Gen'l Land Office

BY ROBERT ARMSTRONG.

TERMS:

DAILY, per year, - $ 1 - $10 00
SEMI-WEEKLY, (published tri-weekly during the session of Congress) - $ - $ 5 00
WEEKLY, - - - - 2 00

Clubs will be furnished as follows:

Five copies of the DAILY, for - - - - 40 00
Five copies of the SEMI-WEEKLY, - - - - 20 00
Ten copies of the " " - - - - 35 00
Five copies of the WEEKLY, - - - - 8 00
Ten copies of the " - - - - 15 00

The Daily Union.

VOLUME III. "LIBERTY, THE UNION, AND THE CONSTITUTION." NUMBER 270.

CITY OF WASHINGTON, TUESDAY MORNING, FEBRUARY 28, 1854

TO OUR SUBSCRIBERS

The name of no person will be entered upon our books, unless the payment of the subscription be made in advance.

Distant subscribers may forward us money by letter, the postage on which will be paid by us, and all risk assumed by ourselves in its safe transmission.

The COUNTRY PAPER is published tri-weekly during the sessions of Congress, and semi-weekly during the recess.

Subscriptions for a period less than a year will be received on terms proportioned to the above annual rates.

☞ POSTMASTERS are authorized to act as our agents; and, by sending us FIVE DAILY subscribers, with $50 enclosed; or FIVE SEMI-WEEKLY subscribers, with $25 enclosed; or FIVE WEEKLY subscribers, with $10 enclosed, will be entitled to one copy of the same edition as they furnish us subscribers for, gratis.

CONGRESSIONAL.

SPEECH OF HON. JOHN PETTIT,

OF INDIANA;

Delivered in the Senate, February 20, 1854.

The Senate having under consideration the bill to establish territorial governments for Nebraska and Kansas—

Mr. PETTIT said:

Mr. PRESIDENT: Before proceeding in my remarks, and as prefatory to them, I desire to read a short despatch that has just reached me:

"The Baltic has arrived, with Liverpool dates of the 8th instant. Count Orloff's mission has failed, and the Russian ministers have left Paris and London. The Czar's last proposition has been finally rejected, and all further negotiations broken off. England and France are making extensive preparations to send troops to Turkey. Unless the Czar speedily withdraws, a general war is certain."

Mr. President, I return, this morning, my sincere, devout, and humble thanks to the Ruler of all nations that our beloved country is not involved in that dire catastrophe—war. Long may we be spared such a calamity.

Mr. President, the day is a gloomy and lowering one, and it may well be supposed that my mind and my spirits partake somewhat of the condition of the elements without; but, sir, as I am not a man of passions or of prejudices, but yield a willing obedience to the dictates of reason and justice, enlightened, as I believe, by a sound and unbiased judgment; as I live not for glory, in the French acceptation of the term, nor the misguided huzzas of the populace, but am an obsequious slave to the stern mandates of duty, I shall proceed, disregarding the weather without.

Sir, it becomes me, then, to inquire, what are my duties—not my prejudices or my passions—upon this subject? What are my duties towards my fellow-citizens, towards my equals, towards the States collectively, and the States and the people individually?

My duty, as I conceive, is, first, towards the States collectively, and the States individually, to endeavor to preserve that harmony which the machinery of the respective governments was designed to secure to them, so that there shall be no clashing, no jarring, no warring; so that no discord may be found in their harmonious circle. Towards my fellow-citizens and the citizens of the country individually it is plainly my duty to place, as nearly as may be, all those who are constituent parts of the State or government, upon an equal political basis, with equal political rights, so as to divide with them, or share with them an equality of right in all our property, territorial or otherwise, and in all the protection and all the advantages of the government. Upon these principles my votes have been, and shall be, governed upon this bill.

Mr. President, I have already said enough to satisfy senators, if any doubt existed before, as to how I shall vote upon the question pending before the Senate. I need not go further to satisfy the Senate what my judgment and conclusions are; but I shall beg the indulgence of the Senate to discuss the question, in its various forms, at considerable length. I shall be driven, in the course of my remarks, into a consideration and review of sentiments which have been uttered heretofore in this body, which I would gladly avoid, but that I believe duty to myself requires me to refer to them.

Mr. President, so far as the form of this bill is concerned, I need waste but little or no time upon it. Suffice it to say, that it is in the form which has been adopted since the foundation of the government, with little exception and little variation, for the organization of our Territories. There is one provision, to be sure, and only one, as it seems to me, which meets with any serious objection here, or will encounter any serious difficulty in the other end of the Capitol. That is the one which repeals the Missouri Compromise—for I grant that it does so—or, in other words, repeals the eighth section of the act approved March 6, 1820, authorizing the people of Missouri Territory to hold a convention, and form a State constitution, preparatory to her admission into the Union.

