

AMERICAN CITIZEN.

"Let us have Faith that Right makes Might; and in that Faith let us, to the end, dare to do our duty as we understand it"—A. LINCOLN.

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The Safeguards of Personal Liberty BY HON. WM. D. KELLEY.

LADIES AND GENTLEMEN:

The presence of such an audience as this in this hall is an unmistakable proof of the interest the people of Philadelphia take in the subject proposed to be discussed this evening—"The Safeguards of Personal Liberty." Certainly no voice familiar as mine is to the people of Philadelphia could, under ordinary circumstances, have attracted such an audience in such a season. It is well that the people are awake to the importance of this subject, for our generation stands confronting the great problem of the just organization of Government for a million of square miles of territory and for countless hundreds of millions of happy or miserable people.

The Emperor of the French opens his biography of Caesar with that brief sentence from Montesquieu, which every American should read and ponder, and accept as a governing maxim in these times:—"In the birth of societies it is the chiefs of the republics who form the institution, and in the sequel it is the institution which forms the chiefs of the republic." It is for us, the existing generation; it is for us, perhaps, before the next bill of mortality shall be footed up, to determine what shall be the character of the political institutions of the broad territory I have indicated. We are to determine whether they shall be malevolent or beneficent,—we, the people of the States of the Union, whose Governments have not been disorganized or overthrown, and whose presence has ever been felt in the councils of the nation. Ours is Government of co-ordinate departments, and the people are the direct source of the legislative department.

We have just closed a great war,—a war, the magnitude of which has changed the phraseology of history. When, as Americans, you read the phrase "The Revolutionary War," you at once recur to the war of 1775. When, previously to the recent fearful contest, you read the phrase "The Great Rebellion," you think of the English Rebellion, and of the American Revolution; but when men shall hereafter read of the Great Rebellion, they will forget that there was such an island as England, and think only of that Rebellion which opened graves to nearly a million of American soldiers, and which cemented by the blood of the slain the grandest fabric of Government ever given to man. (Applause.)

We have closed this war gloriously.—The graves of nearly half a million of our brave soldiers attest the valor, patriotism and endurance of the unassuming people of the North. The graves of nearly as many Rebels certify in equal degree to the valor of the American people. Our position as a military power is established. Throw together a statement of the resources exhibited by the North and South, and lay it upon the table of a council of kings and emperors, and ask them whether with all the power and wealth of Europe they can propose to put upon the shores of America like results, and they will answer "No." We have demonstrated to the nations that the world combined against us may not, by war, disturb essentially the currents of our life. (Applause.) Henceforth internal discord is the sole cause of dread to the American statesman and people; and we may go on through centuries realizing the Utopian dreams of More, if we will but be true to the great principles that underlie our institutions and should regulate the administration of our Government.

Having closed this war thus satisfactorily, we are entering upon the threshold of another—a war of ideas—which involves all the consequences for which so much blood and treasure have been expended. It is for us to say, peacefully, quietly, in the halls of legislation, in the Executive Chamber, from the judicial bench, and when the people assemble in their majesty, to express by the silent ballot their opinions, whether we shall have the full results of our sacrifices and achievements; whether we, in our own proper persons, shall enjoy them, or whether they shall possibly never be realized, or be attained only by distant generations after long periods of strife and agitation, and, perhaps, of war. The contest in which we are now engaged is more difficult than that from which we have thus come with banners streaming in glory. Our enemy in that contest was known; his uniform was of a different color from that worn by the national soldier; the standard under which he fought did not bear the Stars and Stripes which our fathers knew and which we so cherish. We saw that he was armed with deadly weapons, and using them for our destruction. When he came stealthily upon our soil, it was to burn our villages. Some

doubted, but more believed, that his hand was engaged in endeavors to fire our cities, to disseminate pestilential disease, to poison the fountain from which drinking water flowed to the babe, the aged, the sick. We knew that we were grappling with a deadly enemy in physical strife, and that it was a contest in which one or the other must conquer,—in which we must vindicate our right to live and govern ourselves, or, with the black man, submit to be governed by an oligarchy that knew no law but his own will and lusts. (Applause.)

