SPEECH

OF

HON. J. F. DOWDELL, OF ALABAMA,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MAY 10, 1854,

ON THE

NEBRASKA AND KANSAS BILL.

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NEBRASKA AND KANSAS.

The House being in the Committee of the Whole on the state of the Union—

Mr. DOWDELL said:

Mr. CHAIRMAN: I desire very briefly to give the reasons which will control my action upon the bill for the organization of territorial governments in Nebraska and Kansas. However humble they may be, duty to my constituents, as well as justice to myself, forbids my silence upon a question of such delicate and deep importance to the South, and not less vital to the peace and happiness of the whole country. I trust, sir, that I may be able, as I certainly most earnestly desire, to bring to the discussion that kindness which a due regard for the feelings of others would prompt, and that calmness and coolness which the delicacy and magnitude of the subject now before the committee eminently demand. Reason, not passion, must characterize our deliberations, if we hope to reach results peaceful and satisfactory. To attain this end should be the common wish of us all, as it is certainly the sincere desire of every patriot.

The history of our legislation upon the very dangerous subject involved in this discussion is full of admonition. The wise lessons to be learned from its study, should at least incline us to moderation; should teach us to refrain from the taunt, the jeer, and harsh epithet; should guard us against the folly of crimination and recrimination, which serve but to excite passions, to obscure the reason, and cloud the judgment, and present obstacles to block up the pathway to settlement, thus weakening the social ties which bind us together as one people, and without which bond of sympathy and affection our common Constitution is powerless for union or liberty. The great interests involved, the character which we sustain to the country as Representatives, the important consequences to follow our action, common prudence, and sound discretion, all counsel careful deliberation, and demand coolness in the formation of our opinions, and frankness in their expression.

With feelings of the utmost kindness for all sections, and a sincere desire to promote harmony, and achieve the greatest good to our common country, I engage in this debate. It is proposed, by the bill now pending before the committee, to organize two territorial governments for the remaining portion of the territory acquired from France, under the treaty of 1803. Over all this vast country, outside the limits of the State of Missouri, more than ten times as large as the State of Alabama, the restrictive clause in the Missouri compromise was extended, expressly forbidding the introduction of slavery. The proposed abrogation of the eighth section of that act, containing this restriction—so inequitable and despotic in character, and inconsistent with the usual fairness of American legislation—has engendered all the bitter opposition encountered by the bill in the other end of the Capitol, and which it is certain to meet with in this House. Yes, sir, it may be fairly assumed, that but for this feature, no difficulty would have been experienced in its speedy passage through both bodies.

Let us examine this clause a little more closely. South of the line of 36° 30′ the citizens who may purchase the public lands and settle the territory are left, under the operation of this law, perfectly free to constitute a government according to their own will, and regulate their domestic affairs in their own way, subject only to the condition that the form of government established shall be republican. North of said line no such discretion is allowed by the terms of this same law. The people who are invited to settle upon that portion of the territory are *not* left free to constitute a government according to their own will, and regulate their domestic affairs in their own way, subject to a like condition, *only* that the form of government adopted shall be republican, but are tied up and bound down with a congressional restriction, without limitation of time, reaching beyond their territorial pupilage, and fastening upon their sovereign rights after they shall have been admitted into the Union as independent, equal States.

Now, sir, let me ask why this discrimination, which, while it distrusts the intelligence of the North, at the same time is calculated to insult and wound the feelings of the South? Can sound reasons be given for such mongrel legislation in reference to a territory purchased with a common fund, acquired under the same treaty, from the same Government, and certainly, if rightly, to be "disposed of, ruled, and regulated" in pursuance of the same Constitution? Are the people who may chance to settle above this arbitrary line to be presumed less intelligent, less moral, less able to govern themselves, to choose their own institutions, and regulate their domestic affairs, than those who shall settle below the line? If not, why then refuse equal liberties, rights, and privileges

to them? Such discrimination, sir, in my humble opinion, is not only repugnant to the honor and interests of the American people, destructive of the rights of the States, and at war with the genius of our free institutions, but contravenes the first principles of equality and common justice. Can it be consistent with the Federal Constitution? Sir, it may find color of authority, if we are to be controlled by a precedent, in the ordinance of 1787, adopted under the old Confederation for the government of the Northwest Territory. And even that ordinance, as has been most clearly shown, was adopted in violation of the articles of Confederation. The concurrence of nine States was required by the articles for the passage of such a law, when the ordinance, as it is termed, only received the vote of eight.

