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BY DAVID OVER. BEDFORD, PA., FRIDAY. MAY 15, 1857. VOL. 30, NO. 20.

MAJORITY REPORT OF THE SELECT COMMITTEE,

Of the Senate of Pennsylvania, upon the decision in the case of Dred Scott vs. John F. A. Sanford.

The select committee of the Senate, to which was referred the resolutions relative to the decision of the Supreme Court of the United States in the case of Dred Scott vs. John F. A. Sanford, submit the following

REPORT:

Your committee, for want of time, and by reason of numerous other engagements at this late stage of the session, have been unable to give the decision referred to that careful examination which its importance demands, or to prepare such a report as would do justice to the subject, or to themselves. They were embarassed also by an inability to procure an authentic copy of the entire opinion of the Court, as delivered by Chief Justice Taney; but from what is conceded to be a correct abstract of the opinion, and from the opinions of the dissenting judges, we can gather with reasonable certainty correct ideas of the whole case.

The facts are substantially as follows:—In the year 1834, Dred Scott, the plaintiff, was a negro slave, belonging to Dr. Emerson, of the State of Missouri; and in that year his master took the plaintiff from Missouri to Rock Island, in the State of Illinois, and there held him as a slave until 1836. From Rock Island the plaintiff was taken to Fort Snelling, then in the territory of the United States, north of the State of Missouri, and in which slavery was prohibited by the act of Congress known as the Missouri Compromise, and there held as a slave until 1838. In 1835 Major L. Taliaferro took Harriet to Fort Snelling, and there held her as a slave until 1836, when he sold her to said Dr. Emerson, who thereafter claimed her as his slave. In 1836 the plaintiff and Harriet were married at Fort Snelling, and two daughters, Eliza and Lizzie were the children of this marriage. Eliza was born north of the north line of the State of Missouri, and at the commencement of the suit was about fourteen years of age. Lizzie was about seven years younger, and was born in the State of Missouri. In 1838 Dr. Emerson removed the plaintiff and his wife Harriet, and their daughter Eliza to the State of Missouri, where they have ever since resided. Before the commencement of the action, Dr. Emerson had sold Dred Scott, Harriet his wife, Eliza and Lizzie, to the defendant, John F. A. Sanford, as slaves, and he has ever since claimed to hold them as such. The suit was brought by the plaintiff in the circuit Court of the United States, for the district of Missouri, to recover the freedom of himself, of his wife, and of his children. That Court decided against the plaintiff, and an appeal was taken to the Supreme Court of the United States. That Court dismissed the case for want of jurisdiction, on the ground that the plaintiff was not a citizen of the State of Missouri, nor of the United States, and that he was, therefore, incompetent to maintain any action in the Courts of the United States.

The opinion of the Court was delivered by Chief Justice Taney, and concurred in by the four other Judges from the Slave States, whilst the four Judges of the Free States dissented from the most important points laid down by the majority of the Court. The Chief Justice, in his opinion, took a most extensive view of the whole subject, and among other things of less importance laid down in substance as the law of the land, the following most important propositions:

1st. That the plaintiff Dred Scott was not a citizen of the State of Missouri, or of the United States, and that therefore he was not competent to maintain any suit in the Courts of the United States.

2d. That the plaintiff, having been a slave in the State of Missouri, his subsequent residence in the State of Illinois, and in the Territory north of the State of Missouri, did not affect the condition of himself or his family, but that all remained slaves.

3rd. That slaves are property, by the express provisions of the Constitution of the United States, in no wise differing from other property, and that therefore neither the Congress of the United States, nor any territorial government created by it, has any power to exclude slavery from the National Territories.

These novel and startling propositions your committee propose to examine briefly in their order.

1. The first proposition is not of so much practical importance to the people of Pennsylvania as are the second and third, yet its bold and positive announcement by such high authority, has occasioned no little surprise, and caused much inquiry to be made into the reasons on which the doctrine is based. In the argument of this point, Chief Justice Taney says:

