Speech

of The

Hon. Reverdy Johnson

of Maryland

May 1860

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SPEECH

OF THE

HON. REVERDY JOHNSON,

OF MARYLAND,

DELIVERED BEFORE THE POLITICAL FRIENDS OF

HON. STEPHEN A. DOUGLAS,

At a Meeting in Faneuil Hall, Boston,

On Thursday, June 7, 1860.

TO WHICH IS ADDED THE

LETTER OF THE HON. REVERDY JOHNSON,

To the Chairman of the Douglas Meeting in New York

On the 22d of May, 1860.

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SPEECH of HON. REVERDY JOHNSON,

In Faneuil Hall, Boston, *June 7th*, 1860.

Mr. Chairman and Gentlemen of Massachusetts:

The sensibility with which I feel this cordial reception, I want words to express. All that I can do is to say, that I most sincerely thank you, and that I shall ever gratefully remember it. The place too where it is given, imparts to it, if that were possible, an additional value. Faneuil Hall! What thoughts rush to the memory, at its very name? How lost the soul, that can within its sacred precincts, fail to be inspired by the impulse of a pure patriotism, and an undying love of his whole country? What names rise in their majesty before us? What times and issues and struggles? The very ground we stand upon is holy. Here, was Freedom's temple. Here did the voices ring, that called a nation to arms, and echoing and re-echoing through the entire extent of our land, made their way across the deep, carrying glad tidings to the oppressed of the world, and dismay and alarm to the oppressors. Then, no degrading sectional prejudices threatened disaster. Then, no thought was entertained of interfering with our respective social institutions. Each and all were patriotic. They knew but one country, that which included all the States. They knew but one freedom, that which was comprehensive of our whole land. They fought and bled for it, and achieved it not for one but for all, and believed, as I trust in heaven the result will prove that they justly believed, that by all and for ever it would be enjoyed under one Union against which to plot would be esteemed the world over the foulest treason ever harbored in human bosom. I trust that I shall bear in mind the hallowing influences of this Hall, in all I am about to submit to you. If I was capable of wishing to forget them, I feel that I could not in such a place as this. Could I be so lost any where, to patriotic duty, as to wish to arouse sectional animosity to "endeavor to excite a belief that there is a real difference of local interests and views," I should be awed into silence,—dumb from very shame, in this place sacred to liberty and to Union.

Not forgetting, therefore, where I am, but guided, I hope, by the spirit of the place, I proceed to discuss the topics which more especially belong to the occasion that has convened the meeting.

A Presidential contest is at hand. It involves matters of high import. From a conviction most honestly entertained, and adopted after, as I think a full and fair review of the whole ground, I came to the conclusion (the old Whig party being practically at an end, because of the practical termination of most of the measures of public policy, which gave it its national character,) that in the existing condition of the country, that character belonged only to the Democratic party and could by that party only, be maintained. In this organization every State of the Union was included. It recognized no territorial limits. The equality of the States was one of its fundamental principles. It denounced all assaults on their respective domestic institutions—it conceded that of slavery to be a legal one, not only because of State laws, but because of its recognition by the constitution of the United States. It admitted the obligation of every State to pay implicit obedience to the clauses of that instrument containing such recognition, as implicit, as to any other of its provisions. This institution has become the sole cause of peril. It was disturbing the fraternity of feeling which our fathers entertained, and threatened to involve us in social, if not revolutionary hostility.—Slavery had so long existed in the Southern States, dating its origin to a period prior to the revolution, and was, and is, so intimately connected with all their pursuits and habits, that they have nothing that they value more highly, or deem more vital to their prosperity. All assaults upon it by citizens of other States, could not, therefore, fail to engender sentiments of ill will. Such assaults have, we know, been made for years, and with a bitterness almost insufferable, by many persons in the free States.

The politician, the press, that mighty engine for evil, as well as good to mankind, even the pulpit, which should ever be devoted to the single service of God, has been seen from day to day and year to year hurling anathemas at the institution. The result, if these are suffered to continue, nothing but wilful blindness can avoid seeing. Social separation first follows—it now, indeed, in a great measure exists—and this not only will be, but must be followed by political separation. This danger, and these its direful results, it seems to me, could be best averted by the policy in regard to it avowed by the Democratic party—announced especially in the compromises of '50 and of '54, and in the principles promulgated by the Cincinnati convention of '56, and recognized in the acceptance of President Buchanan of his nomination by that convention to the high office he now fills. That policy, declared to the country in terms admitting of no possible doubt, was NON-INTERVENTION BY CONGRESS. Whatever differences existed, as to the effect of such non-intervention upon the introduction of slavery into any organized territory, and its protection and continuance when there, none was expressed or entertained, as to the obligation growing out of these compromises, as far as the Democratic party was concerned; at all times and under all circumstances in good faith to resist any and every kind of Congressional intervention. The subject was to be forever excluded from the halls of Congress. It was in those halls that whatever peril there might be in it was supposed mainly to dwell. It was there, and there only, that offensive intervention in the form of law against slavery in the Territories could be had. It was there that southern and northern men were to meet face to face. It was there that aspersions might be made on the South that could but serve to fan into a flame the controversy and engulf the Union, sooner or later, in an abyss of destruction. It was, therefore, agreed that from that arena the subject should be forever removed. What might be the effect of this principle on the South; what rights would remain to her in reference to the introduction of slavery into such a territory, were not then settled. As to these, conflicting opinions were held; but all agreed in the one great doctrine, that whichever of such opinions might be correct, Congress was never again to interfere with the subject. It was henceforth to be submitted exclusively, as far as the Democratic party could accomplish it, to the people of the Territory, subject to no other limitation than the Constitution of the United States enjoined. The language of the Kansas and Nebraska act of the 30th May, '54, defining the legislative powers, is, "the legislative power of the Territory shall extend *to all rightful subjects of legislation consistent with the Constitution of the United States* and the provisions of this act." There being in the act no provision affecting the question, it will be seen that every proper subject of legislation, consistent with the constitution, is entrusted to the local legislative department. Whatever legislation can affect, not prohibited by the constitution, such legislature, it was agreed, should have the authority to affect. Subject to that qualification alone, the entire sphere of legislation is submitted to the territorial government. There no doubt did prevail at that time contrariety of views, as to the operation of the limitation amongst the statesmen by whom the act was contrived and passed. Some were of opinion that the Constitution *proprio vigore*, both against Congress and the people of a Territorial government, gave the right to an owner of slaves to emigrate to the territory with his slaves and there to hold them. Some thought that Congress had the power to exclude the institution, but that it was inexpedient to exert it—it being better to submit it to those most concerned, the people of the Territory—whilst others thought that though Congress had not the power, it was inherent in such a people, when organized into a government, as incident and necessary to their social, political condition. Upon these contradictory views, all concurred that Congress was not the proper forum to decide. Those who thought that that body possessed the power to prohibit, considered that it was injudicious, because dangerous to the peace of the country to exercise it. Those who thought otherwise, and that the territorial government would equally be without power, from the same patriotic motive agreed that the question should be excluded from Congress; whilst those who thought that there existed an inherent right in a territorial government to legislate upon the subject, with like motive consented to abandon forever all Congressional interposition. But provision was made for an easy, an early and a just solution of those several difficulties. Slaves might be carried into the Territory, the right to hold them might be questioned, either because of the non-existence of any local law establishing slavery, or because of such a law prohibiting it. The owners' right in either contingency could readily be made the subject of judicial controversy; and for such a controversy provision and ample provision was made. It was to be passed upon, first

by the local courts, and then, without regard to the actual value of the property in dispute, or whether the question arose in an ordinary case at law or on the return to a writ of habeas corpus, an appeal was granted to the Supreme Court of the U. S. By the judgment of that tribunal *on that very question—no other*—it was as a democratic principle agreed that the party would thenceforward stand. On this principle the Convention of '56 acted; by its aid and under its healing and just influence the canvass of that year was everywhere carried on, and resulted, as we know, in victory, and for a time in the assurance of peace and safety to the country, and as it was hoped and believed, in preserving in all its integrity, to meet all coming national trials, the Democratic party. Divisions then on this before disturbing, but now supposed happily adjusted subject, were not dreamed of.