But, sir, in vain shall we look to our Constitution for a grant of power, authorizing similar legislation. In scanning its sacred pages, and scrutinizing its wise and well-guarded language, I find no line of demarkation indicated between sections; no parallel of latitude or longitude separating the North and the South, the East and the West. It is too true that such a line is now to be found marring the political map of our country; but the hand of patriotism never traced it; the fathers and founders of the Republic did not put it there; under the pressure of a panic, when the overthrow of our newly-erected government was seriously threatened by the unhallowed and unconstitutional demands of faction, the conservators of the Republic and lovers of the Union, in the vain hope of purchasing peace, unfortunately submitted, I will not say consented, to this temporizing policy, which infringes the rights and curtails the privileges of one half of the States, and compromits the safety of the whole system.

The anti-slavery party of that day contended for the exclusion of the slaveholder from all our vast domain west of the Mississippi. A sovereign State, by the consent of Congress, had prepared a Constitution, and within the provisions of the Federal Constitution applied for admission into the Union. Her application was rejected, because she did not in her fundamental law provide for the abolition of slavery within her limits. In this state of things a member of the Senate from Illinois brought forward a proposition which allowed Missouri to come in the Union without restriction, but at the same time designated this line of 36° 30′, north of which the institution of slavery was to be forever prohibited. In an evil hour, under the sad alternative of disrupting the Government, or violating the compact, this proposition was acceded to, and became a law. The momentous question involved in its passage filled the heart of the patriot everywhere with alarm, and fell upon the ears of the great Jefferson, in his own graphic language, like a fire-bell at night. With fearful forecaste, in a letter to a friend shortly after its passage, are shadowed forth the dangers which he apprehended were to follow. These are his words in reference to the question:

"I considered it at once as the knell of the Union. It is hushed, indeed, for the moment. But this is a reprieve only, not a final sentence. A geographical line coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will make it deeper and deeper."

Subsequent history, sir, has demonstrated that these forebodings of evil were not wholly groundless. The prophecy may yet be fulfilled, unless a returning sense of justice in the American mind shall authorize a repeal of this odious act, and enable us to quell the dire spirit of fanaticism which has carried us so far from the path of safety.

The policy which dictated its enactment, permit me to say, was very different from that which controlled the fathers; for it not only contradicts the letter, but does violence to the spirit of the common charter.

Let me not be understood, sir, as saying that no lines are recognized by the Constitution. There are lines, and strongly marked ones, traced by it through our country—State lines, sir, the ramparts of republican freedom, separating sovereign communities, and designed to bar each from aggression, and, if sacredly preserved, will forever confine the Federal Government to its small and appropriate sphere of specified powers. These are the only political divisions indicated in the common bond, and older than the Constitution. Obscure their distinctness by unwarrantable assumptions of power, under a latitudinous construction of that instrument, and you at once put in jeopardy the sacred rights which they shelter; blot them out, and some form of government might survive their obliteration, but the liberty of our people, never.

Not so with this sectional line of 36° 30′, which endangers the unity of this great country. Erase it from the statute-book to-day, and no shock will be felt in the system. Its effacement from the record will extinguish the hatred and jealousy which its adoption engendered. We shall return in our legislation, by thus regarding the constitutional equality of the States, to the true spirit of our institutions, restore harmony to conflicting sections, and strengthen the bond of union and brotherhood between our people.

