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THE COUNTRY DOLLAR.

A WEEKLY PAPER: DEVOTED TO LITERATURE, AGRICULTURE, MORALITY, AND FOREIGN AND DOMESTIC INTELLIGENCE.

Volume I. **Clearfield, Pa., July 26, 1850.** **Number 52.**

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SPEECH OF THADEUS STEVENS OF PENNSYLVANIA, ON THE CALIFORNIA QUESTION,

Made in the House of Representatives, Night Sessions, June 10, 1850.

Mr. CHAIRMAN: How far Congress can legislate for the Territories, and admit new States into the Union, has been a matter of grave discussion.

The power, to admit new States is expressly given by the Constitution. But the extent of that power is by no means settled. In my judgment, it refers only to new States formed out of territory previously belonging to the nation. Such was the opinion of Mr. Jefferson, and I have never seen it successfully contraverted. Clearly that clause conferred no diplomatic powers on Congress. Consequently, Congress could not enter into negotiation with foreign Powers; for that would be an act of diplomacy. The right to admit foreign independent nations into the Confederacy is nowhere given to Congress, either by direct grant, or necessary implication. I do not believe it to exist anywhere, except with the treaty making power. This question will probably be seriously considered and finally decided, when Texas comes to subdivide her territory into States, and claim their admission into the Union, if that unfortunate event should ever happen.

The right of Congress, and the extent of that right, to legislate for the territories, has become a question of fierce discussion by the ablest minds of the nation.—

For sixty years and upwards, after the passage of the Ordinance of 1787 and the adoption of the Constitution, no one seriously doubted the right of Congress to control the whole legislation of Territories—to establish Territorial Governments; create courts; fix the tenure of the Judges and other officers—in short to exercise all acts of municipal as well as political legislation. For sixty years, all that authority has been exercised over the Northwestern Territory, the Southwestern Territory, over Louisana, Florida, and Oregon. In the mean time, the question had been definately and conclusively settled by all branches of the Government—by Presidents, by Congresses, by repeated decisions of the Supreme Court of the United States. Elementary writers, Story, Rawle, and others, had so laid down the law.

It is only since our dismemberment of the Mexican Empire, that this question has been opened, and found able and apparently sincere statesmen totally to deny the power.

Those who half a century hence, shall be led to examine the archieves of the nation, will naturally enquire what new light had been shed on this subject; what new event had happened to disturb this well-settled opinion. It may possible be found, that even in this free and enligtened Republic, men, statesmen an demagogues, were actuated by the same cupidity, lust of power and office, which governed the people of the old and corrupt nations of the world. That an independent nation, without treaty and without warrant in the Constitution, by the mere act of Congress, was corruptly admitted into this confederacy for the avowed purpose of extending the dominion of slavery; and that California and New Mexico were acquired for the same object. But that it was found that Congress, unexpectedly to the South, determined to exclude slavery from them; and had actually passed a bill for that purpose, through the House of Representatives; and it was lost in the Senate only for want of time. Then Southern statesmen discovered that the only chance they had of carrying out their original design, was to deny the power of Congress to pass such a law. They abandoned the position sanctioned by themselves, and by the prescription of fifty years, and boldly assumed this new attitude.

But to be successful, they must bring Northern aid to this new doctrine. They put in requisition the means which before had always availed them—the political weight of Slavery. A Presidential election was approaching. He alone, who was willing to receive this new light, and surrender his conscience to its illumination, could receive their support. Among the most prominent of the Aspirants to that high office was a gentleman of distinguished talents, of great scientific and legal attainments, who had reached the mature age of nearly three score years and ten. He was particularly versed in the Constitution and laws which regulate the Territories. He had grown up with them. He had filled several ofices, and among them the highest in Territorial Governments established by Congress.—He acknowledged the exclusive power of Congress over them, and its power to exclude slavery from them. He was prepared to vote for the Wilmot Proviso, and expressed great regret that he was deprived of the opportunity, by a debate which was protracted to the end of the session of 1846. There seems but little hope, that his judgement thus matured, his opinion formed with care, and consolidated by the action of a long life, could ever be so changed as to entitle him Southern support. But miriacles ha not ceased in the moral, whatev may be the case in the physic world. Southern alchemy was applie straightway a shaking was seen amo the dry bones, and he stood up regen ated, illuminated, and transformed. scales fell from his ancient eyes, and saw bright visions. He now denies Congress the least power over the Te tories. To vindicate, not his consiste for that is hopeless, but his honesty has devoted thirty odd mortal pages a speech to show the error indulged for the last sixty years, by Congre by Presidents, by Supreme Courts, constitutional writers, and by himself.