The public verdict had sanctioned the policy as demanded by the condition of the country of the great national and conservative doctrine of *Congressional non-intervention*, with slavery in an organized Territory, either in its establishment, exclusion or protection. The matter was solemnly agreed to be referred to the territorial people, with no other restraint than the Constitution of the United States. And if in time from the operation of that principle a contest should arise, as to the extent of that restraint, and the right which because of the restraint, a citizen of the South owning slaves, had to take them into such territory, that was to be decided by the judgment of the Supreme Court of the United States. This compromise or party understanding, so obviously fair in itself, and so commended by the glorious triumph achieved under its faith, received at the time the general approval of the Democracy everywhere. And this was the more decided, because it promised a permanent and harmonious termination of the only subject which could possibly disturb the councils of the party. It rested on a national basis. It imputed no censure, moral or political, to any section. It countenanced no dishonoring blot on the South, but on the contrary, erased from the statute book one that had existed there for thirty-four years. In a word, it recognized the equality of rights of all, as resting on a constitution designed for the protection of all. What then has since occurred that should justly stir up dissensions in the party, then so happily harmonized, on this, before distracting topic? What has since occurred to arrest the healthful operation of this party agreement? It is not pretended that in the territory embraced by the act of '54, or in any other, any member of the party has proposed Congressional intervention. On the contrary, we know that such a proposition would receive the sternest opposition of all. It is not pretended, that in that or in any other territory, legislation hostile to slavery, or destructive or even unfriendly to slave property, has been had. It is not pretended that any case has occurred in which the right to such property has been questioned. If there be such property there, it is held without contest; no man disputes the title; and if there be none there, it is because slave owners have not esteemed it to their advantage to take it there. It is not pretented that doubts exist as to the purity or intelligence of the local judiciary, and still less is it pretended that all confidence may not be reposed in the integrity and ability of the Judges of the Supreme Court of the United States. The question then, stipulated by the compromise, to be referred to the judiciary has not arisen.

That question was not, whether Congress possessed the power to prohibit, establish or protect the institution. It was a leading feature of the agreement, that Congress should not for any purpose or at any time, interfere. Its right therefore to interfere, was not the one on which the courts were to decide, for as no interference was to be had, that question of right could never arise.

The very section of the act of 1820 called the Missouri Compromise, containing Congressional intervention was repealed, and the authority to repeal it no one then, or since, has questioned. The case, therefore, embraced within the agreement incorporated into the act of '54, has never presented itself. No Court has been called upon to decide it, or could have been called upon since the right to hold such property in a territory, without or against its local legislation has never, in any case, been disputed. Whether, therefore, the Constitution itself gives the right, or it is subject by the terms of the act of '54 to territorial legislative power, or whether such power embraces it, as inherent to its political organization, *the only questions* upon the subject agreed to be submitted to judicial determination, are now as open as they were when the act was passed. Am I right in saying, that these only are the questions reserved for judicial determination? This is evident, first, from the provision in the act giving a writ of error or appeal to the Supreme Court, without regard to the value in controversy

or the form of the proceeding "in all cases including title to slaves," or a "question of personal freedom."

The Missouri prohibition being, as a part of the Compromise repealed, such enquiries, only involve questions, arising under the Constitution, or territorial laws, common or legislative, and these have never been presented, the fact not having occurred out of which only they could arise. But the proceedings and debates in both branches of Congress, whilst the bill was pending and afterwards, demonstrate it. I have but time to refer to some of these. On the 4th January, '54, the Committee on territories, to whom the bill had been referred, made a report, in which, amongst other things adverting to the Compromise measures of '50, they said, that these "affirm and rest upon the following propositions: first, that all questions pertaining to slavery in the territories, and in the States to be framed therefrom, are to be left to the decision of the people residing therein by their appropriate representatives to be chosen by them for that purpose. Second. That all cases involving title to slaves and questions of personal freedom are referred to *the adjudication of the local tribunals, with the right of appeal to the Supreme Court of the* United States."

The first principle and which forms a part of the act of '54, the withdrawal of the subject from Congress and its submission to the people, was warmly approved by almost every democratic Senator and representative at the time and afterwards in '56.

Mr. Mason, of Virginia, on the 25th of May, '54, addressing the Senate, said, "Then, Mr. President, where do we stand? Here is a bill repealing and for ever annulling a measure (the Missouri restriction) always odious to the South and offensive to its honor, brought forward from a quarter *where the majority resides*; and is the South to reject it because it contains, also, an incidental policy or a different principle, which we do not approve? For once, sir, with a clear, unhesitating judgment, I answer, No." Again, "This bill is objectionable in some of its features, it is true. It is objectionable in that feature of it, for one, *which does not deny to the people the right to legislate on the subject of slavery.* It is also objectionable in that clause of it which provides that foreigners, those not naturalized, shall participate in the political power of the territory. These, however, are QUESTIONS OF EXPEDIENCY ALONE. THERE IS NO PRINCIPLE, FAR LESS ANY CONSTITUTIONAL LAW INVOLVED IN THEM, and if we can set the other and higher principle established in your statute book, that *henceforth power is denied to the Congress of the United States to legislate for the exclusion of slavery*, by yielding the question of expediency, I do not think we shall be rebuked for a bad bargain."

Mr. Benjamin of Louisiana, on the same day, speaking of the bill, stated, *inter alia:* "It proposes to announce to the People of the United States, that the general government is not to legislate at all upon the question of slavery. It is not to legislate to extend it; it is not to legislate to prohibit it; it is a forbidden subject; the flaming sword ought to be guard all access to it. No impious feet ought to endeavor to tread within its sacred precincts. That is the principle which I find in this bill and that is the principle which I wish to see established in the Country—and when it shall have been established it will be in vain for fanatics, either North or South, to endeavor to create any permanent excitement in the minds of the American People. The aliment is gone,—you may light the flame, but the fuel may be wanting—it will die out of itself." Short sighted statesman—short sighted admirers, who heard or read this eloquent patriotic effusion. Little did he or they foresee, that the time would come and in a few years, the 22d May 1860, when this very Senator would be found exerting in the same presence, his admitted powers to disparage the claims of the very author of the bill, the virtues of which he so glowingly depicted, to the confidence of the very party and country he was then said to be so greatly and signally serving. Little did he or they imagine that he would soon be found expressing as against the author of the bill a preference for a Northern citizen now before the nation as a Candidate for the highest office in its gift and known to be the original author of "the irrepressible conflict," the doctrine, which being also maintained by Gov. Seward was said to be so odious and offensive, if not destructive of Southern rights, that many of her sons, in Congress, and out of it, openly proclaimed that his election, however constitutional, would be just cause of revolution and should and would produce it. Little could it then have been conceived, that that very Senator would be seen striving to create the very "excitement in the minds of the American

People" he then so warmly and patriotically deprecated—that he would be found furnishing the aliment "which fed it," and the "fuel," "wanting" to rekindle and maintain "the flame."