I take it, then, that this restrictive clause in the compromise of 1820 is a naked act of arbitrary power, unwarranted by the Constitution, and wholly indefensible, impolitic, and inexpedient. It properly belongs to those who affirm it to be consistent with the Constitution to point out whence the power is derived. I have yet to read or hear a plausible argument going to show its compatibility with its provisions. The defense is rested upon another ground. When we point to the perfect equality of the States, a principle constituting the very essence of our free government, and recognized and guarded in every part of the compact between them disturbed by this unjustifiable exercise of power on the part of the Federal Legislature, what response comes up from the opposition? An argument in demonstration of the justice and propriety of discrimination? A reason for the necessity of different rules of action for one and the same people upon a common territory? No! we are met with the reply that it is a closed question, that we must now go behind the bargain; and nothing is heard but grandiloquent discourses upon "plighted faith," "sacred compacts," "solemn covenants," and "holy compromises."

Sir, I admit the sacredness of compacts, but not the holiness of compromises. When faith has been plighted in righteousness, neither nations nor individuals can violate it with impunity. For the inviolability of the faith plighted by the fathers in 1787 I am now contending. The compact which

they then made I am willing to abide by. The parties to it were the sovereign States of the Union. Its language is the language of command. It speaks, indeed, "as one having authority;" challenging our reverence, and exacting obedience. We may not render it "void and of non-effect by our traditions," nor compromise away its wise provisions, however plausible the pretext, or apparently urgent the necessity. Let compromise-makers and builders despise and reject this stone, but it will still remain the head of the corner. Whilst we build upon this rock we are safe. We may successfully defy the winds and the rains. Let us not then follow the example of the foolish man in Scripture, who built his house upon the sand; for we are told that when the "rain descended, and the floods came, and the winds blew, and beat upon that house, it fell; and great was the fall of it." And great will be our fall if we rest our hopes upon the uncertain sand of congressional compromises.

Sir, whatever acts of legislation which may have been, or shall be, passed in harmony with the spirit and in pursuance of the letter of this great common bond, partake of its sacredness and authority. But no agreement between legislators, however specious the reasons given, however threatening the danger to be shunned, or momentous the issues involved, can sanctify a law inconsistent with, and unauthorized by, the Constitution. Neither time nor circumstance can hallow, nor name of *compact*, *covenant*, or *compromise* impart sacredness to its character. Its continuance upon the statute-book for long years may not plead age in extenuation of folly; but, like hoary-headed iniquity, should serve the rather to increase our contempt and abhorrence.

It is in this light I am forced to regard the restrictive clause in the act of March 6, 1820, miscalled a compromise. Mark its language:

"SEC. 8. *And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30′ north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his labor or service as aforesaid."

It is immaterial to my purpose whether the bill including this obnoxious section, or the resolution introduced by Mr. Clay at the subsequent session of Congress, referred to and quoted by the honorable gentleman from Georgia, [Mr. STEPHENS,] constitutes what is termed the Missouri compromise. Suffice it to say, that the bill which contains this very act, the repeal of which has been made the subject of such violent denunciation on the part of the Free-Soilers, was repudiated in less than twelve months after its passage; and its principle, if it contained a principle of settlement, violated over and over again by those who now claim for it respect and veneration. It never was the choice of the slaveholding States. Forced upon the South by a dominant majority who contemplated a still greater wrong, she submitted to its passage as the less of two evils, and has since acquiesced in it for the sake of peace and repose. Until its principle was abandoned by Congress in reference to subsequent acquisitions, she was content to remain silent for the same reason. Our northern brethren demanded too much. The South ought never to have submitted. Here was the grievous wrong on the one hand, and almost unpardonable error on the other. At this time was planted a thorn—the cause of strife, irritation and division. It must be removed, else in vain shall we look for repose in the body-politic.

This line of 36° 30′, and the injustice and inequality resulting from its establishment, has done more to disturb our peace and endanger the Union than anything which has occurred since the formation of the Government. It was the first indication of dissolution—a rallying point for geographical parties, for contending sections, familiarizing the minds of men with the idea and possibility of separation, and more than once has urged us to the brink of this sad catastrophe.