"It is difficult at this day to realize the state of public opinion respecting that unfortunate class (negroes) with the civilized and enlightened portion of the world, at the time of the Declaration of Independence and the adoption of the Constitution; but history shows they have for more than a century been regarded as beings of an inferior order, and unfit associates for the white race, either socially or politically, and had no rights which white men were bound to respect; and the black man might be reduced to slavery—bought and sold, and treated as an ordinary article of merchandise. The doctrine of which we have spoken, was strikingly enforced by the Declaration of Independence. It begins thus: 'When in the course of human events it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume among the pawers of the earth the separate and *equal* station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation;' and proceeds: 'We hold these truths to be self-evident, that *all men* are created *equal*, that they are endowed by their creator with certain inalienable rights; that among these are life, *liberty*, and the pursuit of happiness; that to secure these rights, governments are instituted among men, *deriving their just powers from the consent of the governed.*'"

In the opinion of your committee, this first position taken by the Court was at best a most questionable one, and the evidence by which the Chief Justice thus endeavors to support it, is much more questionable. Our veneration for old age, and our respect for the Court from which the opinion emanated, preclude the supposition that the above quotations thus made by the Chief Justice were intended in a Pickwickian sense; and there being no such logic in the books, we are therefore reluctantly driven to the humiliating acknowledgement that we cannot comprehend how it is that said quotations prove, or can in any way be tortured into the support of the doctrine, that a colored person cannot be a citizen of any State, or of the United States, or that still more monstrous doctrine that this "unfortunate class" "has no rights which white men are bound to respect."

Thomas Jefferson is the admitted author of the Declaration of Independence, and he has left on record abundant evidence that he entertained views entirely different from Judge Taney in relation to this "unfortunate class." He considered colored persons *citizens*, and so his writings, both historical and official, abundantly show.—In his celebrated work called Notes on the State of Virginia, (chapter 18,) in speaking of the demoralizing influences of slavery in his native State, he says: "And with what execration should the statesman be loaded, who, permitting *one half the citizens thus to trample on the rights of the other*, transforms those into despots, and these into enemies, destroys the morals of the one part, and the *amor patria* of the other." The same idea also was even more clearly proclaimed in his proclamation as President of the United States, in reference to the famous outrage perpetrated by the British man of war, Leopard, upon the frigate Chesapeake. To understand the full force of the expressions used, it must be recollected that of the four seamen taken from the Chesapeake on the claim of desertion from the British service, the only two born in the United States were two colored men, natives of Maryland. The passage referred to in Jefferson's proclamation, is as follows:

"This enormity was not only without provocation or justifiable cause, but was committed with the avowed purpose of taking by force from a ship of war of the United States a part of her crew; and that no circumstance might be wanting to mark its character, it had been previously ascertained that the seamen demanded were native born citizens of the United States."

Negroes are also recognized as citizens by numerous acts of Congress; and among others by the act of 28th February, 1803, (Dunlop's Dig. Laws of N. S., p. 324,) which says—

"That from and after the first day of April next, no master or captain of any ship or vessel, or any other person, shall import or bring, or cause to be imported or brought, any negro, mulatto, or other person of color, not being a native, a citizen, or registered citizen of the United States, or seamen natives of countries beyond the Cape of Good Hope, into any port or place of the United States, which port or place shall be situated in a State which by law has prohibited, or shall prohibit, the admission or importation of any such negro, mulatto, or other person of color."

To the same effect also are the decisions of the Courts, both State and National.—The Supreme Court of North Carolina, in an elaborate opinion delivered in 1838, State vs. Manuel—(4 Dev. & Bat., p. 24) by Judge Gaston, one of the most learned and able jurists in the Union, on the precise point now under considerrtion, fully sustained the Jeffersonian and Congressional views of citizenship, just cited. In the opinion of the Court in that case, it is said—"British subjects in North Carolina—by virtue of the Revolution—became North Carolina freemen, foreigners, until made members of the State, continued aliens; slaves manumitted here became freemen, and therefore, if born within North Carolina, are citizens of North Carolina; and all free persons born within the State are born citizens of the State."

To the same effect also are the decisions of the Supreme Courts of other States, and of the Supreme Courts of the United States. In the case of Lee vs. Lee, [8, Peters 48,] this latter court in an action for freedom said—"Freedom is not to be valued." In the case of Wallingsford vs. Allen—(10 Peters, 583,) Judge Wayne, one of the Judges concurring in the Dred Scott opinion, declared that "thh question of freedom is superior to any question of property."

In Williams vs. Ash, (1 Howards, Rep. 1,) in which R. B. Taney, then as now Chief Justice, delivered the opinion of the Court, a colored man was not only permitted to sue for his freedom in a court of the United States, but was permitted to recover it. And to the same effect also is Rhodes vs. Bell, (2 How., 397,) in which the opinion of the Court was delivered by Justice M'Lean.