These observations are made with no unkindness to Mr. Benjamin. No one better knows than I do or appreciates more his professional and Senatorial ability or his personal qualities. His recent speech only serves to show that however gifted, by nature and improved by cultivation, his mind is subject to human weaknesses, and that amongst these, as that occasion exhibited, are the prejudices of personal feeling which wherever found, are certain to disturb the judgment and pervert the character. But to return. In the course of the same speech of '54, addressing himself to Northern Senators, he further said: "We ask of you the passage of no law; we ask of you the enactment of no statute, any further than to put us back just in that position occupied by our fathers when they acted upon the principle which we now invoke, OF LEAVING EACH SECTION OF THE CONFEDERACY FREE TO ESTABLISH AND MAINTAIN ITS OWN INTERNAL DOMESTIC INSTITUTIONS, AND PROMOTE ITS OWN HAPPINESS AS IT SEES PROPER." Again, referring to the foundation of our Independence, he declared that our revolutionary sires "first enunciated in the face of the civilized world, in the face of the then almost omnipotent English Parliament, the principle that man had a right to self-government. They first declared that it was against the inherent rights of mankind *for a government to legislate for the local interests of a distant dependency*," and added, "all that is asked now is, the extension of the same principle to the Territories of the United States." The bill was maintained on the like ground by Messrs. Cass and Toombs in the Senate, and in the House, amongst others, by Mr. Stephens of Georgia, one of the brightest and purest men ever in the public councils, and still, I am glad to say, what his character guaranteed he would be, a faithful adherent to all its stipulations.

The second principle announced by the Committee, the reference to the judiciary of all controversies as to slave property or personal freedom, also received the universal support of Democratic members. As to the expediency and perfect justice of this, there existed no difference of opinion. As to the rights which the claimant of such property would have in the territory, there did prevail, as I have before told you, different views. It was this very difference that gave rise to the reference to the judiciary.

Mr. Toucey, the present Secretary of the Navy, adverting to the right, said in debate on the 2d July, '56, "*that we cannot define—that is a question exclusively for the judicial tribunals.*"

Mr. Hunter, of Virginia, on the 24th of February, '54, after stating the terms of grant of legislative power to the Territories, said "and if they (the local legislature) should assume powers which are thought not to be consistent with the Constitution, the Courts will decide that question *whenever it may be raised.* There is a difference of opinion among the friends of this measure as to the extent of the limits which the Constitution imposes upon the Territorial Legislatures. This bill proposes to leave these differences to the decisions of the Courts. To that tribunal I am willing to leave this decision as it was once proposed to be left by the celebrated Compromise of the Senator from Delaware (Mr. Clayton) a measure which according to my understanding was the best Compromise which was offered upon this subject of slavery. I say then that I am willing to leave this point upon which the friends of the bill are at difference to the decision of the Courts." I have not time and it would be a useless tax upon your indulgence if I had to cite further from the debates. What I have said is conclusive, on these points: First, that the subject of slavery in the Territories was as a policy of peace, to be permanently discarded from Congress. In no contingency was that body to interfere with it. To them was intrusted but the single duty of "non-intervention." Second, That the subject was to be referred to the Territorial Legislatures, with no other qualification, than the Constitution of the United States established; and Third, there being differences of opinion as to the extent of such qualification, that these were to be referred solely to the judiciary when the occasion practically involving them, should arise. The condition of things giving rise to the law, and the object of the law, is also very clearly stated in another speech of Mr. Benjamin, delivered in the Senate on the 2d of May, '56; a speech, by the by, which seems to me to have been prepared as if by party request for the then approaching Presidential contest. After referring to strictures on the law of 1854, made by its opponents, on the course of its friends, and stating that what was said of it by its Northern

friends was right, and that what was said of it by its Southern friends was also right, he added:

"The history of the passage of the bill is familiar to us all. There was a series of propositions presented to its advocates, upon all of which they could agree, save one. All agreed upon the right of a State to enter into this Union whenever it had sufficient population, and had formed a Republican Constitution, whether that Constitution established or prohibited slavery. That provision was, therefore, inserted in the bill. All agreed that it was prejudicial to the best interests of the country that the subject of slavery should be discussed in Congress. All agreed that, whether Congress had the power or not to exclude slavery from the Territories, it ought not to exercise it. All agreed that, if that power was owned by us, we ought to delegate it to the people whose interests were to be affected by the institutions established at home. We therefore put that into the bill.

"Then came the point on which we disagreed; some said—as I say—Congress has no power to exclude slavery from the common Territory; it cannot delegate it, and the people in the Territory cannot exercise it except at the time when they form their Constitution. Others said Congress has the power; Congress can delegate it, and the people can exercise it. Still others said, my honorable friend from Michigan (Mr Cass) said, that the power to legislate on that subject was a power inherent in every people with whom the doctrine of self-government was anything more than an empty name. On this proposition we disagreed; and to what conclusion did we come? We said in this bill, that we transferred to the people of that Territory the entire power to control, by their own legislation, their own domestic institutions, subject only to the provisions of the Constitution; that we would not interfere with them; that they might do as they pleased on the subject; that the Constitution alone should govern. And then, in order to provide a means by which the Constitution could govern, by which that *single undecided question* could be determined, we of the South, conscious that we were right, the North asserting the same confidence in its own doctrines, agreed that every question touching human slavery, or human freedom, should be appealable to the Supreme Court of the United States for its decision."

It will be seen from this extract, which, with the speaker's accustomed accuracy and perspicuity, states very clearly the object and nature of the law, and the difference of views as to the power of Congress to delegate their authority to legislate to the prejudice of slavery to a Territorial Legislature, and as to the inherent power of a Territorial people to exercise it, that it was agreed on all sides by democratic senators to transfer to the people of that Territory the entire power to control, by their own legislatipn, their own domestic institutions, subject only to the provisions of the Constitution, that we could not interfere with them, that they might do as they pleased on the subject, that the Constitution alone should govern, and then, in order to provide a means by which the Constitution could govern, *by which that single undecided question could be determined*, we of the South, conscious that we were right, the North asserting the same confidence in its own doctrines, agreed that every question touching human slavery, or human freedom, should be appealable to the Supreme Court of the United States for its decision.

Now Judge Douglas and his friends, and ninety-nine in every hundred of the Northern Democracy, have faithfully stood by this Compromise, and have not at any time intimated a desire to abandon it.