I shall not attempt to follow his lab argument, especially as very few o Southern allies now endorse it. however, must feel sincere regret th changed his opinions under such pe circumstances.

My opinion as to the extent of the er of Congress in legislating for the tories differs somewhat from those admit the general and exclusive pow

The Supreme Court, the ultimate ter fixed by the People *finally* to all questions arising under the C tution and laws of Congress, have, peated decisions, derived the ex power of Congress to legislate for th ritories from the clause in the C tion which says—"*The Congress shall have power to dispose of and make needful rules and regulations resp the Territory and other property be longing to the United States.*"

I do not suppose that any bra of this Government is at liberty pro to disregard these decisions. It w as improper in the President, Cong or any other functionary of the Gov nt as it would be in an individual. m it would be a misdemeanor. If re now an open question, I should be to rest it wholly on that part of the stitution. There is much weigh argument that "*Territory*" is used singular number, and coupled the phrase "*or other property belonging the United States.*" It seems to have been intended to apply to a single tory and the Government property.— At the adoption of the Constitution the United States owned but one tory (the Northwestern.) Nor did Constitution provide for the acquisi of any other. Clearly, no such pow given to Congress, either expressly necessary implication. It is to be d it exists anywhere in the Government in the treaty-making power alone. The Supreme Court have fortified the opinion of the power of Congress over Territories, as the consequence of right to acquire by treaty. If I were allowed to indulge my own judgment should place the right of Congress legislate for the Territories acquired from foreign nations *wholly* in the consequences resulting from the right of acquisi

Our Constitution places the legislative power in Congres. Consequently, Congress has exclusive power over the Territories newly acquired. The Constitution itself does not extend to them, and can have no influence upon them except so far as it creates and defines the legislative organ of the sovorignty of the nation. None of the officers of the Territories held by a constitutional tenure.—No law of the United States was ever supposed to be extended by of the Territories by the mere force of the Constitution. The provision for the return of fugitive slaves does not extend to the Territories. Any slave escaping or being taken into New Mexico or California, would be instantly free. Hence the act of 1763, express provision the subject was made with regard to the Territories which we then had.

It follows that Congress alone has the power to legislate for the Territories; and that any action by the inhabitants in forming Governments for themselves, until authorized by Congress, irregular, and as is justly argued by the gentleman from Virginia, [Mr. Seddon,] and other Southern gentlemen, mere usurpation. I do not think, however, it is such usurpation as is to be treated as criminal; but may be either sanctioned, or disallowed, as Congress may deem most conducive to the general welfare.

But it is contended, that although Congress is exclusive, it has not unlimited, jurisdiction. That it may and is bound to legislate to protect slavery, but cannot prohibit it.

A distinguished Senator from Kentucky [Mr. Clay,] controverts this doctrine, and holds that Congress can abolish, prohibit, or *establish* slavery in the Territories.

I cannot agree to either of these propositions. In support of the first, it is argued that the prohibitation of slavery would violate the provision of the Constitution which says that "The citizens of each State shall be entitled to all the privileges an immunities of citizens of the several States." I can see no force in the argument. This article simply provides that the law shall not discriminate between citizens of the several States.—Now, a law which prohibits *every* person from holding slaves in the Territories, does not discriminate, but grants to all equal "privileges" and „immunities."

But such law is said to be partial, because a portion of our citizens cannot take their property with them. This is not true in point of fact. Every man may take his property, conforming to the local law when he gets there. If any of them possess property which by the law of nature or of man would be worthless, of course he will leave it behind. A large capital, in Pennsylvania, is invested in stock, tools, and implements for smelting and manufacturing iron. If it turns out, as I believe is likely to be the fact, that most of our newly-acquired territory has neither coal nor iron, what right had the General Government to expend the common treasure to purchase territory to which the Pennsylvania iron masters could not take their property without rendering it worthless? The argument is quite as cogent, and more just, than that used by the Slaveholder.

The only fair inquiry is, do the same laws operate on all, without regard to the quantity or quality of their property, or the section from whence they come?

But it is said that such a law would violate the rights of the slaveholder, by depriving him of his property—his vested rights.