The enemy with whom we now contend is more subtle. His purposes and weapons are concealed; his strong fortresses are in our own midst; his weapons are already piercing our hearts, and his chains binding our limbs. The enemy that we are grappling with is *pride of race, unchristian and anti-republican prejudices against all races of men save our own.* (Applause.) He sits enthroned in our Northern hearts. He controls our action every hour of the day in every street of Philadelphia; and if we cannot conquer him, we cannot maintain our own freedom, or transmit the real safeguards of personal liberty to our immediate posterity. (Applause.) The struggle will be fearful, if it be true that he that giveth his spirit is better than he that taketh a city.

"But," you ask, "what are the safeguards of personal liberty?" Let me tell you first what they are not, and, in doing so, shock your settled convictions. I know what worshippers of the compromises of the Constitution we have been.—I know how, in order to save the Constitution and the Union, we have gone on from 1820 to 1860, a period of forty years, abandoning every principle we held dear, abandoning our manhood, abandoning the safeguards of our own personal liberty.—I know how cherished the letter of the Constitution is, and I do not mean to disparage its value as a frame of government when I say, broadly and with emphasis, that the safeguards of personal liberty are not found in laws and constitutions,—are not found in legislative or constitutional provisions. These in themselves, as safeguards to personal liberty, are idle as the summer breeze or the fantasy of the fevered brain. Do you ask me whether I mean to say that statesmen and philosophers have been wrong in claiming that it is important that constitutions should guarantee liberty, and that laws should be wise, humane and preservative of the rights of individuals? No; I mean to say that these give expression merely to prevailing sentiment; that they are the means by which you may occasionally enforce an invaded right, but that they do not guarantee the enjoyment of rights. Let me, in the most familiar way, illustrate the truth of these propositions.

In every State and every county of the United States, there is a law against riot,—a law enforced by peculiar penalties; for it punishes not only the convicted rioter, but also the tax-paying people of a city or county in which a destructive riot is permitted to occur. It not only requires every citizen to abstain from acts of riot, but if they see a riot threatening, and fail to rally to the assistance of the authorities, or prevent or suppress it, and blocks of stores be burned and millions of dollars worth of property destroyed, it taxes each and every one to reimburse the sufferer. One might suppose, therefore, that in no community would there be any destruction of property by riot.

But constitutions are more sacred than laws, and I turn to the Constitution of the United States and those of every State in the Union. We all remember that they cherish and guard as precious above all things, save human life, the freedom of speech and of the press, and the right of the people peaceably to assemble, to discuss their grievances and petition for redress. (This is not peculiar to any State; it stands out prominent, pre-eminent, in the Constitution of every State.) Again, we find that the Constitution of the United States provides specifically that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Let me illustrate the importance of this provision, and show how large a personal interest every citizen of the country has in the republican character of each State Government. We are all well known Pennsylvanians. We may have been born in any other State of the Union or in a foreign land; but if, having been born or naturalized in another, we have lived in this State one year with the intention of making it our residence, or if, having been born in a foreign land, we have, after five years' residence, been "naturalized" here, we are Pennsylvanians. Yet, under the clause of the Constitution of the United States referred to, we may be, at

the end of one or two years, as may be provided by the Constitutions of the respective States, each one a citizen of some other State; that is, by virtue of our citizenship here we have a right to emigrate to any other State, and, by the lapse of the time (one or two years at most) fixed by the Constitution of that State, will be invested, not by specific act, but by the mere lapse of time, with citizenship in that State. And in the interim we are constitutionally entitled to the fullest protection of its laws.

Now, let me challenge your memories. I shall not attempt to startle you with any new facts. I have not been exploring classic or ancient history for illustrations of my views. I am going to appeal to the recollections of this generation, and to events that have happened within general notoriety and our own observation.—I begin first with the city of Boston. I was there in that period of transition when passing from youth to manhood.—A native of Philadelphia, I had gone counter to the general current of American emigration, and sought employment in New England, instead of upon the broad fields of the West.

