons of misfortune and of guilt, and worn out the days and years of their own lives, that they might alleviate the disease or the despair of their wretched inmates, and, at least, kindle up for another world the aspirations and hopes which were extinguished for this. And there have been others, too, who have accompanied with the penitence, and have walked, day by day, in its silent and horrid footsteps, that they might learn in what way to encounter its power, and so be en-

abled, reverently, to lift up from crushed and anguished communities the too-heavy pressing of the hand of the Almighty. And are we, who hold the sublimest political trust ever committed to the hands of any other people—are we alone to be incapable of any and every dedication of ourselves which that trust requires? Can we stand calmly, helplessly, and faithlessly by, and allow it to be wrecked and lost?

In this hour of danger, this eventful hour of the age—this hour, which is all in all to us and to millions besides, those oppressed millions of other lands who are ruled by irresponsible power, and who, as they lie upon the earth, overwhelmed and crushed by the weight of altars or of thrones, still look to us for hope, and pour out their hearts in sobbings and in prayer to Heaven that ours may be the radiant and the steady light which shall never bewilder or betray—in this hour, so full of interest, our mother country comes into our very midst, and, taking each by the hand, says to each, "Son, give me, give me thy heart." And will we not, can we not do it? Can we not give it—freely, proudly give it all?—keeping no part of it back for any end or any passion of our own, though dear, it may be, as a right eye or a right arm? If any of us cannot—if there is any lingering, denying, clinging feeling which the heart will not, or cannot deliver over at such a moment, let us tear that heart from our bosom if we can, and lift up our supplications to the Father above that He would send us another in its place, better fitted for the sight of Heaven, and for the service and fellowship of man.

Give us in our duties here but something of the spirit of the Roman father who delivered up his son to the axe of justice, because he loved his country better than his blood; or that of the gallant young officer of the Revolution who was detected and executed, whilst performing, under the orders of his immortal chief, the service of a spy, [Lieutenant Hale.] When led to the spot of execution, as he stood upon it, and looked forth, for the last time, upon the smile of day, and upon the bright and benignant sun of heaven as it beamed upon him, and felt the agony that all—all was gone, his young and hopeful and joyous nature involuntarily shrank, and he is said to have cried out, with impassioned exclamation, "Oh, it is a bitter, bitter thing to die, and how bitter, too, to know that I have but *one* life which I can give to my country!" Give us only this spirit for our work here, doubt not but that it will be approved of by our land, and be crowned with a long futurity of thankfulness and rejoicing.

[Mr. McDOWELL considers it his duty to say that this speech, from page 10, second column beginning with the words "Do this," to the end, was not actually delivered by him in the House of Representatives, but was prepared to be delivered in the same manner as the part of it which was spoken, and would have been but for the want of time. He regards it as a necessary part, and therefore takes the liberty of adding it. This he feels himself the freer to do, as the House was almost unanimous (one or two only dissenting) in its call upon him to "go on" when his hour had expired.]





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