To divest him of property in slaves in free Territories, it must be first shown that he has such property. It is a principle of the common law, quite as sacred as the doctrine of sacred rights, that by the *general* law man is not the subject of property; that he can be held in bondage only by express local law; and that, wherever the slave is beyond the jurisdiction of such local law, no matter how he gets there, he is free. This has never been doubted since the celebrated decision by Lord Mansfield, in the case of the negro Summersett. Nor does it make any difference whether the slave jurisdiction and the free jurisdiction belong to the same or different Governments. By the *common law*, if a slave escapes from a slave State into a free State, he is free.—That principle of the common law, however, is prevented from operating in the States by a clause in the Constitution. But it is in full force in territories, to which that provision does not extend. The master, therefore, who takes his slave into free Territories, has no vested rights or property in him which can be impaired.—The slave becomes a man, and has a vested and inalienable right to liberty.

While it is thus found that Congress has the right to prohibit and abolish slavery in the Territories, it does not follow that it has the power to *establish* it.

I admit that Congress has all legislative power over the Territories necessary for the legislation in free Government, except when expressly restrained by the provisions of the Constitution, or the fundamental principles of the Government.—It is not bound by any article which reserves to the States powers not expressly granted to the United States.

When I ventured the time since to give my opinion freely the real condition and evils of slavery expected to be assailed by the defenders of the institution. While that great the institution, and most fearless, of all most honest, who was striken down statesmen, Hall, was, almost unaided, in this man rights, and denouncing hu- ding slavery, we saw him from horrors the object of the bitterest persecution year in this House, and by the slave-holders everywhere. No motives were too evil to impute to him; no crimes to attribute charge upon him. It was sought to him from this body; and it was pilted only by his own gallant defence from the King that sat on the throne to the Sir, I trust that it will not be supposed captive in the dungeon. that I have the vanity to expect to Aside from the principle of Eternal touched by any of the rays of that glory, I will never consent to the admis- which will forever surround his name, of another slave State into the Union, account of the calumnies, the insults, and bound to do so by some constitu- the persecutions, which he endured in compact, and I know of none such,) this high and holy cause. But if I could unt of the injustice of slave repre- indulge such hopes, gentlemen from the By the Constitution, not only South, and those from the North who are now in the Union, but all that no gentlemen, are kindly contributing to after be admitted, are entitled to my ambitious aspirations. My late speech five slaves represented in Congress, has been deemed of sufficient importance white counted equal to three to attract attention, not to it, but to its States. This is unjust to the free author. Sir, our acts and our remarks tation in allow them a represen- here are legitimate subjects of comment and propo- pound ratio of and rigid examination; and when any tlemen of twenty-fifth humble effort of mine shall receive such the repre- viz: John (part) notice in the only way which gentlemen not one will pursue, it will give me pleasure to rage of retract what I am convinced is wrong, which and calmly to defend the rest, however severe may be the criticism.

I do not remember of June last ore township, M- ous gentlemen w- (brother remarks, who of the facts, ments, ir loss vituperat there ca willing to p blackguar I will lea lingsgat worthy Virginia, 1850. of S

and all that tribe. With them I have no controversy. When I want to combat with such oponents and such weapons, I can find them any day by entering the fish market, without defiling this Hall.

I beg those respectable fish-ladies, however, to understand that I do not include my colleague from Bucks county among those whom I deem fit to be their associates. I would not so degrade them.

There is in the natural world, a litle, spotted contemptible animal, which is armed by nature with a foetid, volatile, penetrating *virus*, which so pollutes whoever attacks it, as to make him offensive to himself and all around him for a long time. Indeed, he is almost incapable of purification. Nothing, sir, no insult shall provoke me to crush so filthy a beast!

Sir, I am not satisfied that this is the fact. I will send to the Clerk, and ask him to read a law of Virginia, enacted more than fifty years before this agitation began. It is to be found in the 6th volume of Hennings's statutes at Large of Virginia, published in 1819, "pursuant to an act of the General Assembly of Virginia, passed on the 5th day of February, 1808."

Sec. xxiv. "And that when any slave shall be notoriously guilty of going at road in the night, or running away and laying out, and cannot be retained from such disorderly courses by common methods of punishment, it shall be lawful for the county Court, upon complaint and proof thereof to them made by the owner of such slave, to order and direct such punishment by *dismembering*, or any other way not touching life, as the Court shall think fit. And if such slave shall die by means of such dismembering, no forfeiture or punishment shall be thereby incurred."