The only question, therefore, to be considered, and to which is to be attributed the present dissensions in the party, dissensions which endanger its success in the approaching struggle, is, has that "single question" been decided by the Supreme Court. No one pretends that it has been before any Territorial Court. No one, therefore, pretends that any "question touching human slavery or human freedom" has been brought before the Supreme Court by appeal from any judgment of such local Court. No legal controversy, and that was the only one embraced by the act, has occurred in the Territory. The effect, therefore, of the Constitution upon Territorial legislative power, or upon the rights to slave property in the Territory, has not even been before the Supreme Court for decision, and although that, as was correctly stated by the distinguished Senator, was "the single undecided question" left open by the Compromise, it is now asserted, even by him, that that question should be conceded by Northern and patriotic associates, to be with the South, because, as he says, and as every one says who is warring against Judge Douglas, that single question has been adjudicated by the Supreme Court.

The Northern Democracy maintain that it has not and with almost entire un-

animity—Judge Douglas concurs in this opinion—whilst neither he nor they repudiate the Compromise, neither he nor they, intend now to disregard the decision when made, nor will they hereafter whatever it may be, refuse to abide by it. They deny the judgment. They call for the proof of the decision and they are referred to what is called the Dred Scott adjudication. Having argued that case twice and with every right, because with every means, to speak of it with all becoming confidence, I confidently aver, that that decision is not the decision by which the question of the Territorial Legislative power over or of the constitutional right to slave property was to be decided. A few words, will, I think, make this plain. These several opinions were entertained when the bill in question was passed. 1st. That Congress had power to prohibit slavery. 2d. That it had not. 3. That independent of that power, a Territorial Legislature had an inherent right as a principle of self-government, to legislate either to prohibit, establish or protect it as a domestic institution properly and legally concerning themselves alone—or in the language of Gen. Cass as given to us by Mr. Benjamin, it "was a power inherent in every people with whom the doctrine of self-government was anything more than any empty name." All agreed in these views: 1st. That whether the Congressional power existed or not, it was not advisable to exercise it. 2d. That if it did exist it should be delegated to those immediately interested. 3d. If it did not, the terms in which the delegation was made however comprehensive would be restricted by that fact, provided their operation legally would be thereby affected; and 4th. That they would not and should not be so restrained if the inherent right maintained by Gen. Cass and those who agreed with him, was the true doctrine. Now, I suppose it will be admitted that the very question of territorial power, either as delegated or inherent, has not been decided in the Scott case. The only point before the court, as regards this controversy in that case was, whether Congress had the power of itself to prohibit slavery, by its own direct legislation. It was that legislation alone whose legality was involved. What, under the delegation to a territorial legislature, of a power to legislate upon "all rightful subjects of legislation consistent with the Constitution of the United States," such legislature could do, was not before the court at all, and could not have been, since the case arose prior to the passage of the act of '54. Nor was the question of inherent power. The opinion of a majority of the court, upon the point of Congressional power, was against it. And upon these grounds: 1. That what is called the territorial clause in the Constitution, relied upon as including the power, did not give it, as that was solely applicable to the territory claimed by or belonging to the United States at the adoption of the Constitution. 2. That under the power to admit new States, territory might be acquired, and the right to govern was incident to the right to acquire. 3. That the right to acquire was not for colonial purposes, but for the creation of new States to be admitted into the Union; and 4. That the right to govern did not give the right to exclude slavery, as such a right could not be implied from the one to acquire.

It was consequently with Congressional power only that the Court was dealing. Territorial power, delegated or inherent, was not considered. It was the right of Congress to deny power over the subject to the territorial government, not the right to submit it to such government subject only to constitutional restraints. It will be further seen that the authority of Congress was not placed upon the general legislative article of the Constitution, the 1st, but upon the 4th, the one providing for the admission of new States. The authority, therefore, is not limited to the subjects contained in the general clause. That has nothing to do with it. The specific objects of legislation there contained, and beyond which no legislative power is given, are not to any extent applicable to the clause for the admission of new States. The right to acquire territory for that purpose, the admission of new States, says the Court, carries with it the right to govern, limited by the same purpose. Such a government, for such an object, one would suppose should be clothed with the power to regulate all and every domestic institution. The people should, in order to fit them for admission into the Union as a State, be entrusted with all self-government and with all authority necessary to that end not expressly prohibited by the Constitution to a State itself. The power of Congress is denied by the Court over the particular domestic institution of slavery, because such a power cannot, in their view, be implied from the mere incidental power to govern. But does it follow from this that they may not create a government clothed with that very power. It is not pretended that in the particular case of Kansas the territorial legislative authority does not embrace every other domestic institution. Why then does it

not embrace this? Why is this to be alone excepted, and established or regulated among them against their will, or without their approval? There certainly is no express prohibition in the Constitution, except such as are common to the States, and these do not deny to the latter authority over the subject. Why should one be implied as to the Territories? When a case arises presenting the question for decision, we shall be informed what the correct doctrine is. In the meantime, I insist that it is not only not closed by the Dred Scott judgment, but not in my opinion in the slightest degree affected by it.

But supposing that the territory has not the power by virtue merely of the delegation to it, of control over all rightful subjects of legislation, how can it be maintained that that decision negatives the inherent power advocated by General Cass? It is now, I believe, the fashion of some Southern gentlemen to treat this doctrine almost with contempt. It was not always so. In the speech of Mr. Benjamin, of 1851, before quoted, he not only considers it as entitled to all respect, but seems to have been almost a convert to it. These are his words: "The honorable Senator from Michigan, (Mr. Cass,) in a speech REPLETE WITH SOUND ARGUMENT AND TRUE REPUBLICAN PRINCIPLES, THE FORCE OF WHICH IT WOULD BE DIFFICULT TO ANSWER, has advocated in this Senate the doctrine that there is an inherent right under the Constitution of the United States, in the people of the territories to govern themselves. He denies the constitutional power of Congress to legislate for these territories."

Is that question closed by the case referred to? The principle was placed not upon the extent of Congressional power, but on the ground of inherent and paramount power. Its advocate, the esteemed and eminent Secretary of State, denied all power in Congress. This latter opinion the Court has sanctioned. They have said the power is not with Congress. Who knows, who can know, when the other question is before them that they will not also sanction Gen. Cass's other opinion, that it is with the territorial people as a fundamental and inherent right. Gentlemen who differ with Judge Douglas and others, should, in good taste, be more diffident in the expression of their opinion on the point. Dogmatically announcing its correctness, they do not content themselves, as they did in 1854, and ever since, till Douglas's name towered high in the political horizon, threatening to obscure those of others, with meeting it in friendly argument, but they demand submission to their own opinion, and not obtaining it, act or advise secession from conventions, to be followed in the future, if consistent with themselves, by attempted secession from the Union. Secession from the Union! How is so traitorous a wish to be accomplished? What will not be the dishonor of those who shall attempt it? I think I can hear the genius of this, Freedom's temple, in words of consuming fire, denounce it as treason to the hopes of the great and good men, who have so often lighted up its walls with the brilliancy of a patriotic national eloquence. I think I can hear her, in words of solemn import, imploring them against the endeavor, and warning them that whether successful or not, they will thereafter be remembered only in the consecrated curses of mankind.