And, strange as it may appear, this fatal line, even during this debate, has been called "a wall of protection to the South," "a barrier against the inroads of fanaticism," as if there could be safety under the shadow of unconstitutional law. The South asks not now, never did ask, that the Constitution should be violated in order to protect and preserve her institutions. She is willing, always has been willing, to rest her case—the security of her property—upon a strict construction of that sacred instrument. Under its wise provisions a republican form of government is guarantied to each State, and perfect equality of all the members of the Confederacy clearly recognized. With that equality preserved and acknowledged, the South is safe; short of this, she should not be satisfied. We need no other wall than this to fortify our rights against Federal encroachment; behind its strong defenses I trust we shall successfully resist the aggressions of fanaticism. There is no safety in leaving the strong timbers of the Constitution to venture upon the frail planks of capricious compromises.

This much revered compromise of 1820 not only was without the color of constitutional authority, but, sir, it openly violated a solemn treaty between ours and the French Government. The third article of the treaty of cession under which we hold the Louisiana Territory is in these words:

"ART. 3. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

At the time of the cession by France, slavery not only existed, but was recognized by law to exist in this Territory. It was also well understood that slaves were held as property by the inhabitants to be incorporated. We then, by the terms of this article, pledge our Government, not only to admit the inhabitants to the enjoyment of all the rights and immunities of citizens, but *in the mean time*, to maintain and protect them in the free enjoyment of their *property*. It cannot be disputed, sir, that this term "property" included African slaves. And yet, without the modification of the treaty, by and with the consent of the proper authorities, against the wishes of the people of the Territory, and in a willful disregard of the rights and interests of one half of the States

of the Union, what does Congress enact? Why, sir, upon an application for admission by a portion of them, according to the stipulations of the treaty, to the enjoyment of these equal privileges and immunities, a proposition is brought forward here to destroy this property, and a law passed excluding slavery from a large portion of this Territory; and that, too, in the language of the restrictive clause, *forever*, even after its subdivisions shall have become sovereign States. If this be so, what becomes of our "*plighted faith?*" Shall those who violated the sacred compact of Union, and set at naught solemn treaty obligations, charge us who are attempting to repeal the law, and thus repair the breach and restore the treaty, with acting in "bad faith?" It does not become covenant-breakers to insist upon the performance of contracts, nor aggressors either to teach or enforce lessons of morality and justice.

But we have been further reminded, in order, I suppose, to frighten us from the line of propriety and the path of rectitude, that a repeal of the Missouri compromise will be followed by a dissolution of the Union. It is indeed disagreeable to proceed in the discharge of duty at the hazard of pains and penalties. But it is not for those who are in the right to falter from fear of consequences. These are under the control of a higher power.

The unbounded attachment for the Union which pervades the great masses of our countrymen, has, on more than one occasion, caused us to submit to infractions of the compact upon which it was founded, with the hope that the "second sober thought" of the people would in time heal the breach and correct the abuses of power. It is hardly possible now that an honest effort to repair the damage, and return to the true principles of the Constitution, will diminish that attachment, which, although sometimes inordinate, is ever commendable. To apprehend danger in the path of constitutional duty, is an imputation upon the wisdom of the fathers who made the compact, and a reproach to the firmness and intelligence of their descendants, who have so largely prospered under it. The destiny of this great Republic, fortunately for us, is not in the power of fanaticism. The great conservative masses of our countrymen, of all sections, will prove equal to the demands upon their patriotism for the preservation of that Constitution which secures their rights and guards their liberties.