I have had that law read, to see if any gentleman can turn me to any more cruel laws passed since the "agitation." I did not read it myself, though found on the pages of Old Virginia's law books, lest it should make the modest gentleman from Virginia [Mr. Millson] and the gentleman from North Carolinia [Mr. Stanley] and his gray-headed negro blush!

[Mr. Bayly of Virginia. That law is repealed, or not now in force.]

Mr. Stevens. Than I am glad that the agitation has produced some amelioration of your laws, although I still find it in your statute books.*

But suppose it were truet tha the masters had become more severe; has it not been so with tyrants of every age? The nearer the oppressed is to freedom, and the more hopeful his struggles, the tighter the master rivets his chains. Moses and Aaron urged the emancipation of the enslaved Jews. Their master hardened his heart. Those fanatical abolitionists, guided by Heaven, agitated anew. Pharoah increased the burden of the slaves. He required the same quantity of brick from them without straw, as when the straw had been found them. They were seen dispersed and wandering to gather stubble to make out their task. They failed, and were beaten with stripes. Moses was their worst enemy, according to these philanthropic gentlemen. Did the Lord think so, and command him to desist, lest he should injure them? No; he directed him to agitate again, and demand the abolition of every slavery from the King himself. That great slaveholder still hardened his heart, and refused. The Lord visited them with successive plagues—lice, frogs, locusts, thick darkness—until, as the agitation grew higher, and the chains were tighter drawn, he smote the first-born of every house in Egypt; nor did the slaveholder relax the grasp on his victims until there was wailing throughout the whole land, over one dead in every family, from the King that sat on the throne to the captive in the dungeon.

By the Constitution, not only ma- now in the Union, but all that hav- after be admitted, are entitled to five slaves represented in Congress, white counted equal to three States. This is unjust to the free tation in allow them a represen- and propo- pound ratio of (part) tlemen of twenty-fifth the repre- viz: John (part) not one Joseph rage of which

anti-slavery doctrines, or who had active friends that were. This power was notoriously and successfully brought to bear, several years since, against a distinguished and worthy gentleman, who was nominated to an office far below his merits, because he had spoken evil of the "dark spirit of slavery." Thus are Northern men held in duress!

This power *demands* from Congress "compromises" which shall increase its influence. Sir, this word "compromise," when applied to human rights, I abhor.—We are not asked, but *commanded*, to compromise away the Constitution. It is well known that, when Congress assembled here, a large majority of its members, as well as a large majority of the people, were in favor of prohibiting slavery in all the Territories, and admitting no new slave States into the Union. It is a vital principle of the Constitution, that the will of a majority shall govern. But terror, treason and threats are used to compel the majority to yield to a turbulent minority. The violence of passion, the recklessness of ambition, and the corruption of party, are all used to bring about this "compromise" of constitutional right. He who regards his oath to support the Constitution cannot thus surrender.

But it is proposed to propitiate Virginia by giving her $200,000,000 out of the public treasury, the proceeds of the public lands. If this sum were to be given for the purpose of purchasing the freedom of her slaves, large as it is, it should have my hearty support. It is, I think, at least fifty millions more than would pay for them all at a fair market price. But it is designed for no purpose of emancipation. The cool-headed, cool-hearted, philosophic author had no such "transcendental" object. It is to be specifically appropriated to exile he rfree people of color, and transport them from the land of their birth to the land of the stranger! Sir, this is a proposition not "fit to be made."

[Mr. Averett of Virginia here asked, Did not New England sell slaves?]

Mr. Stevens. Yes, she sold, she imported slaves; she was very wicked, she has long since repented. Go ye and do likewise.

It is my purpose nowhere in these remarks to make personal reproaches; I entertain no ill-will towards any human being; nor any brute, that I know of, not even the skunk across the way to which I referred. Least of all would I reproach the South. I honor her courage and fidelity. Even in a bad, a wicked cause, she shows a united front. *All* her sons are faithful to the cause of human bondage, because it is *their* cause. But the North—the poor, timid, mercenary, drivelling North—has no such united defenders of her cause, although it is the cause of human liberty. None of the bright lights of the nation shine upon her section. Even her own great men have turned her accusers. She is the victim of *low* ambition—an ambition which prefers self to country, personal aggrandizement to the high cause of human liberty. She is offered up a sacrifice to propitiate Southern tyranny—to conciliate Southern treason.