But to return—is it not in the very spirit of the compromise of '54, that all should abide by all its terms, as well those in regard to the legal questions agreed to be referred to Judicial determination, as to the rest? And if as to these, an honest difference prevail in the party, should not all still agree to disagree as to that difference till its adjustment by the Courts is established beyond all doubt. That the Democratic party in the the free States, and who for the most part, it it believed are the friends of Judge Douglas, concur with the Judge in the opinion, that such questions have not been judicially settled, and that this opinion is sincerely entertained, no just and unprejudiced mind can deny. That such opinion too is correct I, a southern man, entertain a perfect conviction. And I may, I hope, be excused for expressing it again with confidence, because of my professional connection with the case, in which it is asserted by some Southern Democrats that these questions have been settled.

The very principle of the Compromise was harmony as to all conflicting views. This harmony was to continue, till such conflict was closed by judicial arbitrament—and then all were with equal harmony to support the principle, in that mode, established. At the time no case existed, involving the right to slave property, when denied by territorial local law. At this time no such case exists. Why then, should there now be, more than at that period, a necessity for the security of such property, of declaring, in advance of judicial decision, what are its rights? On the contrary, is not the South and every well-wisher of our

happy Union more strongly invoked now than then, to guard against dissension in that party, which alone discards all fanatical opinions as to slavery, and avows a fixed purpose of standing by every right which the Supreme Court may decide belongs to it? Distraction now is full of peril to this national party, this heretofore consistent, zealous, powerful friend of the South. On its defeat, the almost certain result of their dissensions, Republican ascendency ensues; every branch of the government will then in a short interval be under Republican control. And then where will the nation be? Where the South, on this great question of Southern rights? Wilmot Provisoes, the abolition of slavery everywhere where it is maintained by that party the power in Congress to abolish it exists, the prevention of what is called the domestic slave trade, and a supreme judiciary certain to affirm the constitutionality of such legislation. The Dred Scott decision,—what will be its authority then? it will be derided and trampled upon. All the security it justly throws around slave property will at the earliest moment be torn away. And these things happening, what is to follow? As sure as Heaven's clouds of fire and tempest carry desolation in their train, so sure is it that this now peaceful and happy land will be shaken to its very foundations, and the Union, the glorious Union of our noble ancestors, an inheritance to us more precious than was ever conferred on a people, will be tumbled into ruins, and the fondest hopes of the human race blasted forever. Is it possible that such calamities will be hazarded by my Southern brethren on a difference of opinion with their Northern friends upon a mere legal question, conceded to be at this time of no practical consequence because of no practical operation, or on a mere difference as to the fact whether such question has been passed upon by such a judicial decision as it was agreed should conclude it? What possible harm can result to either section of the party, or what is of more importance to the country, from suspending still longer these conflicting opinions, till a case clearly embracing the question arises, and is disposed of. It was suspended from '54, in fact from '50, till now, and what evil has resulted to the South? Has a single slave been lost to his owner by force of territorial law; has an instance ever occurred where his right as owner has been challenged? None. The dispute, therefore, as to what the law will be found to be, when the case does occur, is as theoretical and abstract an inquiry, to use the words of the present Secretary of the Treasury, as "ever was proposed for political discussion."

If, gentlemen, what I am now addressing to you, should meet the eye of my Southern countrymen, who, I am sure, cannot doubt my friendship for them, or my loyalty to all their constitutional rights, I hope they will pardon me for imploring them, as due to their honor, to the faith pledged to their Northern brethren and to the peace of the country, that, waiving for a period this now idle, because theoretical dispute, they unite hand and heart with such brethren, in the approaching contest, and with one great effort achieve a victory which will, perhaps for all time, terminate sectional agitation, and restore peace to a now fearfully distracted land. There is nothing to prevent this union, beside an abstract dispute on a mooted legal proposition, other than personal hostility to the statesman who is supposed to be the choice of the Democracy of the free States. To attribute such hostility to mere personal motives of jealousy or rivalry, would be to impute dishonor. That purpose, therefore, I disclaim. The Southern mind is, I am sure, too generous and elevated to suffer so degrading a motive to sway its judgment. The hostility must, therefore, where it is felt, rest upon other and higher grounds. And this can only be a doubt of Judge Douglas's views on the Southern right of slavery, or of his regard for the guarantees thrown around it by the Constitution. What warrant is there for such doubts? His life is before us. He entered Congress in 1843, and has been in it ever since, and ever distinguished by an enlarged patriotism, and especially by his unwavering support of Southern rights. No member from a Southern State was, in this respect, ever more true to her.

He advised and mainly effected the repeal of the Missouri restriction, so odious to Southern sentiment. He was for this, accomplished too under the certainty of a storm of Northern indignation, warmly, gratefully applauded by the South. No words of eulogy were too strong, then, with which to praise him. No words of gratitude were too exaggerated with which to thank him. The fury of the North he boldly met, and it succumbed before him. In a word, on this sectional and agitating subject he has proved himself a statesman of unsurpassed ability, of unflinching courage, and willing at all times of his career to hazard his own political existence in his own section, in order to preserve and maintain what he believed

to be the Constitutional rights of the South. What but prejudice can question the assurance of his justice to the South furnished by such a course. Can any fair and honorable Southern citizen, with this career before him, say in his heart that he doubts Douglas on any single question which can arise touching the Southern right of slavery, in States or Territories. It is said that he believes, that possessing, as under the Kansas act, the right to manage their own institutions in their own way, a territorial people may, practically, exclude the institution, by failing to pass laws necessary to its safety. Is not this true? Assuming that such laws are necessary, and that the power to enact them is with the territorial legislature, does it not necessarily follow that that power may not be used? The very authority to legislate includes the power not to legislate. Policy and justice may demand its exercise, but, if refused or omitted, there is no authority to enforce it. No mandamus, or other proceeding, can be resorted to with that end. The power is in that regard omnipotent and exclusive. The only responsibility it is under is to the constituent body selecting it, and public opinion. But the view imputed to Judge Douglas as wrong and unjust to the South is not peculiar to him. It has been taken by Southern statesmen of great ability, and now and ever justly high in the confidence of their section. I have but time to refer to two. Mr. Orr, of South Carolina, in a speech in the House of Representatives, on the 11th December, '56, referring to what was called squatter sovereignty, said, "Although I deny that squatter sovereignty exists in the Territories of Kansas and Nebraska by virtue of this bill, it is a matter practically of little consequence whether it does or not; and I think I shall be able to satisfy the gentleman of that. *The gentleman knows that in every slaveholding community of this Union we have local legislation and local police regulations appertaining to that institution, without which the institution would not only be valueless, but a curse to the community; without them the slaveholder could not enforce his rights when invaded by others; and if you had no local legislation for the purpose of giving protection, the institution would be of no value.* I can appeal to every gentleman upon this floor who represents a slaveholding constituency to attest the truth of what I have said.

"Now, the legislative authority of a Territory is invested with a discretion to vote for or against laws. We think they ought to pass laws in every Territory when the Territory is open to settlement and slaveholders go there, to protect slave property. *But if they decline to pass such laws, what is the remedy? None, sir.* If a majority of the people are opposed to the institution, and if they do not desire it engrafted upon their territory, all they have to do is simply to decline to pass laws in the Territorial Legislature to prohibit it. Now I ask the gentleman what is the practical importance to result from the agitation and discussion of this question as to whether squater sovereignty does or does not exist? Practically, it is a matter of little moment."