As much as we of the South disliked the compromise of 1820, still, for the sake of peace, which, however, may sometimes be purchased too dearly, her people made up their minds to acquiesce, and abide the same rule in all future acquisitions of territory, and thus put an end to sectional controversy. In this spirit the South consented to the Missouri line through Texas, all of which was slave territory, and repeatedly proposed to extend it to the Pacific ocean. The proposition was spurned by the North, who positively refused to abide by the principle which they had themselves established, and insisted that the great Missouri "compromise" contained no general principle of settlement, but was intended to be confined exclusively to the Louisiana purchase, thus leaving the main question of difference still open and unadjusted. Following up this decision on their part, when the recent war with Mexico terminated, with a large addition of territory, the fanatical portion of the North endeavored to devote the whole of this valuable acquisition to the purposes of free-soil. The South, loyal as ever to the principles of justice and equity, and not unmindful of the rights of her neighbors, modestly contended for an equal participation in the enjoyment of a common property, won in part by the valor and chivalry of her own sons, and paid for out of a common Treasury. What was to be done in this emergency? The North had repudiated and abandoned their idol of 1820. No settled rule was left us on this subject, so full of danger to the peace of the country. The Territories were without organized governments, and their people, contrary to the spirit of our institutions, subjected to military rule. Legislation here for their benefit and protection had been suspended, and discord prevailed to a most alarming extent thoughout the land. We all know what followed. The South was called upon to make still further concessions. Again, for the sake of peace, and the recognition of the great principle of popular sovereignty contained in the bills organizing governments for Utah and New Mexico, she yielded to free-soil the great State of California, commanding the entire coast of the Pacific, and containing an area of nearly two hundred thousand square miles. The compromise of 1850 was then declared to be a *final* settlement, in *principle and substance*, of the sectional controversy. I did not support this compromise—I thought we yielded too much. But it became a law, and has since been overwhelmingly ratified by the people of the Union. The very ground of acquiescence was the settled conviction of a *final* adjustment of the slavery question in the Territories. If this point was not compassed, it would be difficult to ascertain wherein the South was at all benefited. Yes, sir, it was understood that the compromise of 1850 superseded the compromise of 1820; that, hereafter, each new Territory, when forming a constitution, preparatory to admission as a State, should come into the Union, "with or without slavery," as the citizens thereof might determine. The South, strong in the confidence of the moral strength of her peculiar institutions, was willing to stand upon this principle, and trust to the Constitution for the protection of her rights and privileges.

But it was gravely stated in the Senate, as if seriously believed, and has since been repeated in this House, that the idea of superseding the act of 1820 by the legislation of 1850 was never entertained, not even "dreamed of" by the wildest; that it was but a lucky "after-thought." And the author of this bill, the honorable Senator from Illinois, was a "setter-forth of strange gods;" one that brought "certain strange things to the ears of the people;" and that "they desired, therefore, to know what these things mean." Well might the honorable Senator have replied, like the Apostle to the inquisitive Athenians on Mars Hill, "Ye men of the North and the South, who approved and acquiesced in the compromise measures, I perceive that in all things ye are too superstitious. For, as I passed by and beheld your devotions in 1850, I found an altar with this inscription, *To the unknown God.* That which you *ignorantly* worshipped then now declare I unto you—*the doctrine of non-intervention.*" Yes, sir, in the bills organizing governments for the Territories of Utah and New Mexico the principle of non-inter-

vention was certainly established. It remains to be seen whether the uniformity of the rule shall be regarded in its application to Kansas and Nebraska.

I will now recur to that part of the bill under consideration to which objection is chiefly made, and at the introduction of which so much surprise is manifested. The section reads thus:

"SEC.,—. That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territoty of Nebraska as elsewhere in the United States, except the eighth section of the act preparatory to the admission of Missouri, approved March 6, 1820, which being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislste slavery into any Territory or State, nor to exclude it therefrom: but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of the 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

It is a matter of some curiosity to trace the cause of opposition so strongly offered to this clause, and to learn the reasons for objection to a proposition so fair and equitable, so just and patriotic. A measure like this, embodying, as it does, a cardinal principle of republican faith, regarding the rights and privileges of all sections of the Union, promotive, as it must be, of harmony between all its members, commends itself with such force to that deep sense of right in the American mind, and pleads its own cause so eloquently to the patriotic heart of the country, that to doubt its ultimate and complete triumph would be nothing less than to distrust the permanency of our Government. I confess that it is matter of astonishment, as well as cause for regret and mortification, that such a just and correct principle should need friends, at this day, to advocate its claims to favor. The source of the difficulty in determining the question can be found only in the deep anti-slavery feeling which pervades the northern mind.