Can it be then in this free country and in this enlightened age, that "one half the citizens," as Jefferson expressed it, in some of the States, and a greater or less portion of them in all the States suddenly become no citizens at all! That solely by reason of their color, they are presumed to be without the pale of citizenship, that they cannot even sue in any court of the United States to try the question whether they are bond or free.

This doctrine is so contrary to all past history and judicial precedent, so repugnant to all ideas of law and justice, and so abhorrent to reason and humanity, that your committee can not do otherwise than condemn and repudiate it as utterly unsound, and unworthy the Court which proclaimed it.

2. The plaintiff having been a slave in the State of Missouri, his subsequent residence in the State of Illinois, and in the National territory North of Missouri, did not affect the condition of himself or his family, but all remained slaves.

The question here raised is purely a legal one; and one which has been decided again and again, from the organization of our Government down to the case of Dred Scott, and by the Courts of almost every State in the Union. Slavery being contrary to natural rights, is created only by municipal law. This is not only plain in itself, and agreed to by all writers on the subject, but is also the doctrine laid down by our Federal Constitution, and has been most explicitly declared by the same Court which now denies it in the case of Dred Scott. The second section of the fourth article of the Constitution of the United States, is as follows:

"No *person* held to labor or service in one State, *under the laws thereof*, shall, in consequence of law or regulaton therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due. No words could more clearly describe a *status* created by municipal law than these words in the Constitution. In the celebrated and leading case of Prigg vs. the Commonwealth of Pennsylvania, (16, Peters' Reports, 539.) decided by the Supreme Court of the United States in 1842, the same principle is solemnly recognized and affirmed. The late eminent Judge Story delivered the opinion of the Court, and among other things said, "The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the territorial laws." "It is manifest from this consideration that if the Constitution had not contained this clause (requiring the delivery up of fugitives) every non-slaveholding State in the Union would have been at liberty to have declared free all runaway slaves coming within its limits, and to have given them entire immunity and protection against all claims of their masters." Judge Taney was then as now Chief Justice of the Court and he and all the other Judges concurred in that part of the opinion here cited.

The above quoted clause of the constitution providing only for the arrest and giving up of fugitive slaves, does not apply, and has never been construed to apply, to cases where the master voluntarily takes his slave into a free territory or a free State. Such has ever been the law of England, and of these United States, until now. In the first and second sections of the sixth article of the Constitution of Illinois, it is declared that neither Slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for crimes, of which the party shall be duly convicted; and in the second section it is declared, that any violation of this article shall effect the emancipation of such person from his obligation to service. The Supreme Court of Illinois, in the case of Jarrot vs. Jarrot, (2 Gilmore's Rep. 7) declared. "After the conquest of this territory by Virginia she ceded it to the United States, and stipulated that the titles and possessions, rights and liberties of the French settlers should be guaranteed to them. This, it has been contended, secured them in the possession of those negroes as Slaves which they had before that time, and that neither Congress nor the Convention had power to deprive them of it; or, in other words, that the Ordinance and Constitution should not be so interpreted and understood as applying to such Slaves, when it is there shall be neither Slavery nor involuntary servitude in the North West Territory, nor in the State of Illinois, otherwise than in the punishment of crimes; *but, it was held that those rights could not be thus protected, but must yield to the Ordinance and Constitution.*"

Among numerous other cases establishing the same principle decided by the supreme Court of Missouri, is the leading case of Rachel vs. Martin, (4 Missouri Rep. 350, June Term 1836,) substantially the same in every prticular as the Dred Scott case.—Rachel sued for her freedom, and it appeared that she had been bought as a slave in the State of Missouri by Stockton, an officer of the army, taken to Fort Snelling where he was stationed, and she was retained as a slave there one year. Stockton then removed to Prarie du Chien, taking Rachel with him as his slave, where he continued to hold her for three years, and then took her back to the State of Missouri, and sold her as a slave. In the opinion of the Court on these facts it was said:

"The officer lived in Missouri Territory at the time he bought the slave; he sent to a slaveholding country and purchased her.—This was his *voluntary* act, done without any other reason than that of his convenience and he and those claiming under him must be holden to abide the consequences of introducing slavery both in Missouri Territory and Michigan *contrary to law*, and on this ground Rachel is declared entitled to her freedom.