Col. Jefferson Davis, so long an ornament of the Senate of the United States, in a speech at Portland, Maine, in the fall or summer of 1858, now before me as revised by himself and published in Baltimore in 1859, meets the charge against the South as to "The aggressions of the slave power" in extending Slavery into the Territories in this way, "The Territory being the common property of the States, equals in the Union, and bound by the Constitution which recognizes property in slaves, it is an abuse of terms to call aggression the migration into that Territory of one of its joint owners, because carrying with him any species of property recognized by the Constitution of the United States. The Federal Government has no power to declare what is property anywhere. The power of each State cannot extend beyond its own limits. As a consequence, therefore, whatever is property in any of the States must be so considered in any of the Territories of the United States until they reach to the dignity of community independence, when the subject matter will be entirely under the control of the people and be determined by their fundamental law.

"If the inhabitants of any Territory should refuse to enact such law and police regulations as would give security to their property or to his, it would be rendered more or less valueless in proportion to the difficulty of holding it without such protection. In the case of property in the labor of man, or what is usually called slave property, the insecurity would be so great that the owner could not ordinarily retain it. Therefore, though the right would remain, the remedy being withheld, it would follow the owner would be practically debarred by the circumstances of the case, from taking slave property into a Territory where the sense of the inhabitants was opposed to its introduction. So much for the oft-repeated fallacy of forcing Slavery upon any community."

Does any Southern man question the Southern fealty of Messrs. Orr or Davis? Who doubts their faithfulness to the asserted southern right of taking slaves to a territory? No one. And yet they had the good sense to see, and the frankness to avow the opinion, that without friendly legislation, slavery could not exist in a territory, and that this legislation was not to be expected, if a majority of the people were opposed to it. In such a contingency, they both held, that although the right existed it would be but a barren one, or to repeat the language of Col. Davis, "though the right would remain, the remedy being withheld (proper police laws), it would follow that the owner would be *practically* debarred by the circumstances, of course, from taking slave property into a territory where the sense of the inhabitants was opposed to its introduction."

Now, I state to you, gentlemen, with confidence, that nothing has ever fallen from Judge Douglas, on this point, stronger than the doctrine of these gentlemen. He has been assailed upon the ground, that he had advised against friendly legislation. Nothing could be more erroneous or more unjust. In all that he has said, he has but assumed the power of the Territorial Legislature to pass laws for the protection of slave property, and that having the power they might refuse to legislate, and because, if this last was actually done, that the practical effect on the institution would be its exclusion.

In a speech at Jonesboro', in September, '58, the only one I have time to refer to, in replying to the present Republican candidate, Mr. Lincoln, in regard to the extent of the Dred Scott decision, he stated this—"My doctrine is, that even taking Mr. Lincoln's view, that the decision recognizes the right of man to carry his slaves into the Territories of the United States, if he pleases," yet after he gets there, he needs affirmative law to make that right of any value. The same doctrine not only applies to slave property, but all other kinds of property. Chief Justice Taney places it upon the ground that slave property is on an equal footing with other property. Suppose one of your merchants should move to Kansas and open a liquor store; he has a right to take groceries and liquors there, but the mode of selling them, and the circumstances under which they shall be sold, and all the remedies must be prescribed by local legislation, and if that is unfriendly, it will drive him out just as effectually as if there was a constitutional provision against the sale of liquor. So the absence of local legislation to encourage and support slave property in a Territory, excludes it *practically* just as effectually as if there was a positive constitutional provision against it. Hence I assert that under the Dred Scott decision, you cannot maintain slavery a day in a Territory where there is an unwilling people and unfriendly legislation. If the people are opposed to it, our right is a barren, worthless, useless right, and if they are for it, they will support and encourage it. We come right back, therefore, to the *practical question*, if the people of a Territory want slavery, they will have it, and if they do not want it, you cannot force it on them. And this is the practical question, the great principle, upon which our institutions rest. I am willing to take the decision of the Supreme Court as it was pronounced by that august tribunal, without stopping to inquire whether I would decide that way or not."

His ground, it will be seen, is identical with that of Messrs. Orr and Davis. The acutist casuist can detect no difference. If he, then, is false to the South, so are they. And yet, they are in full communion with the Southern Democracy, whilst some of the South seek to ex-communicate him. Gentlemen, there is so gross injustice in this, that the public, South and North, are forced to the conviction that it is persecution. It assumes the aspect of mere—individual, political persecution. This conclusion, too, the past as well as the present conduct of the Executive—goes to confirm. Never in the history of parties has executive power been so shamefully exerted against one man and his friends—even where they belonged to an opposite organization. The contest in Illinois, which resulted in the return of Judge Douglas to the Senate, was disfigured throughout by this bitter executive hostility. The officers in its service by orders, as plain by implication as if given in words, were enlisted for the war. If refusal or want of zeal was manifested, they were removed and more pliant and willing instruments substituted. The success of the Republican party, if this warfare succeeded, was certain,—still it was persevered in till the executive and its train-bands met at the hands of the true, independent Democracy of the State, an inglorious defeat. This should have satisfied them how hopeless is the attempt, by patronage and power, to sway the conduct of a free people. How idle the effort to shake their confidence in a statesman, who, though his whole life has given evidence of unwarying faithfulness, steadfast adherence to principle—unabated attachment

to the policy of his party, all illustrated during a continued period of seventeen years of public service in the councils of the government, by an ability not only conceded, but eminent, an ability which makes him in the judgment of the country, the ornament and pride of the body of which he is now a member. But there is in all countries a class of people, who, forgetting everything that they should not forget, remembering nothing that they should remember—learn nothing. Political Bourbons. And to this class the Executive would seem to belong. In the present contest they are engaged, and with the same virulence in the same effort. What to them is the popular voice? Their prejudices are against it, and these, at all cost to the party and country, must, if possible, be gratified. Down with Douglas—any body but Douglas—Lincoln even in preference, is their battle cry, and it is made to ring through the land as loud and potentially as their few followers can make it. Illinois again is made the scene of its violence, and what triumphant success has been the result.