There is one provision in this bill, however, which, in order that the bill may harmonize with the provisions already adopted upon that subject, it would seem to me, ought to be stricken out. It will be recollected that the people are expressly authorized to legislate upon all subjects whatever, slavery included. They may either establish or abolish it, at their pleasure and at their will, if the constitution of the United States allows it. Such is my understanding of it, and such is my desire that it should be. But, to make the question plainer and clearer, and to rid it of all difficulties, I will suggest, if I do not move, the striking out of the following provision in the sixth section:

"That all laws passed by the assembly, and approved by the governor, shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of none effect."

My desire is to authorize the people of the Territory to legislate upon all legitimate subjects of legislation, without let or hindrance by this government. Sir, I admit that the striking out of that provision, or a clause, saying, in the most positive terms, that Congress submits all questions to them without an appeal to this government, will not prevent such an appeal, nor prevent our taking cognizance of it; for we cannot stultify ourselves; we cannot throw off from ourselves that power which is necessarily, inherently, and constitutionally vested in us. Yet we can show, by striking out this clause, what our intention is; and if our intention shall govern those who follow us, we shall be in a more harmonious condition. So much for the form of the bill.

Mr. President, I proceed briefly to the consideration of the justice and the propriety of this measure. First, as to the justice of the measure. What does it propose? It says to us all that our common country, the United States, or the people of the United States, if you will, have a large unoccupied, or partially unoccupied, territory, to which it is proposed to give an organic law, and to establish the principles and rules of civilization there; that the North and the South, the East and the West, the middle and the extremes, alike have an interest in this common property and common domain. What, then, I ask you, is justice in this case? How shall justice be applied in the government and the administration of this property? Shall it be appropriated to one section or to the other exclusively? Shall you say that the North with her institutions may go there, and that the South and her institutions shall not go there? Or will you reverse the positions, and say that the South may go there with her institutions, and the North shall not go there? Sir, so far as regards the States themselves, and the men, considered as citizens of the respective States, I protest that there is no justice, no equality in depriving each from going there with the rights that all have, and I protest against the principle that all may not go there with the rights that any have.

But how does it apply to the citizen after he gets there? What does justice say then? Does it not say that he shall have the right to determine what his municipal institutions shall be? You authorize him to legislate upon all the rights of white men; you say that the rights of life, liberty, and of property, the marital relation, the relation of master and servant, or of master and apprentice, if you will, are not too sacred for them to legislate upon as regards whites; but you say that the rights of the black man are too sacred to be trusted to this neophyte or beginning order of sociality. Then, sir, as a matter of justice, I say it is their right to determine what institutions will best suit them. Cannot those who inhabit these distant regions of our vast country, far away from here, tell what institutions will suit their latitude and longitude, their climate, soil, and productions? Or can we judge better than they? And if we can, is it right, is it fair, is it in accordance with the principles of American legislation, that we should do so? I hold that it is not. The idea that negroes, if they are to go there, are to be free and freemen, is to my mind preposterous—I mean as to the propriety of the question. All history and all experience have shown that two distinct and separate races cannot live upon the same territory, under the same government, on an equality. No principle was better known to or better understood by Moses, the leader of the children of Israel, than this, which was made known to him by the thunders of Sinai, when he was commanded to put all the ancient Canaanites to death, to put them to the sword, leaving not one, neither a head man nor a small man, neither high nor low; no age, no sex, was to except them. And this was the stern decree of the Almighty himself. Upon what principle was it based? It was upon the principle that two races differing in their organization, in the volume and amount of intellect, of mind, of brain, different in the rapidity of the coursing of the blood through their veins, cannot live and enjoy equality together. There is no such thing. It is idle to think of it. Look to any point in history, ancient or modern, and you will find the same truth developed. How is it in our own country? When our ancestors landed at Plymouth Rock and at James river, what was the condition of the country? It was overspread by vast, powerful, and numerous tribes of Indians, as different as day is from night from the population then arriving from northern Europe. Did they live, or have they continued to live, upon an equality with us? They have not; they cannot. It is utterly impossible. Diverging from the line of my argument, let me say, in all kindness to the senator from Arkansas, [Mr. JOHNSON,] who introduced a bill this morning providing for the organization of the Indian Territories, preparatory to their admission into the Union as States, that he will find it to be utterly fallacious.

Mr. BRODHEAD. Civilization is entitled to this continent.

Mr. PETTIT. My friend from Pennsylvania says civilization is entitled to this continent. Yes, sir, it is by a higher law than your constitution; for I am, in one sense of the term, a higher-law man, as will be found before I get through. By a higher law than your constitution, or your acts of Congress—by the stern decrees of the Almighty—his children first planted here are to give way to a race of men heavier physically and heavier mentally. The wild grass amid which he lay, the woods where he built his moon-fire, and where he erected his wigwam, his bow and arrow, his buffalo, his deer, and all the accompaniments of the wild man, are to pass away, and the heavier race come on with their accompaniments. Then the soil will be cultivated, stately mansions will be reared, and the cultivated, improved, and domesticated animals will be introduced. The country will be peopled by a race as widely different in all their tendencies from that which preceded them as they could possibly have been made, even by Almighty hands.