I mean to say the chief difficulty lies here. Not that opposition to the bill is confined to those who are affected with this sentiment, by any means. I am well apprised of the fact that a difference of opinion prevails among some of those who are mainly agreed upon the general principles as to its ultimate effects upon the institution of slavery. But that opposition to the great American principle of self-government, which it certainly embraces, of leaving a people free to regulate their domestic policy in their own way, within the limitations of the Constitution, can be fully accounted for in no other way than by reference to this fanatical sentiment. It is needless to disguise the truth. The secret rests here. This is the "Illiad of our woes." In conformity to the demands of this unhallowed spirit, which still threatens a disruption of our Confederacy, the act restricting slavery was placed in the Missouri compromise, and the same evil spirit not only resists its abrogation now, but unceasingly endeavors to extend the prohibition to all the common territory. Once concede the power to Congress to legislate slavery out of a common territory, and what barrier can be set up against its unlimited sway? Who shall be able to curb that power, and say, "Thus far shalt thou go, and no further?" Will you tell me that the line of 36° 30′, or any other line, shall not be passed over, because, forsooth, it is a compromise? Why, sir, has it not, in effect, been repeatedly set aside already, and can we hope for favor in the future from a constantly augmenting majority, hostile to our peculiar institutions?

Sir, judging from the history of past Congressional legislation on this subject, to whatever conclusions other minds may come, my expectations for anything like equality and justice from this source are neither large nor sanguine. So far as the question of political power is concerned, we are now in the minority. The disparity between the political strength of the slaveholding and non-slaveholding States will become greater and greater in favor of the latter. Our fortunes, to some extent, are in the discretion of our northern brethren; and, happily for us, fortunate, indeed, for the welfare of the country, the great State Rights Democratic party holds the reins of government. That party in the North, which has more than once thrown itself into the breach and checked the mad career of fanaticism—which has furnished to our national councils the good and true men who have firmly stood by the Constitution, and maintained the equal rights of all sections, consistent and faithful to the pledges of the past, now rallies to the rescue, ready and willing to coöperate with their brethren of the South in the settlement of this vexed and dangerous question. Their patriotic devotion to the cause of right will not be forgotten by those who wish well for their country. The South has yet to prove herself ungrateful to the friends of constitutional equality.

The immediate effect following the passage of this measure will be to silence that mischievous agitation in these Halls which has so often disturbed our quiet, clogged the wheels of legislation, and threatened the overthrow of our institutions; to transfer the discussion of this question to where it legitimately belongs—to the people whose interests for good or evil are to be affected by it; to remove the disease from the vitals to the extremities, where agitation may expend itself unfelt by the great center and heart of the country.

The policy of the majority in Congress would necessarily be to confine the institution of slavery within its present limits. Under the provisions of this bill, it may be extended to meet the wants and wishes of those who shall settle the new Territories. He must, indeed, be blind who cannot see that to confine slavery to its present area, would ultimately destroy the institution, and disrupt the Government. Nor would the time be very distant; for under the mild and humane treatment of the southern slaves, that population has grown to be as large as the whole population of the thirteen Colonies during the period of the Revolution; and in the third of a century, should they increase in the same ratio, without assistance from foreign immigration, must equal the present entire population of the southern States. No legislative enactments can prevent its extension. The only question to be settled is, shall it take place peaceably or violently?—in conformity with the principles of our association, and in pursuance of liberal and wise legislation, or in spite of arbitrary and inhuman prohibitions? It is because I

believe this bill not only contemplates, but will accomplish, the former, that I am induced to give it my support. It sweeps from the statute-book all foreign legislation, and, under the limitations of the Constitution, leaves the people free to regulate their domestic affairs in their own way.