I remember to have seen, while in that city, a large assemblage of the wealthy, intelligent and enterprising business men of Boston, in front of a small printing-office. I saw them take down by violence the sign from the front of it, and direct afterwards bring from the office a pale, calm-looking man; and when they were about to perpetrate violence upon him, two rough men, in their shirt sleeves, pressed through the throng of merchants and other well-dressed gentlemen, and carried him safely away. To what place? To one of the public buildings near by,—the old State House. Some time afterwards I saw a carriage drive up, the police gather around, and Theodore Tilton, the Mayor of the city, with his baton of office, put that pale, thoughtful man, William Lloyd Garrison,—for it was he,—into the carriage, and hurry to Leverett Street jail, that its thick walls and iron bars might protect him from a riotous mob of the intelligent, enterprising, wealthy people of Boston.

And what crime did they allege against him? "Why, this man," said they, "will think, and still worse, will, in accordance with the Constitution of the State of Massachusetts and that of the United States, say and print what he thinks,—the vile rascal!" I witnessed the sight. His only crime was that he stood by the cardinal text and the underlying principle of the Constitution of Massachusetts and that of the United States, and exercised a freeman's right to think and speak; and for that he went to prison; while the flagrant and well-known violators of the law went peaceably home to dine.

But again, in that year, the sovereign State of Georgia, by the deliberate and unanimous action of both branches of its Legislature, passed a bill, which met the approval of the Governor of the State; and it is printed in its statutes, offering a reward of \$5000 to the man who would bring the body of that same William Lloyd Garrison, dead or alive, into the State of Georgia. For what? Because he had ever violated a law of Georgia? Not at all. He had never been there; he had never been south of Baltimore. It was because in the distant—according to Southern doctrine, sovereign—State of Massachusetts, he would stand by the seminal principle of the Constitution of the States of Georgia and Massachusetts and the United States of America; in other words, he would vindicate the right of the citizen to think and speak freely, and the right of the people to assemble peaceably and petition for redress of grievance. I do not think that William Lloyd Garrison, or the rights he vindicated, found adequate safeguards in legal or constitutional provisions.

Let us come now to a period a little later. In 1838, having met with an accident which disabled me from the pursuit of my business, I returned to Philadelphia, to the land of William Penn, the City of Brotherly Love. Let me remark, my friends, in passing, that as Americans owing supreme allegiance to the Constitution of the United States, our highest pride should be that we are Americans; but we are for the time being Pennsylvanians, and as "one star differeth from another in glory, and a citizen may feel his cheek glow with pride or blush with shame as he reviews the history of his native State or that of his adoption." I, as a Pennsylvanian, exult with all the pride of proudest manhood over some chapters of Pennsylvania's history, while there are others which I would, if it were possible, wash out with tears of blood.

I came back to Pennsylvania, which was the first State, kingdom or empire since time began that voluntarily, without remuneration and by deliberate legis-

lation, got abolished human slavery, which was then prosperous in its midst. (Applause.) Yes, to dear old Pennsylvania belongs the glory of having set the world at large the example of voluntary emancipation. Our revolutionary ancestors, in 1780, while there were yet, as it proved, three years of war before them, and while, so far as they knew, there might be ten, provided for the abolition of slavery; and it was as President of the Pennsylvania Society for Promoting the Abolition of Slavery, and on behalf of the people of our State, that Franklin, in 1790,—but a few months before his death,—appeared at the bar of the first Congress and presented a petition which embodied these earnest words:—

"Your memorialists, particularly engaged in attending to the distresses arising from slavery, believe it to be their indispensable duty to present this subject to your notice. They have observed with real satisfaction that many important and salutary powers are vested in you for promoting the welfare and securing the blessings of liberty to the people of the United States; and as they conceive that these blessings ought rightfully to be administered, without distinction of color, to all descriptions of people, so they indulge themselves in the pleasing expectation, that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed. From a persuasion that equal liberty was originally the portion, and is still the birthright of all men, and influenced by the strong ties of humanity and the principles of their institutions, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery and promote a general enjoyment of the blessings of freedom. Under these impressions, they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men, who alone, in this land of freedom, are degraded in perpetual bondage, and who, amidst the general joy of surrounding freemen, are groaning in servile subjection; that you will promote mercy and justice towards this distressed race, and that you will step to the verge of the power vested in you for discouraging every species of traffic in the persons of our fellow men."