The Indians have no future, let me say to those who have a sickly sympathy on the subject. To my mind, it is plain that no act can save them from that end, that doom placed upon them by a higher law; it is inevitable. You may almost see—you can easily contemplate—the period when the last of these tribes shall have gone from this continent, and when no remnant of them can be found. It were vain and idle to attempt any such thing as staying a destiny that has been written by the hand of the Almighty so legibly and intelligibly that the weakest and the most wayward may read it. Wonder at it as you will, pity them and mourn over their deplorable condition as you may, their doom is sealed beyond the power of human wisdom to stay or avert.

Sir, this attempt was made in Mexico recently, on this continent to harmonize and cultivate together the existence of two separate and distinct races. I need not stop to tell the Senate what has been the result, and how signally that attempt has failed. Where is it that you see order there? Where is discipline, where is love, where is harmony, where is affection? It does not exist—cannot exist. Men who are constituted physically and mentally different cannot enjoy, on an equality, one Commonwealth together. One must be the superior, and the other the inferior. The question, then, is one of extent, and not of kind. Where one race is inferior to the other, it is necessarily subservient, and it is only a question of extent as to whether they shall be slaves fully or slaves partially. They cannot live on an equality. All attempts to produce such a result will be idle and futile.

Let me remind the Senate of a little piece of history, which happened to Joshua, the successor of Moses, for a violation of the injunction and stern mandate from Heaven to Moses, that upon arriving at the Promised Land, he should destroy all the ancient Canaanites, without any exception whatever; Moses was never allowed to pass the Jordan himself. He got a sight of the Promised Land by ascending to Pisgah's heights, and there calling his followers together, four hundred and forty thousand who were slaves, or the descendants of slaves, to the Egyptians for four hundred years, he bade them farewell, and handed over his command to Joshua, his successor.

Joshua crossed the Jordan and led the Jews to the Promised Land, and then one of the Canaanitish tribes, by their head men—for they were tribes like our Indians—begged to be incorporated within their municipal body, and to form a constituent part of the government and people, professing friendship and their desire to become obedient to the laws and will of the whole taken together.

Well, sir, Joshua, the successor of Moses, overcome by his kindness of heart, forgetting the mandate of the Almighty that they could not live in peace together, that it was the destruction of themselves if they did not destroy the other race, made peace and terms with them. What was the result? In less than one year disturbances, difficulties, quarrels, and excitements, consequent upon the different organization of the different races of men, were the result; and Joshua, after having made a treaty with them, was compelled to put even the remnant of them to the sword. Such, sir, you will find is the condition of the Indian tribes. You might as well attempt to tame a partridge and make a dunghill fowl of it. You might as well attempt to domesticate the deer or the buffalo—a thing that has never been successfully done—and make it as obedient as the ox. The accompaniments of that race of men are not those of ours, nor ours those of theirs.

Sir, this question is argued as though the passage of this bill creates slavery in these Territories. That is not true. Had the amendment of the senator from Kentucky [Mr. DIXON] prevailed, as he first offered it, that would have been the result. Let us lay aside all passion and prejudice, and appeal to our judgments and our intellects.

Mr. DIXON. Will the senator allow me merely to enter my protest against the construction he gives to that amendment? I think, if he will examine the amendment, he will find that, so far from legislating slavery into the Territories, it leaves the question precisely where it was before the act of restriction was passed. It neither legislates slavery in nor out of the Territory, but leaves it just where it was without the act.

Mr. PETTIT. I understand the senator, and I understand what his meaning was, as he subsequently explained it. But it is my business to deal with what law it would make had it passed, and not with the intentions of the senator. I say that if the amendment of the senator, as first offered, had prevailed, it would have legislated slavery into this Territory. This is not impugning his motives. I say that is the inevitable result of the passage of such a provision, and I will proceed to show the Senate and to give to that senator my view of it. We bought this territory from France, who had very recently acquired it from Spain by a similar transaction. While it was in the possession of Spain the slave law existed all over it—the laws of Spain tolerating, encouraging, enforcing, and protecting slavery. Let me say to senators that in this respect the civil and the common law differ; that by the common law no man can be a slave but by positive enactment; and then it is a violation of the common law, and so far, *pro tanto*, an enactment of the civil law. Not so with the civil law. Where the common law as a system prevails, slavery does not and cannot prevail without a positive enactment removing the common law so far, and substituting the principles of the civil law. By the civil law slavery does and may exist wherever one man can control another without the operation of law. That is the difference between the two systems. The civil law existed in the Louisiana territory, and therefore slavery *per se* existed all over that territory. By the sale of it by Spain to France that law was not removed; for I again say that by the acquisition of a territory or country by one sovereign from another the municipal or civil laws, the laws which regulate the right and title to property, the rights and duties of persons in and going into that territory, are not *thereby repealed*, by the transfer of the sovereignty of a district or region of country from one sovereign to another. All its domestic and municipal laws remain unrepealed, and remain in full force till repealed or abrogated or changed by the new sovereign. In such an instance the new sovereign succeeds to all the rights and duties of the former sovereign—and among these rights is the right to repeal or abrogate the old laws and to substitute or enact new ones; but till that right is exercised the old laws remain in full force, and the citizens are entitled to demand and have the efficacy, protection, and benefit of them. This territory came to us then as slave territory. True, there were few inhabitants or settlers upon it in this portion; but nevertheless the slave law existed over it. France, while she had it, did not repeal it. Now, then, when it came to our possession, or some seventeen years afterwards, in 1820, we did, *pro tanto*, repeal that slave law; we abrogated it under the right which the new sovereign always has to make domestic laws. Prior to that time this law remained in force. At that time we abrogated and revoked it. In the territory here spoken of, in the Nebraska Territory north of 36 deg., 30 min., and west of Missouri and Iowa, we abrogated that law.