In 1851 the Court of appeals of South Carolina recognized the principle that a slave being taken to a free state became free (*Commonwealth vs, Lasants*, P Leigh Rep. 697). In *Betty vs. Horton* the Court of Appeals held that the freedom of the slave was acquired by the action of the laws of Massachusetts, by the slave being taken there (Leigh Rep. 615). It has been so held by the Supreme Courts of Mississippi, Virginia, Louisiana, Kentucky, Maryland, and other slave States; and in the free States the doctrine is believed to be universal. It was firmly established in the State of Pennsylvania at an early day; and among other cases is that of *The Commonwealth vs Holloway* (2 Sergt and Raiole 305) in which CHIEF JUSTICE TILGHMAN, and justices YEATES AND GIBSON, all concurred in opinion.

An innumerable list of other authorities might be cited; but with this cloud of witnesses against the accuracy of the second position laid down in the Dred Scott case your committee will proceed to the consideration of the last proposition.

3. Slaves are property, by the express provisions of the Constitution of the United States, in no wise differing from other property, and therefore neither the Congress of the United States nor any territorial government created by it, has any power to exclude slavery from the National territories.

To the citizens of Pennsylvania, and the other free States, this is perhaps the most startling and monstrous doctrine ever proclaimed; and the sensation it has created, and the excitement and condemnation with which it has everywhere been received, evince but a just appreciation of its vast importance. The institution of slavery is hereby not only declared to be National but Congress is denied the power to restrain it within any limits whatever, and by clear and inevitable implication slavery is carried into every State in the Union, and the Legislatures thereof prohibited from excluding it. It is the right and duty of every Commonwealth to guard and protect her State rights against all usurpation and encroachment by the National Government; and hence the eminent propriety of the Legislature of Pennsylvania taking these grave questions into serious consideration. Let us inquire then, as briefly as possible, whether there is anything in the Constitution of the United States, or in our legislative or judicial history, to warrant the promulgation of such monstrous doctrines as are set forth in this third proposition.

That slaves in the slave States, and for certain purposes, are recognized as property, will not be denied, but that they do not differ from other property, or that they are mere property by any express or fairly implied provisions of the Constitution of the United States, is a most unwarranted assumption. On the contrary, the word *slave* or *slavery* is nowhere used in that instrument and where they are spoken of by description they are called *persons*. In the third section of the first article of the Federal Constitution, fixing the basis of representation and taxation, slaves are described by the words, "*three fifths of all other* PERSONS" So also in the third section of the fourth article before cited, on the subject of fugitive slaves. The language there is: "No *person* held to service or labor in one State under the laws thereof, escaping into another," &c. Heretofore, as already shown by numerous authorities cited, they have been adjudged and treated as persons and citizens, and as such allowed to sue and be sued in both the State and Federal courts, they have been deemed under the protection of the laws for the security of their persons, their property and their liberty; and they have been held responsible in all criminal courts for the perpetration of crimes. But now, for the first time, in the face of those plain provisions of the Constitution, in defiance of all past adjudications of the Courts, we are gravely told that slaves are only property, and differing in no respect from other property, and that therefore, inasmuch as no man can be prevented from taking his horse into any State or Territory, so neither can he be prohibited from taking his slaves there. And in further development of this new idea, we are further informed by the opinion of the court in this Dred Scott case, that the celebrated Jeffersonian Ordinance of 1784, the Ordinance of 1787, and the no less celebrated Missouri Compromise Law of 1820, excluding slavery from the National Territories, were all enacted in violation of the Constitution of the United States; and that they are therefore all null and void.—If these things be so, then there can be no limitations put upon slavery by Congress, and the right to hold slaves, and to slavery extension being guaranteed by the Constitution of the United States, no State Constitution or State law can reach it, for the Constitution of the United States is the supreme law of the land.

Thomas Jefferson was the author of the Ordinance of 1787, which was enacted by the Continental Congress, with only one dissenting voice. It provided a territorial government for that immense territory north and west of the river Ohio. The sixth article of that Ordinance is in the following words:

"There shall be neither slavery nor involuntary servitude in said territory, otherwise than in punishment of crime, whereof the party shall have been duly convicted."

In 1789, and after the adoption of the Constitution, the first Congress under it (and in which were fourteen members of the Convention which framed the Constitution, including James Madison) a bill was passed re-enacting the Ordinance of 1787, and the preamble to said bill was as follows:

"WHEREAS, In order that the Ordinance of the United States in Congress assembled for the government of the territory north and west of the Ohio river, *may continue to have full effect*, it is requisite that certain provisions should be made so as to adapt the same to the present Constitution of the United States; therefore, be it enacted, &c."