I do not understand the Badger proviso to alter the intent and meaning of the bill; it serves rather to explain the object than to change the features. It fixes clearly the principle to be faithfully carried out in all territories hereafter to be acquired—that American laws, passed and approved by American citizens, shall control their destiny, and not the loose edicts left behind by the retiring foreigner. It substitutes the will of the people who emigrate thither for the French law which allows slavery and the Mexican law which disallows it. It opens the Territories for the immigration of every class of our people, with their property, without discrimination, and leaves them free in the choice of their institutions; not making the question of whether it shall be free or slave territory to depend upon the contingency of purchasing from England, Mexico, or Spain.

But I have heard objections urged to this mode of settlement, for the reason that, according to the decision of some of the courts, slavery being considered a creature of municipal law solely, that the absence of laws for its establishment and protection will as effectually exclude it as positive prohibitions. That some of our courts may have so decided I will not dispute; but that such a conclusion is in accordance with the truth of history, I most positively deny. It is an admitted fact that slavery once existed in all the original States. When, and where, and by whom was it established? Point to the positive enactment which brought it into being. If such be the fact, the records will settle the question; it has not been done. Laws have been passed, I grant you, recognizing its existence, and regulating its relations. The custom was introduced by consent, has grown with our growth, and strengthened with our strength, and, under the providence of God, has been so intimately interwoven with the frame-work of society, that its eradication is beyond the reach of human ingenuity without most disastrous consequences. This is not the place to discuss its morality or policy. It is outside of our jurisdiction. The Constitution has properly left it to the disposition of the communities where it exists. Whether right or wrong in principle, good or evil in its effects, is not for us to determine. In spite of all that may be said against it here or elsewhere, history discloses the fact that it has existed from the earliest ages of the world down to the present time. The Saviour at his advent found it in existence, but did not condemn it. Both He and his apostles recognized the relationship, and defined the obligations growing out of it. When the Constitution was formed, it existed in all the States of the Union, or nearly all; and then, again, we find it recognized, but the duty of regulating it was left to the "States respectively, or to the people." We do not demand legislation for its establishment, but we do require that Congress let it alone, and accord to all our people an equal participation in the enjoyment of the common property of our country.

The bill as it passed the Senate contained what is known as the "Clayton amendment." The design of it is to confine the right of suffrage to citizens of the United States. It is proposed by the substitute to modify this amendment by inserting the following:

"That the right of suffrage shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act."

I would much prefer that the amendment offered by Mr. Clayton should remain a part of the bill. I will not, however, make its retention an indispensable requisite to obtain my support. Since a different policy has been pursued in all our former territorial legislation without detriment to the public interests, I am prepared to yield my preference in this respect rather than endanger the passage of the bill.

I have heard it charged, and it is believed by many to be true, that the doctrine of what is termed "squatter sovereignty" lurks in its provisions; that, power is given to the Territorial Legislature to prohibit the introduction of slave property. It will be readily perceived that this view of the meaning of the act cannot be correct, since Congress cannot be supposed to grant a power which it does not itself possess. When a people shall have passed their territorial pupilage, and are in that state of *quasi* sovereignty which enables them to form a constitution, then, and not till then, are they invested with this high attribute of sovereign power to settle definitely for themselves the character of their institutions. Should unauthorized legislation on the part of any Territory hereafter look to the exercise of this ungranted power, it will remain for the judicial tribunals to settle the question according to the principles of the Constitution.

Sir, the passage of this bill may not restore the lost equilibrium between the two sections of our Union, so important to be preserved, if we admit the doctrine of congressional intervention; but it will go very far to avoid the danger so justly apprehended, growing out of a disparity of their political strength. Should its enactment settle the principle which it embodies, and thus fix a permanent rule to be observed in the organization of governments for all our future territorial acquisitions, then will the apple of discord have been removed from our legislative halls, and good reason left us to hope for peace and friendship between our people and a glorious future for our beloved country.