Now I come to what was the amendment of the senator from Kentucky, [Mr. DIXON,] to show that that reinstated slavery there. I have not the amendment before me; but I have read it so often that I recollect distinctly its wording. First, it repealed the eighth section of what is called the Missouri Compromise; and it declared further, not that it was repealed simply, but that the laws should be the same there as though that bill had never passed. That is the language of the senator's amendment.

Mr. DIXON. No, sir.

Mr. PETTIT. What he intended is another thing. It is totally immaterial as to that. I take it now for granted that he did not intend to create slavery; yet I said to my friend from Illinois here, [Mr. DOUGLAS,] immediately on the presentation of it, that I could not go for that measure. I go for leaving this question clear, that the people there shall determine for themselves.

Gentlemen say that the constitution protects slavery there. Well, if it does, we cannot abrogate it. It is perfectly plain that if the constitution protects slavery there we need have no excitement on the subject. We can neither strengthen the constitution nor weaken it. But slavery existed, as I have shown, before the Missouri Compromise was passed. If you repeal that law, what do you do? You will have repealed two laws. You repealed the slave law by the act of 1820, and by the law of 1854 you repeal that repealing law, but you do not revive the old law. But the senator's amendment says that the law shall be the same as if the Missouri-Compromise act was never passed. That in direct terms revives the old law.

Mr. DIXON. The senator surely is mistaken in my amendment.

Mr. PETTIT. I wish the senator would give me a copy.

Mr. DIXON. I will say what it is precisely. The senator will find that, so far from saying that the law shall be the same as before, it only says that the people shall have the same right to take their slaves there as they would have had if the Missouri Compromise had never been passed.

Mr. PETTIT. Exactly. Then you would have a right under it to take slaves there and protect them. I am not impugning the senator's motives. I am only giving the language of his amendment a fair, not even a critical examination. I am stating its legal effect. It is, however, a question which is very easily settled by reference to the language of the amendment. I have it here, and I will read it:

"*And be it further enacted*, That so much of the eighth section of an act approved March 6, 1820, entitled 'An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories,' as declares 'that in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36 degrees 30 minutes north latitude, slavery and involuntary servitude, otherwise than in the punishment of crimes whereof the parties shall have been duly convicted, shall be forever prohibited,' shall not be so construed as to apply to the Territory contemplated by this act, or to any other Territory of the United States; but that the citizens of the several States or Territories shall be at liberty to take and hold their slaves within any of the Territories of the United States, or of the States to be formed therefrom, as if the said act, entitled as aforesaid, and approved as aforesaid, had never been passed."

Now, sir, am I mistaken at all? I have shown that it reinstates the law as though the Missouri Compromise had never been passed. Let me say to the senator from Kentucky that the bill now before you does no such thing. Be not deceived in it. I say that, in my judgment, as I shall show before I get through, while you may take your slave there, and hold him so long as you can collar him and control him, yet you will have no law there by which you can enforce your right to him. But by your amendment, putting the law on the same footing that it was prior to the passage of the Missouri Compromise, you would have re-established the slave law all over the Territory; for it existed before, and by the law of 1820 you repealed it. That is the view I have, and I have no question about it. If I were interrogated as a lawyer, I should be compelled to give that opinion; because the present bill leaves the Territory without any law on that subject. There is no law there for enforcing the ownership to a horse, or a cow, or any other property; nor will there be any until the legislative authority shall define the manner of protecting the rights of property.

You may say that it is a right at common law—an inalienable right; but naked rights are good for nothing unless you have the power to enforce them. If your slave bids you defiance, and tells you I am as free as you, or if your neighbor takes your horse, or beats your person, or otherwise tramples upon your rights of person or of property, where is your remedy? Where is your court? where is your jury? You have none. You might as well say that your rights did not exist; for there are no property rights, unless you can enforce them through the courts. A new community is going there. Let them go there with the right that the majority shall determine what law they will have, whether it shall be slave or free? It should be so. Wherever the people of the United States go, they ought to have the right to determine their domestic institutions. With this I shall be content and abundantly satisfied. I could not, I would not, any more vote for a law that created slavery there than I would vote for one that prohibited it; neither of which will I do, but leave it for the people to determine for themselves.