From these primitive dates till 1820, when, over her unanimous vote in both Houses of Congress, the Missouri compromise was adopted, Pennsylvania stood the foremost, or among the foremost, States of the country in defence of all the safeguards of personal liberty.—Though there be a sad intervening chapter in her history, and though Pennsylvanians will always blush to remember that James Buchanan was born on the soil of our State, she has not failed at intervals since 1820 to assert, from time to time, her right to her leading position. It was David Wilmot, of Pennsylvania, who, in 1846, by reviving the Jefferson proviso, reasserted her right; and I may be permitted to say that it was an humble son of Pennsylvania who, in the last Congress, claimed for her her just precedence in recognizing the equality of all men before the law. (Applause.)

But to return from this digression. In 1838, remembering the early and proud record of Pennsylvania, I said, as I left my friends in Boston, "I am going to a State where constitutions are regarded and laws obeyed, and where the people may freely think and speak. I am going to my native city, where the people have erected, and are about to dedicate, to freedom a glorious temple, in which the hold-est thinkers of the land may meet, and in which the humblest people will be instructed." I arrived during the week in which Pennsylvania Hall was dedicated. I visited it. Anxious, perhaps, to boast when I went back, that I had spoken in such a hall, I raised my young voice in what was doubtless a very feeble attempt at eloquence. I also visited, in the building next to that hall, an humble-looking building in the shadow of its high walls, one whom I had loved from my infancy, one whom I had never known to be in physical health, but who had lain for years a sainted woman, passing slowly away, and showing how lovely age could be as it glided calmly towards the grave,—the sole surviving sister of my mother. But one evening looking in that direction I saw the heavens lurid, and heard, long squares away from the place, the howling of infuriated men. I sought to reach the spot, but in vain. As I approached it, I thought that the infernal region had yielded its demons to earth, and that they were showing how hideously they could act. The blaze seemed to reach the very heavens; the stout walls seemed to totter; and around the raging conflagration the Constitution-loving and law-abiding people of Philadelphia shouted discordant songs of triumph, the key of the hall having been handed over to the Mayor of the city, that the act might appear to receive the stamp of municipal authority. How painfully was I thus taught that Constitutional provisions were not more

efficient in Philadelphia than in Boston in guarding the personal rights of the citizen.

But let us consider the other clause of the Constitution of the United States referred to. A million of square miles of fertile territory seems to me to be a very goodly inheritance for a people; and the territory lying south of the Potomac and the Ohio, and west of the Mississippi, claimed by the late insurrectionary chiefs, embraces more than a million of square miles, and is the most fertile region of our country. The Constitution guarantees to each and all of you, and to all other American men and women, the right to citizenship on every foot of it.

It also guarantees to all the right to communicate freely, by letter or otherwise, with any friend or acquaintance residing anywhere on that million of square miles of territory. Yet, my friends, have I been able to travel in the Southern States lately? Let me ask you whether the climate of Florida or of Texas or of South Carolina would not have been fatally insalubrious to me any day since 1856, had I ventured there. (Laughter.) Now, I will not talk about William Lloyd Garrison, because he was a "pestilential fellow," who was always insisting on Constitutional rights, while I only did it occasionally, when an election was coming off! (Laughter.)

Was it not, for years before this Rebellion broke out, dangerous for any Northern man to express, anywhere in the South, the opinion that it was a Christian duty to do unto others as you would have them do unto you? Did any clergyman, politician, statesman, or private citizen, dare to say on Southern steamboat, in railroad car, or stage, that he disapproved of human slavery, because under it you could not do unto others as you would have them do unto you? Would not the political atmosphere in which he uttered such a sentiment have been dangerous to him? In other words no one of you could safely go there carrying your manhood with you. You had to leave that behind when you travelled South. You might have your trunk and clothing, and your bones, and the coating of flesh that covers them, but you must leave your manhood at home with your wife and children, if you wished to return. (Laughter and applause.) You might have a copy of the Constitution of the United States in every pocket of your garments, and hold out that instrument as you safeguard; but you all know that you would not have found it a very efficient protection.