We are told that she has not done her duty in restoriug fugitive slaves, and that more stringent laws must be passed to secure that object. A distinguished Senator from Kentucky [Mr. Clay] says it is the duty, not only of officers in the free States, but of all the people who happen to be present, to give active aid to the slave-owner to run down, arrest, and restore the man who is fleeing from slavery. An Equally distinguished Senator from Massachusetts [Mr. Webster] unites with him in denouncing the aggressions of the North in this particular; and they both declare their determination to vote for the bill, with its amendments, now on file, and which has become a part of the "compromise."

An amendment proposed by the Committee of Thirteen provides, that the claimant may make out his case to the alleged fugitive, proving his assertion and absconding; and, on proof which they before the High Court of Justice at the very postmasters, it shall be evidence. *Many saved is the*

Pennsville, July 1st, 1850.

Dissolution of Partnership.

THE partnership heretofore existing between Wann & Willhelm, is dissolved by mutual consent. The books are in the hands of Wann, all those that have

dealer is evidence of slavery, which cannot be gainsaid. The slave-hunter may bring his post-master judge, as well as his proof, with him; for the law gives jurisdiction not only to one residing but *being* in the State where the arrest is made.—Behold this court and jury to pass on human liberty!—an overseer, with a power of attorney; the affidavit of a professional slave-hunter; an itinerant postmaster from Virginia signing judgment in a bar-room; the defendant, a hand-cuffed negro, without counsel, witnesses, or judge. Verily, a second Daniel has come to judgment.

A decree thus obtained, without a jury to pass on the facts, is to conclude the rights of man, and silence the law.

The distinguished Senator from Kentucky [Mr. Clay] wishes further to make it the duty of all by-standers to aid in the capture of fugitives; to join the chase and run down the prey. This is asking more than my constituents will ever grant.—They will strictly abide by the Constitution. The slaveholder may pursue his slave among them with his own foreign myrmidons, unmolested, except by their frowning scorn. But no law that tyranny can pass will ever induce them to join the hue and cry after the trembling wretch who has escaped from unjust bondage.—Their fair land, made by nature and their own honest toil as fertile and as the vale of Tampe, shall never become the hunting grounds on which the blood-hounds of Slavery shall course their prey, and command them to join the hunt.

Sir, this tribunal would be more odious than the Star Chamber—these officers more hateful than the Familiars of the Inquisition.

Can the free North stand this? Can New England stand it? Can Massachusetts stand it? If she can, she has but one step further to take in degradation, and that is to deliver her own sons in chains to Southern masters! What would the bold Barons of Runnymede have said to such defenders of Liberty? What would the advocates of English freedom, at any time, have said to those who would strike down the writ of *habeas corpus* and the right of trial by jury, those vital principles of *Magna Charta* and the Bill of Rights? They would have driven them forth as enemies in disguise.

Sir, so long as man is vain and fallible; so long as great men have like passions with others, and, as in republics, are surrounded with stronger temptations, it were better for themselves if their fame acquired no inordinate height, until the grave had precluded error. The errors of obscure men die with them, and cast no shame on their posterity. How different with the Great!

How much better had it been for Lord Bacon, that greatest of human intellects, had he never, during his life, acquired glory, and risen to high honors in the State, than to be degraded from them by the judgment of his peers. How much better for him and his, had he lived and died and unknown, than to be branded through all future time as the

"Wisest, brightest, meanest of mankind."

So now, in this crisis of the fate of liberty, if any of the renowned men of this nation should betray her cause, it were better that they had been unknown to fame. It need not be hoped that the brightness of their past glory will dazzle the eyes of posterity, or illumine the pages of impartial history. A few of its rays may still linger on a fading sky; but they will soon be whelmed in the blackness of darkness. For unless progressive civilization, and the increasing love of freedom throughout the Christian and civilized world, are fallacious, the SUN of LIBERTY, of *universal* liberty, is already above the horizon, and fast coursing to his meridian splendor, when no advocate of slavery, no apologist of slavery, can look upon his face and live

Texas and New Mexico.

Galveston papers of the 25th ult. have been received at New Orleans. Nothing is said in them about the marching of troops to Santa Fe. A spirited had been held in Austin, at Justice Hemphill presid