Now, sir, *en passant*, one little reflection as to ultra, extreme abolitionism. I hope there is not much of it here. It is alleged that all men are created equal, and the Declaration of Independence is referred to, to sustain that position. However unpopular, or however displeasing it may be to the mass of my fellow-citizens, I am constrained to dissent from any such position or dogma. It is not true in fact; it is not true in law; it is not true physically, mentally, or morally, that all men are created equal. I will not play upon the term of the creation of men or babies. I will not say that men are not created. But, sir, is it a fact? If Mr. Jefferson had said, in his Declaration of Independence, that all men constituting portions of the body-politic ought to be equal, ought to have equal political rights, there would have been something like propriety and wisdom in it. But however egotistical or absurd it may appear in me to venture to contradict or dispute the language of the Declaration of Independence, I proceed to do it fearlessly. I cannot, in the first place, believe that Mr. Jefferson ever intended to give the meaning or force which is attempted now to be applied to this language when he said: "We hold these truths to be self-evident, that all men are created equal."

I hold it to be a self-evident lie. There is no such thing. Sir, tell me that the imbecile, the deformed, the weak, the blurred intellect in man, is my equal, physically, mentally, or morally, and you tell me a lie. Tell me, sir, that the slave in the South, who is born a slave, and with but little over one-half the volume of brain that attaches to the northern European race, is his equal, and you tell me what is physically a falsehood. There is no truth in it at all. But much more. Come from the slave region, and go to the free North—go, if you will, to the States of Indiana, Ohio, New York, or any other free State—and show me that the negro race, or the negro man, is upon an equality with the white man, and you show me what does not exist. Sir, it is not true that even all persons of the same race are created equal. But Mr. Jefferson puts no limit upon it. He does not say they have equal political rights, or ought to have. If he had said that, there might have been truth in it; but when he says they are all created equal, he says that for which he cannot find an honest endorser in the world. Sir, you tell me that the native African, upon his burning sands, and in his native wilderness, is my equal, and I hesitate not to hoot at the idea. Tell me that the serf of the Autocrat of Russia, kneeling at his feet, and willing to lick his spittle, is my equal, and I scorn the assertion. He is not my equal. There is no truth in the declaration. Men are not equal mentally, we all admit. Who are the equals of the mighty fallen who recently had seats on this floor? Who are the equals of Webster and Clay? The clarion voice of the one, and the thunder tones of the other, at different times, made the welkin ring, and turned the whole blue arch of heaven into one great bell, which toned to liberty as though stricken by the hand of God. Are you the equals of those men? There is no color of truth in it. It is false—physically, mentally, and morally—false in word, and false in form. Neither do I believe that Jefferson intended that such construction should be given to the language. Equal in what? He does not say. Does he mean that all men are socially equal? Now, I will demonstrate to you that there is no such thing as social equality. Men may be made politically equal. It is possible that their political rights may be placed upon a par, but social and mental equality the God of Heaven alone controls. Men are not alike in their mental organization, or in their social feelings.

Are you the equal of the man who daily and nightly wallows in the gutter, and vomits upon all, and nauseates all who come into his presence? Are you his equal? If you are, you are not mine. If he is your equal, you invite him to your table, and your parlor, and make him the associate and companion of your wife and daughter. Have all men that equality? They have not with me, if they have with you. No, sir; I deny that any social equality can exist between persons of opposite social habits. You may, per force of human laws, make political equality; but per force of no human law can you make social equality. Men must have tendencies, aptitudes, tastes, education, and affinities alike, before they can have this social equality. Why, sir, there is one class of men who would readily say that I was not on an equality with them. The learned divine, who prates all the time about catechisms and creeds—about which I know nothing—would say at once that there was no social equality between us, and I should be as ready to admit it as he would. Again, there are other classes with which I am not willing to admit a social equality. This language of Mr. Jefferson goes to one as well as to the other. It includes physical, mental, moral, social, and political equality. "All men are created equal!" I say that in no one instance is there any color of truth in it. There is neither mental, moral, physical, social, nor political equality, to be found among us. It does not exist. Now, some fellow will say that "Pettit is a bold man, he cannot be popular at home, he is certainly no democrat, because he says we are not all equal." I will say to him, "go roll with the fellow in the gutter, if you are his equal." But I speak what is true. I speak what is the judgment of all men, if they dare say it, that neither morally, mentally, socially, physically, nor politically, does equality exist in any country on the earth. It cannot exist in the nature of things. God himself has not created them equal. It is not, therefore, a truism, as Jefferson put it forth, but it is false in form and false in fact. Sir, I will not trouble nor detain you with the inequalities which the Almighty created, especially under his own theocracy. The only government, except this—I always except this, for this is another government which he has taken under his special care—but in olden times he made exceptions himself as to the political rights, as well as the moral, physical, and mental rights. He created a priesthood. He created kings, and set them up over the people, with different political rights and powers. I speak what is His recorded and plainly-written will when I say there is no such thing as equality among men.