The delegation sent by its followers to Charleston was, to the general joy, ignominiously rejected—not permitted even to cross the threshold of the Convention. Nothing, however, is yet learnt. The same ignorance of the public heart—the same selfish and personal influence continues every day. The press under their control heaps unmeasured and unmitigated misrepresentations on the head of Douglas, and as in the past he but grows in the public favor. When will the blindness of this temporary, short-lived power be removed? When will it awake to the true policy of the country, and to the true duty of submission to the will of the majority? Perhaps, not until the 4th of March, 1861, when it shall see the object of its wrath in possession of the very power which itself now holds and so abuses, and wielding it before a rejoicing country to the public good and honor. But in the Senate of the United States, the same hostility is manifested. With no legislative or other powers than are expressly conferred by the Constitution, with no solicitation from the Democratic people, to construct for them, in the coming contest, a party political creed, with no intimation that they feel themselves incompetent to such a work; on the contrary, with notice that the heretofore approved body of representatives selected by them for that purpose, is about to assemble for that very end, these gentlemen, some of them strict constructionists, too, forsooth disciples of the resolution of '98, stepping beyond their constitutional sphere and duty, assemble as Senators, in secret caucus, consisting of themselves alone, and with an assumed authority, promulgate what they say is the only true admissible Democratic platform, and threaten to denounce as rebels all who refuse to stand upon it. No one esteems more highly than I do, the gentlemen concerned in this volunteer labor, this usurped function. No one estimates higher their talents—past public services or patriotism, but I know nothing notwithstanding, in their characters or present relation to the party which gives their *ipse dixit* on such a subject a claim of infallibility. On the contrary, there is so much in the history of the times, and the connection of some of them with it, tending to the belief, that the movement was more the result of personal motive than of a sense of public necessity, that almost all are inclined to exclaim that these are not the lights by which in its present emergency the party can expect to be safely guided. But what enunciation of abstract principles have they given us. 1st. We are told how the constitution was adopted, a mere historical inquiry, and in this they err, if the Supreme Court is right. 2nd. That the States are entitled to equality of rights under it. This no one denies, the only question being what is equality. 3rd. What amongst these is the right to take into and hold slaves in a Territory. 4th. The right to have protection in the Territories of all constitutional rights. This also no one disputes. 5th. That if this protection is not furnished by the Territorial laws or by the judiciary, it will be the duty of Congress to pass the necessary laws for the purpose. This is likewise unquestioned.

It will be observed therefore that the only principle here announced which every one of the Democracy did not before admit or does not now, is the right to take and hold slave property in the Territories except in subjection to the Territorial laws. And to this there prevails now as there did in '54 differences of opinion, and these by the Compromise of that year, it was agreed to differ about until the point should be decided by the Supreme Court. As I have before told you, gentlemen, no such decision has as yet been made, and the caucus resolution upon the subject is consequently but an interpellation into the compromise, and in that particular a direct repudiation of it. But how unworthy, in my judgment and with all my Southern feelings alive within me I say so, is it for the South to solicit in anticipation Congressional intervention for her security. Has it come to this! That the chivalrous, bold, defiant South, who herself has always heretofore asked only to be let alone,

but to be permitted to take care of this territorial right as well as all others in her own way, and at her own time, to invoke in advance Congressional protection. Is she not strong enough in her own might! Has she now for the first time, on the eve of a Presidential contest, become so aroused to her situation, and so alarmed at it, even before the exigency has occurred, or is threatened, that she invokes of her Northern friends a promise to come to her aid, should the exigency ever happen, by Congressional intervention, and to hazard the very existence of the Democratic party, which she admits is the only National party, if such promise is not granted. I cannot permit myself to doubt that taking council of its sections courage, its historical firmness, the democracy of the South will reject so dishonoring a suggestion and say again as they said and with one voice in '54 and in '56, all that they will ask, or require, or permit, is that upon this subject, there shall be for all time Congressional NON-INTERVENTION.

Gentlemen should remember too that the authority to protect, may well be considered, and certainly will be, as including the authority of Congress over the whole subject. Admit the one and it will be difficut to deny the other. And if, hereafter, as will happen if the Republicans succeed in the coming contest, it is proposed to intervene to prohibit slavery, the strongest argument in its support, as far as the mere question of power is concerned, will be this Senatorial causus admission of the power to intervene to protect it. Already we are notified of the nature of the hostility we are to expect should Republicanism gain the ascendency. I hope, gentlemen, I may not be esteemed as intending to disparage Massachusetts by alluding, as evidence of this, for a passing moment and with sincere regret to the speech made on Monday last in the Senate of the United States by one of her representatives. Disparage Massachusetts! What American who remembers her past history, and who does not, could be so oblivious to national pride and gratitude as to seek her dishonor, and if he did, how vain would be the endeavor. Her fame is now but under a partial eclipse. It will, I doubt not, soon emerge and be restored to its original brightness. Of the gross vituperations, the filthy, loathsome malignity of the speech I have not the heart in this presence to say a word. Nor have I the wish to utter a syllable to touch with remorse did his insanity render that possible, the feelings of the speaker. To leave him to the agonies of his own passions, to the morbid mortification under which he has evidently suffered during the past four years from an occurrence which no one more regretted or depreciated than I did, and to the pity and contempt of the pure and good of all parties is sufficient to satisfy the most extreme justice.—But Massachusetts! What does, what must she feel when forced to look at her position on Monday and compare her then rank among her sister States with that which she held when in days past, Webster's eloquence in the same forum made her name immortal. The only safe ground for the South, and the only one likely to promote the peace of the country, is absolute non-intervention, that policy so justly commended to general approval by President Buchanan in his letter of acceptance of his nomination of the 16th of June, 1856, as "founded on principles as ancient as free government itself," and which simply declares, "That the *people of a Territory* like those *of a State*, shall decide for themselves *whether slavery shall or shall not exist within their limits.*"

The principles thus authoritatively stated are true, and because true must be permanent. They know no change nor can the justice or universality of their operation cease to commend them to the approval and sanction of the good and patriotic, because politicians high or low may seem to forget or seek to repudiate them. And gentlemen, it is at this time even more than ever of vital importance that they be observed. Congressional intervention for the protection of slave property in the Territories is now asked by some Southern citizens. In declining to adopt this as a democratic doctrine, certain of the Southern delegates seceded from the Charleston Convention and the party is in danger of disruption from the same cause. Is the cause one that justifies or excuses a refusal to associate politically with Northern brethren? If it is, where will it lead? No sane man can believe that such Congressional legislation can now be obtained. If not, the remedy, and the only one left to the South, unless she is false to her professed conviction of duty, and acts the mere braggart, is secession from Congress, and of course from the Union. Is this mere theoretical, abstract question, the most abstract as truly said by Governor Cobb ever presented for political discussion to sunder the ties which have so long and gloriously kept us together and made us a nation, the wonder and admiration of the world? May the memory and spirit of our fathers forbid it! May the spirit of Washington save us from it! May the hopes of freedom throughout Christendom not be blasted by it! May so foul a dishonor never be suffered to

tarnish the American name. Oh! that Choate and Webster were living to animate the hearts of their countrymen, with their own patriotic fire, and invoke them as they surely would to gather around the Union and upon its altar swear perpetual allegiance to it. Oh! that they were now here to fill these walls once more, in this their country's trial, with their lessons of wisdom and duty and to commend them to national approval by their almost superhuman eloquence. But the hope is vain. Let us therefore, stimulated by the memories of the great dead, nerve ourselves to the struggle. Let us, standing by the rights of all under the Constitution, maintain those rights with untiring devotion and with scrupulous good faith. Let us do all we can to restore our ancient harmony, our former fraternity, and discarding all sectional prejudices, demonstrate to the world that we recognize as countrymen, the whole people of the United States, that we know but one country, that which is now covered by one glorious ensign, of all the stripes and the stars, and that we will now and forever support the government formed by our fathers, for the common defence and general welfare, and to secure to them and their posterity, the blessings of liberty forever. Let us, in the words of a statesman, a native of your noble State, and whose whole life was distinguished by eminent service, even in the very highest office in the gift of his countrymen, adhere to this our purpose with inflexible resolution, as to the horns of the altar. Instil its principle with unwearied perseverance into the minds of our children, bind our souls and theirs to the National Union, as the cords of life are centred in the heart, and we surely then will "soar with rapid wing to the summit of human glory."