Remember how it was in the case of poor Powers, the Irish-Philadelphia stone-mason. Having voted for Buchanan and Florence in the First Congressional District, he was seeking employment, and was recommended for work on the State House at Columbia, South Carolina. He went there, and had worked three weeks when he happened to drop the remark that "Slavery cut down the wages of the white man and degraded him, and that the white working man in the South was regarded as little better than a nigger!" For this offence he was stripped to the belt, as a boxer would say, and tied by the wrists; a slave was put on each side of him with a cowhide, and he was flogged till the blood streamed to his slippers. He was then dressed with tar and sand, and brought, by slow stages, on an open truck, for nearly a hundred miles, being detained in each town for the gaze of the multitude as a "Northern Abolitionist." Barely escaping with his life, he came back to Philadelphia. When thus treated, he pleaded in his defence the Constitution,—at least he told me that he had done so; but he found it no protection. His crime was that he had asserted that a system of unpaid labor, applied to four millions of men, degraded every other laboring man in the section of the country in which it prevailed! You have read of gentle girls decoyed from their New England homes into Southern families to act as teachers, and of their walls being scrutinized, until finally some injudicious friend sent them a copy of the New York Tribune, or the Independent, with a sermon by Beecher, or, bolder still, and more indiscreet, the Anti-Slavery Standard, or the Liberator; and you have read how the girl in such a case was turned away without wages and without guidance, but not always without stripes; for in one instance a fair and gentle maiden was treated just as poor Power had been. I have seen a daughter of the beautiful face of that daughter of old New England.

No, fellow citizens; Constitutions and laws are, in themselves, no possible guarantee or safeguard for personal liberty.—Nor are they an efficient restraint on the cupidity or higher impulses of the indi-

vidual. For instance, it has been felony in each of the Southern States to teach a colored person to read the Lord's Prayer, or the Ten Commandments. I do not mean to say that the statutes declare it in express language a felony to teach colored persons to read these particular passages; but the law did pronounce it felony to teach colored persons to read, and this prohibition embraced the Lord's Prayer, the Ten Commandments, and the Old and New Testaments. Yet we find among the slaves, and more largely among the free people of color in the South, a very large number who can read, and a considerable number who can write. This circumstance testifies to different classes of facts. It shows, in the first instance, that there were living under the influence of that infernal system some humane people who occasionally, regardless of barbarous laws, taught a colored child. Secondly, it shows that these "brutal" colored people, who have "no intellect" "will not work" and "cannot take care of themselves," did, in spite of law, and while taking care of their masters and their masters' families, find time and facilities to learn to read.

During my recent visit to Charleston, I was startled by what sounded like an echo of my own voice, and, turning to the speaker, I found a thick-set black man with hair knotted close to his head,—an image of the Almighty in ebony, if ever one was cut out of that material. Before him, Samuel Dickerson, stood two little girls in plaid silk dresses, with broad rimmed bonnets, and plaid ribbons corresponding with the dresses which they wore. Each held a bouquet, and the man a wreath. As I heard his voice, I looked over the whole place, to assure myself, and saw by his gestures and moving lips that it was this negro of the purest African blood who was saying to William Lloyd Garrison, who had just ascended the stand beside me, "The emotions with which I beheld you, honored sir, are inexpressible;" and, having begun thus, he went on with a speech in flowing sentences that would stamp him as an orator in any assemblage. In the course of his address, he said:—"For now more than ten years, sir, it has been my privilege, at distant intervals, to be encouraged by reading your good words in behalf of my oppressed race. To you and the good people of the North, under the Constitution of the United States, and the guidance of Abraham Lincoln, I owe these dear children. First, their mother was taken; then the elder one was snatched away; and on my knees I pleaded that this little one might be left to me as a souvenir of the past. What was the reply that I received? 'Urge me no farther, or I will assist your children to different States.'"

Somehow that man had learned to read, he had stolen that knowledge; and among many others I heard the same story. One would say, "Why, my young mistress taught me." Another would tell me, "I was on a plantation on the island, and master had me taught so that I might keep the little accounts." Thus here and there, benevolence or selfishness had prompted some of the people of the South to violate the law which made it felony to teach a negro to read. Therefore, while I urge that constitutions and laws are not the sole safeguards, or, in themselves, safeguards of liberty and rights, I also urge that they cannot be the means of repressing the genius, the intellect, the aspirations of a mass of human beings. (Loud applause.)