Now I proceed to notice another question which has been raised and touched upon by the senator from Massachusetts, [Mr. EVERETT,] and by the senator from Texas, [Mr. HOUSTON,] particularly, and that is, the Indian question and the faith of treaties. Whenever I hear an appeal made to my justice, my candor, my honesty, and my integrity, either in a public or a private capacity, I inquire whether there is anything wrong, and whether I propose to do anything wrong. Now, in reference to the Indians, the honorable senator from Texas [Mr. HOUSTON] would make you believe that all the Indians upon the North American continent are to be annihilated by the organization of these Territories. Let me say to the Senate—for I need not say to the senator—that almost all the Indians are south of this line, in the Indian country especially provided for them. The line does not cover an acre nor a foot of the ground reserved to the tribes to which he alludes. They are entirely without it; so that all his lamentations over the poor Indian, and the wrongs and depredations committed by the whites upon him, will fall upon my ear unheeded, and with no force whatever. The faith of treaties! What treaties, I ask you, are we about to violate? Is there any color or shadow of truth in the allegations that we are about to violate the plighted faith of the nation—that the treaties with the different tribes of Indians are here to be held for nought, and trampled upon by wanton violence? Sir, there is nothing of it. This bill expressly guards and protects all the rights of the Indians. It is expressly stipulated, sir, that they shall not be disturbed, in form nor substance, in manner nor effect, till they consent freely to sell out their lands, and then the laws of the United States shall be extended over them. It is the merest canting and whining in the world. Suppose I had yesterday given to the honorable senator from Rhode Island, [Mr. JAMES,] who sits before me, a warranty deed for a plantation that I had, and had agreed to warrant and defend it to him forever. In other words, suppose that I had treated with him, as we treat with the Indians, that they shall have this territory unmolested forever, and that I had warranted it to him, his heirs and assigns, forever. The next year I wish to buy back the old homestead, and I go to him and say, "My friend, I wish to repurchase that property." I go to his attorney to get the papers made out; and will it do for the attorney to say to my friend, "Why, you have Pettit's deed, with full covenants and warranty, in which he has stipulated never to disturb you; and can it be possible now that he has come here demanding a repurchase of this property?" Would he not reply at once, "No; he is not seeking to disturb me; he has brought no ejectment against me; he has not forced or threatened me with vengeance unless I surrender; but he comes to me with his money, and asks me, for so much money, to cancel these covenants and reconvey to him?"

That is precisely what we are doing with these Indians; no more, nor no less. We tell them, upon the face of the bill, that their rights shall be protected, but that if they see fit to reconvey we will enter into a new agreement with them. Who, then, can say that this bill is a violation of plighted faith and of public honor, and that it sets treaties at defiance? One treaty holds between the contracting powers until they see fit mutually to abrogate it, and no longer.

I come now to another point of the argument. I ask, is the Missouri Compromise a compact? The senator from Massachusetts [Mr. EVERETT] says it is, and that Mr. Webster so considered it. He says that Mr. Webster, on the 7th of March, 1850, made the following declaration:

"And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown—"

You see, Mr. Webster had an idea himself that it might be overthrown; but, according to the construction which the senator from Massachusetts gives to it, there was no possibility of overthrowing it; and Mr. Webster is thus made to use language which is absurd, and inapplicable in this connexion. Mr. Webster says that his position is, "that there is not at this moment within the United States a single foot of land, the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrepealable law beyond the power of the action of the government." The senator from Massachusetts interprets the language of his illustrious friend in a manner that hampers and contracts his genius, and does him, as I think, infinite injustice. The senator from Massachusetts says, "he meant, of course, to give to the Missouri restriction the character of a compact which the government, in good faith, could not repeal." I ask, could Mr. Webster, if he were living, or can his shade and his memory now, that he is dead, feel flattered by any such interpretations of his language? Sir, Mr. Webster filled my idea of a great man. He was a great lawyer, a great senator, a great Secretary of State, and in all the positions which he occupied while living, he was emphatically great. He had great thoughts and large ideas; and as he spoke, you could almost see them struggling with each other to find escape from his generating and prolific brain. They were heavy, ponderous, and solid; and wherever they fell, though on the hardest material, they seemed to make indentations; and as they found utterance from his lips, they were like "apples of gold," charming, delighting, and convincing all who heard them of their value. Such, sir, is my estimate of the great departed statesman. I know the senator from Massachusetts would not do his memory injustice; but does he not do it by the interpretation which he has given to his words? Did Mr. Webster suppose that the Missouri Compromise, an act of Congress, passed by our predecessors, was irrepealable by the power of this government? Never, never did Mr. Webster utter such an absurdity, or harbor such a thought or such a belief. Mr. Webster knew too well what a compact was, and what a law was, and what were their respective constituent parts.