LETTER OF THE HON. REVERDY JOHNSON,

To the Chairman of the Douglas Meeting in New York, on the 22d of May, 1860.

WASHINGTON, *May* 19, 1860.

SIR: I regret that I am unable to accept your invitation to the meeting to be held in your city on the 22d instant to approve the action of your State delegation in the Charleston Convention. Believing their course to have been right, it would give me pleasure to witness the sanction it is about to receive.

On the issue now so sadly, if not perilously, distracting the country, I see no well grounded hope of meeting it successfully than by the selection of a candidate for the Presidency of a statesman whose opinion upon the subject is, under all circumstances, the most likely to challenge general assent, because, when fully understood, it will be found to be alike just to all sections of the nation.

The compromises of 1850 and 1854, it was confidently predicted, would put to rest forever the slavery agitation which had for years so alarmingly convulsed the land. This great end was to be achieved by removing the subject *altogether* from the halls of Congress, and submitting it *exclusively* (subject only to such restraints as the Constitution imposes) to the people of the Territories when legally organized.

By Southern and Northern gentlemen, then and now justly high in the public councils and in the public confidence, differences of opinion were entertained as to the extent of the Territorial legislative power and of the Territorial people over slavery. Some held that its exclusion could only be effected when a State constitution was adopted. Others, that the Legislature possessed "entire control over the subject," and was "competent to establish, abolish, or protect it."* Others, again, said it was not "a matter of essential importance at what time the power may be exercised by the people of the Territories," it being "of infinitely more importance, both to the South and the Union, that the power be left to the Territories, instead of the Federal Government."† The present distinguished Secretary of the Treasury maintained that the question itself on which these various views were held involved but a "*purely theoretical issue*"—"*the purest abstraction, in a political point of view, that ever was proposed for political discussion;*" for that, on either of the hypothesis contended for, "the majority of the people, by the action of the Territorial Legislature, will decide the question, *and all must abide the decision when made.*"

Such were the conflicting but the then harmonious practical interpretations of these compromises. To such compromises Judge Douglas, at the imminent hazard of political ruin in his own State and section, and from a deep sense of the constitutional rights of the South, has boldly and faithfully adhered. The perils with which they encompassed him, and which, with such manly fortitude and consummate ability, he met and overcome, would, I doubt not, have carried dismay to many who, now forgetful of his services and loyalty to the South, are practically leagued with Northern and Southern foes to accomplish his downfall. Not one opinion on the question avowed by him

* Gov. Bigler. † Hon. Mr. Iverson.

during the debate on the compromises has he changed, or in the slightest particular modified. Who, then, has changed? Let the record of the past answer.

The vindication for the admitted apparent change, and the excuse for the grossly unjust and suicidal warfare on Douglas and his friends, waged by gentlemen of the section for whose rights he hazarded so much and so much contributed to uphold, is, that the question of Territorial power has been decided by the Supreme Court. This is asserted daily by many who, perhaps, never even read the Dred Scott judgment, or from their pursuits are incompetent to pass upon it. Having argued the case twice, as the friend of the South, and bestowed upon all the questions it involved, the most careful study I could, I state with perfect confidence that the question was not only not decided by the court, but was neither argued nor in any way presented for decision. The single inquiry in this connexion was, had Congress the power to prohibit slavery in a Territory? When organized into a government, what the Territorial Legislature could do was not before the court, either directly or indirectly. I maintained, however, then, as I think now, that the power was with such a Legislature. My proposition was—and it was stated as a reason against the existence of the Congressional power—that slavery could "neither be established nor prohibited by congress," but that the people of a Territory, "when organized by Congress, can establish or prohibit it." Mr. Justice Curtis, in his opinion, so gives my proposition. I certainly never supposed that there existed in any part of the civilized world a government where slavery existed in which there was not somewhere authority to abolish it. Such a proposition to my mind is perfectly incomprehensible, and a libel on the great and good men to whom we are indebted for our admirable political institutions. There is not a word in the opinions of either of the Judges even tending to prove that the Court, or any Judge, intended to pass upon the question or esteemed it before them. They examined only the power of Congress, the sole one presented for judgment. Inferences for or against the Territorial power from the court's judgment negativing the Congressional power may be drawn, but as to these there are honest differences of opinion. The passage in the opinion of the Chief Justice relied upon as denying the power, warrants no such conclusion. He is there dealing with the express restrictions of the Constitution on the power of the Government. His remarks embrace every part of the United States over which Congress can act at all. His purpose is to show that although the Territories are in some particulars and for some purposes under the government of Congress, they are under it only in subordination to such restrictions. He applies what he says as well to the District of Columbia as to the Territories generally. And yet it will scarcely be maintained that he designed to assert that Congress, subject to the restrictions referred to, has not the power to prohibit slavery in the District, under the authority "to exercise exclusive legislation in all cases whatsoever over such District."

The exercise of such a power would be rash, and grossly inexpedient in the existing state of the country; but of the mere power there can be no well founded doubt. I do not believe that the authority of the Territorial Legislature was in the mind of the Chief Justice, certainly the question was not before him, nor alluded to, except as an argument against the Congressional power. Nor was it even referred to, as in the case, by any other Judge. It is, therefore, idle to consider it as decided. If this be so, and those who so think are as honest, and perhaps as capable of forming an opinion upon the subject as gentlemen having a different view, why should it not be esteemed now an open question as it was when the compromise of '54 was passed? Why should the South not continue to agree, as she did then, to abide in good faith by the words of that act? Of their meaning it is impossible to doubt. The question of constitutional power is undecided. So think nearly all their associates and friends in the free States—men who, with steadfast firmness and unflinching courage, stood by them in all their past struggles. So think thousands and thousands of Southern men as devoted to the rights of their section as any of their brethren, bound to it by the common ties of country, and nativity, and conviction. Harmony now, North and South, of the friends of the Union (for the most part, as I believe, to be found in the Democratic organization) is demanded more than ever for the very existence of our common Government. Shall that be hazarded upon what Gov. Cobb justly terms "the purest abstraction that was ever proposed for political discussion?"

Imagine the Union broken to atoms upon this admitted abstraction. Imagine the Republican Lincoln, reeking with the grossest heresies of political Abolitionism, the true author of "the irreconcilable conflict," elected to the Presidency because of politicians disputing on this "pure abstraction," started and fanned into a flame from perhaps personal rivalry or ambition, and then try if you can to conceive the fate of the men to whose machinations the dreadful calamity will, by the universal voice, be referred. I trust in heaven no such direful catastrophe is in store for us; but that, uniting as a band of brothers, owing a common loyalty, and pledged, as in the past, to stand by the compromises of '54, we will do so with unshaken honor, and achieve a victory, as in that case we can, which will for years, if not for all time, terminate the troubles of the South, and place the Government upon a footing of security which will cause the hearts of patriots everywhere to throb with delight and gratitude.

With respect, your obedient servant,

REVERDY JOHNSON.

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