What, then, my friends, are the safeguards of which I have proposed to speak? Are they possible? Oh, yes; they are the simplest thing in the world. They are popular sentiment and daily usage. Where popular sentiment is right, the laws will be just and equal, and will be maintained and enforced; and where popular usages are consistent with humanity and justice, there will be small business for the lawyer, for usage will enforce the law.

I think I hear some one say, "Oh, you have nigger on the brain, and now you are beginning to plead for nigger!" God forbid that I should forget the existence of nearly five millions of human beings, beings who know every sorrow that I know and every joy that I may feel, and who look through the same narrow way to enduring happiness. Thank God! I do not forget their existence, and I do not fail to plead for them. But, my white brethren, allow me to assure you that it is you for whom I am pleading now, because you are more numerous than they. The colored people of America number about five millions; the white people about twenty-five millions; and as five is worth more than one, I plead for him and embrace the sixth, and plead for him too. It is not the negro alone I have

"on the brain;" it is him and the white man; it is mankind, and not any single race or class of men. (Applause.)

Our fathers, when they gave the world a new political system, disputed all the old foundations of government, and proclaimed new principles. They declared, first, the equal rights of all men. They said, "We hold these truths to be self-evident,—that all men are created equal." Did they mean equal in stature, in complexion, in intellect, in morals? I answer the question by saying they were not fools, nor were they blind; they knew that men differ in all these respects.—They were speaking on political subjects; they were announcing the foundation-principles of political institutions, and they proclaimed that, in respect to right all men are equal, and are alike entitled to life, liberty and the pursuit of happiness.

Again, they denied the legitimacy of every Government then existing on the face of the globe, and laid the axe at the foundation of every throne, by affirming that the object of governments is the protection of human rights, and that they "derived their just powers from the consent of the governed;" and, further, that, if any form of government violates the rights of the people, it is not only their right but their duty to reform, or, if necessary, overturn it. Upon these propositions they rested not only their defence of the Revolution they inaugurated, but the theory upon which they determined to establish their Government.

Pennsylvania, to bring her Government into harmony with these principles, in March, 1780, less than four years after that Declaration, proclaimed the emancipation of the slaves, having previously secured by constitutional provision the right of suffrage to every freeman without regard to color.

Had all the States of the Union been organized on these principles, there never would have been a day when you could not have written a letter announcing the general doctrines of the Gospel into any State without bringing its recipient into bodily danger, because those doctrines would have prevailed in the South as well as in the North. If the equality of man had been recognized all over the country, there would have been no war during the last four years, because no man, not even the pardoned Rebel, denies that the war was made to perpetuate slavery and secure the degradation of the laboring masses.

No man will tell you that our newspapers were excluded from Southern mails for any other reason than that it was feared they would endanger the system of inequality that prevailed and was cherished in the South. It was this that made it dangerous for us to travel there; it was this that fired Pennsylvania Hall; it was this that mobbed William Lloyd Garrison, and disgraced Boston by disclosing the fact that Leverett Street jail was the only place in that city strong enough for his protection. It was this doctrine of human inequality, this violation of the principles that underlie our Government, this want of harmony between our usage and prejudices on the one hand, and the theories which animate our Government, and which we all profess to believe, on the other, that disgraced us before the world, and converted what should have been our peaceful life into a restless sea of agitation, in which Constitutional safeguards were abandoned or disregarded.

Let me show you how thoroughly we, in Philadelphia, are governed to-day by a concession we made to the South years ago, in the vain hope of securing peace and prosperity by promoting injustice and inequality; let me show you how completely we allow our prejudices, not natural, but thus engendered, to override the law of Pennsylvania; how some of us who are in this hall join in demanding that the State shall accept our prejudices as its supreme law. There is not, within the wide limits of Pennsylvania, a jurist of standing who will risk his professional character by denying that, according to the law of Pennsylvania, every man and woman who is well behaved, and can pay the fare, has a right to ride in our street cars. That is the law of the Commonwealth, as expounded by our courts; no professional man of reputation will dispute it.

We are a liberal people; as I have shown, our most cherished traditions indicate our love of human freedom and equality. We are a patriotic people; we have sent our sons and brothers, and have gone ourselves, to the war. We are a benevolent people; we have fed the soldiers of every State as they passed through our city, going to or returning from the field, and our hospitals have been attended faithfully by women (God bless them!) and by men, doing all they could for the