A compact is an agreement between two or more persons, who can agree, and do agree, to abide by it, as a rule for their action, to do this, and to do that, and to do the other, for the non-performance of which a suit may be brought or enforced. Between individuals your domestic policy establishes a tribunal to which they may go for the violation or non-performance of a contract or compact. If a compact between nations has been violated, the *ultima ratio* is provided. There is an appeal to arms, the only court known to the laws of nations to which nations can appeal to enforce the penalty for non-compliance with compacts or contracts. What is a law, as contradistinguished from a compact? It is a command, an imperious order from the law-maker, commanding what is right, and forbidding that which is wrong. We sit here, and our predecessors have sat here, to make laws, not compacts and agreements. We command that this shall be or shall not be so. The people have delegated this authority to us for a given period, and they cannot resume it until that period is over. There is, then, no color of similarity between this law and a compact. If it be a compact, who were the contracting parties? Why, the North and the South, it is said. That is not so; for here we of the North and we of the South form but one government, with one President, with one Senate, with one House of Representatives; and we represent, as such, but one constituent body, and not two or three, coming together to harmonize, by compacts, our different rights. Mr. Webster, then, never intended to utter such an idea as that the Missouri Compromise, as it is called, was an irrepealable compact.

Then you may ask me what did Mr. Webster mean? for it is not to be presumed that a man of his great intellect would have used such an expression as that which the senator from Massachusetts quotes without some meaning. The interpretation which has been given to his words by the senator from Massachusetts I have shown to be utterly without foundation, and without reason. Then what did Mr. Webster mean? He meant to say that that higher law—not the law which the senator from New York [Mr. SEWARD] once spoke of, but that higher law which rules all our destinies and all manageable things—had irrevocably stamped upon this country that it should be free; had irrevocably fixed the bounds to which slavery might go, and those to which it could not go. That is what Mr. Webster meant to say; and that law to which he referred is certain and fixed. It is the law which the Almighty himself has laid down. It is, that the earth and its productions, or its power to produce particular productions—the climate, the latitude, the soil, the heat, and cold—shall determine the line of demarkation where slavery may or may not go. It is governed, and will be governed, by no arbitrary law.

New England to-day would have had as many slaves as South Carolina or Alabama has if cotton or rice grew there as readily and as profitably as at the South. Cupidity, and not philanthropy, has dictated the course which the North has pursued in reference to this matter. All your squeamishness, all your sickly sympathy for the blacks, which the few sentimentalists of the North have had, would have given way, and been submerged forever, if slave labor could have been profitably employed in the North.

Sir, the Missouri Compromise was an original act of legislation, which, perhaps, befitted the time. My predecessors had the right to make their laws. I am now on the stage, and I shall exercise my judgment and my right, so far as my voice and my vote may go. The question is, does that law suit me now? I will not presume to say that in the exigencies of the country at that time it was not proper for the occasion. No doubt those who framed it thought it was proper, appropriate, and right. It is not for me to say whether it will suit in all time to come. It is not for me to say whether it will suit my son, if ever he shall be honored with a seat in the national councils thirty years hence, when he shall have attained my age. I do not pretend by my action to bind him. I act for the present generation, and judge for myself, and for those for whom I am deputed to act.

Mr. President, I come now to a question which, but for one thing personal to myself, I might, perhaps, have passed over entirely in this argument; and that is, the question of the power of Congress over the Territories. I am glad that the venerable senator from Michigan [Mr. CASS] is in his seat, for I shall be compelled to turn to and review some remarks which were made by him in 1850. The question is, have Congress power to legislate upon this and upon all other subjects in the Territories? My doctrine has uniformly been that we have the power; and, in my opinion, there can be no doubt at all about it. To say that we have not the power is to deny and falsify the very first principle of acquisition. Reason tells us that he who acquires, either by force or by purchase, may, and of right must, govern his acquisition. The power exists beyond a doubt.

But the senator from Michigan did me the great honor, while I was a private citizen in private life, to refer to me in not very complimentary terms in 1850. On the 21st and 22d days of January of that year, when I was entirely out of public life, with no public employment, with no engagements here, but when I was at a distance of a thousand miles from this place, that senator, in undertaking to maintain his position that there is no power in Congress to legislate over the Territories, constituted himself a catechist, and me a catechumen. By chance I found his speech. I came across it, and I read it. Prior to that time I had never an aspiration, and never an idea, that I should reach the political elevation by which the senator himself was honored with a seat on this floor; but when I found myself thus catechised, thus attacked, and, I may say, thus attempted to be ridiculed, I hailed it as my star of destiny. From that moment I never had a doubt that the senator and myself would live to meet face to face here, and that I should have the gratifying opportunity of answering the questions which he put to me. Sir, I knew that destiny had provided that for me. I never doubted it. I never hesitated in my path. I knew that so soon as a vacancy should happen from my State in the Senate of the United States, I should be sent here, and that the senator could not die and depart this life until that time.

Before I proceed to read from the senator's speech, allow me to preface by stating that his position is that there is no power in this government over the Territories, and, having once stated it, he must adhere to it. Doctor Sangrado-like, he has written a book, and though his prescriptions and his practice kill everybody, he still must adhere to them, because he has written a book. I might, perhaps, compare the senator's course to that of a witness of whom a story is told. It is said that, by accident, in describing a horse in court, a witness swore that he was sixteen feet high instead of sixteen hands high. Being reminded of his error, but being assured that he had sworn the horse was sixteen feet high, he said he was no changeling, and what he had sworn to once he would swear to again. [Laughter.] So, I think, the senator is on this question. Now, then, to the extracts. The senator said:

"And a member of this body, high in character as a jurist and as a statesman, has characterized the difference between the power to institute governments in the Territories and the power of unlimited congressional legislation over them, as a bundle of absurdities!"

I take great pleasure in saying that I cordially endorse that sentiment. But here I beg senators to take a distinction between power and the exercise of power. You have the conqueror's rights and powers over conquered territory, but it may not always be the part of wisdom to exercise them. You have the power to build this mighty temple, this Capitol of ours, and to line it with gold, if you will; but would it be the part of wisdom, or of prudence, or propriety, to do so? The senator proceeds:

"While a representative from Indiana, in the neighboring hall, with a courage that almost redeems him from the censure"—

from the infamy, he might as well have said—

"which such a sentiment cannot but inspire in an American breast, says 'that this government could establish a despotism in any of its Territories, beyond a doubt; this government could sell them into slavery, if it pleased!'"

The senator quotes the language which I used in answer to an inquiry from a man—I hardly know how to describe him—Mr. Venable, of North Carolina. The senator continues:

"But with commendable charity"—

he is taking it off a little now—

"he provides a specific for the wound he inflicts, by assuring us there is no danger. It would be preposterous to suppose there was, for there is a great difference between the possession and the exercise of power."

He quotes what I said when a member of the House, and continues:

"Where he learned this lesson, that there is no danger of the abuse of power, I profess my inability to tell. It is a doctrine better suited to the Neva than to the Wabash."

Sir, let me say to that senator that the Wabash is a large, pellucid, and unruffled stream. In its neighborhood there are large prairies, extending further than the eye can reach. There are the large, gigantic mountain or hill oaks, which have for centuries bid defiance to the storms of heaven. There are large plantations, and all things are built upon a large scale. It would not be strange, then, thus surrounded, that the Wabash should have an inhabitant with large, enlightened, and improved ideas. Sir, the people in the valley of the Wabash gaze upon nature in all its largest developments; and it would be strange if nature there did not produce one son corresponding to her external developments. Physically she has produced one [laughter] fully as large as the one produced in Michigan. [Renewed laughter.] But, sir, I pass to another part of the senator's speech:

"It is not necessary to make extracts from various speeches to show how prevalent is this opinion of the omnipotent power of Congress over the Territories."

No; for all men who had ever studied or reasoned upon the subject, and had not, Sangrado-like, been committed to his doctrine and theory, would at once have yielded. There was a uniformity, the senator admits, in the opinion. He proceeds:

"I have already referred to the declaration that they may be sold into slavery;"

That is what I said, and I will establish it before I am through, if I have not done it already—

—"and though this position is the legitimate consequence of the doctrine of unlimited jurisdiction, still there are few who would thus boldly follow it to its just conclusion."

Yes, sir, it is a "just conclusion," and I am bold enough to speak the truth, and the convictions of my judgment, anywhere and everywhere.

"There is, however, so little diversity of views upon the question itself, that nothing would be gained by reference to individual speakers, where the general deductions are the same."

Yes, sir, the general deductions of learning, and prudence, and reason, in the absence of Sangrados, committed upon the subject, are the same, and there can be no diversity of opinion upon it.

The senator also quotes from my speech a sentence which he considers as very objectionable. It was this. I said:

"The government of the United States was a trustee, for the great purpose of maturing the growth of a State, and that the citizens of the United States were the *cestui que trust*."

Is it objectionable, in form or in substance, to say that the government of the United States is the trustee of all this property, and that the people of the United States are the *cestui que trust*, for whose benefit the trust is held? It seems to me not. But, sir, as to the power of the *cestui que trust*, the power of the people in these Territories, when or where did you ever learn that the *cestui que trust* could lay his hand upon the trust fund and handle it until he had attained his majority? It is always subject to the control of the trustee, particularly when there is a provision that he shall make all "needful rules and regulations" for its government. The *cestui que trust* has no power over the fund; the trustee alone controls it.

The senator further said in regard to me:

"A member of the other House, whose zeal certainly outstripped his discretion when he said, in quoting his previous opinions, that 'he had egotism enough to believe his as good as any other authority,' and in doing so 'that he but follow