This act was approved by George Washington as President; and he had also been President of the Convention which framed the Constitution. Here is a most explicit and official declaration, by the first President and the first Congress, of the views then held of the constitutional power of Congress to prohibit slavery in the territories. Numerous other instances can be cited, and without going into details, your committee will refer to two classes of congressional acts upon the subject. In one class, Congress has extended the Ordinance of 1787 over territories, thereby prohibiting slavery therein; and in the other, Congress has erected governments over territories where slavery already existed, and refused by positive enactment to exclude slavery therefrom.

Of the first class are the act of May 7, 1800, (1 Stat. at Large, 58,) for the government of the Indiana Territory, the act January 11, 1805, (2 Stat. at Large, 309,) for the government of Michigan Territory; the act of May 3, 1809, (2 Stat. at Large, 514,) for the government of Illinois Territory; the act of April 20, 1836, (5 Stat. at Large, 19,) for the government of the Territory of Wisconsin; the act of June 12, 1838, for the government of the Territory of Iowa; the act of August 14 1848, for the government of the Territory of Oregon. To these should be added the act of March 6, 1820, (3 Stat. at Large, 548,) prohibiting slavery in the Territory northwest of Missouri, and north of 36 deg. 30 min. north latitude.

Of the second class, in which Congress refused to interfere with slavery already existing under municipal law, and established governments by which slavery was recognized and allowed, are the act of March 26, 1804, (2 Stat. at Large, 283,) for the government of Louisiana; the act of March 2, 1805. (2 Stat. at Large, 322,) for the government of the Territory of Orleans: the act of June 4, 1812, (2 Stat. at Large, 743, for the government of the Missouri Territory; the act of March 30, 1822, (3 Stat. at Large, 654,) for the government of the Territory of Florida. Here are eight distinct instances, beginning with the first Congress, and coming down to 1848, in which Congress has excluded slavary from the territory of the United States; and six distinct instances in which Congress organized governments of territories by which slavery was recognized and continued, beginning also with the first Congress, and coming down to the year 1822. These acts were severally signed by seven presidents of the United States, beginning with Washington, and coming regularly down to John Quincy Adams, thus including all who were in public life when the Conseitution was adopted.

If the practical construction of the Constitution cotemporaneously with its going into effect, by men intimately acquainted with its history from their personal participation in framing and adopting it, and continued by them through a long series of acts of the gravest importance, be entitled to weight in the judicial mind on a question of construction, it would seem to be difficult if not impossible to resist the force of the acts here adverted to.

Such has been the settled doctrine also of the legal tribunals of the country, both State and National, from the organization of the government down. In the discussion of the powers of Congress to govern a Territory in the case of the Atlantic Insurance Company vs. Canter, (1 Peters, Rep. of the Supreme Court of the U. S., p. 511,) that great jurist, Chief Justice Marshall, in delivering the opinion of the Court, said in regard to the people of Florida: "They do not, however, participate in political power: they do not share in the government until Florida shall become a State; in the mean time Florida continues to be a Territory of the United States, governed by that clause in the Constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property of the United States." And he adds. "Perhaps the power of governing a territory belonging to the United States, which has not by becoming a State, acquired the means of self government may result necessarily from the fact that it is not within the jurisdiction of any particular State, and is within the jurisdiction and power of the United States. The right to govern may be the inevitable consequence of the right to acquire territory; whichever may be the source whence the power is derived, *the possession of it is unquestioned.*" And in the close of the opinion, the Court says: "*In legislating for them* (the territories) *Congress exercises the combined powers of the General and State Governments.*"

But why multiply authorities on a principle which was never before called in question. Judge M'Lean, in his dissenting opinion, in this Dred Scott case, in speaking of the powers of Congress, says: "The judicial mind of this country, State and Federal, has agreed on no subject within its legitimate action, with equal unanimity as on the power of Congress to establish territorial governments. No Courts, State or Federal—no judge or statesman, is known to have had any doubts on this question for nearly sixty years after the power was exercised."

Such are the hastily prepared views of your committee on some of the most prominent principles involved in the Dred Scott case. In conclusion we feel constrained to direct the attention of the Senate to one more feature in the case, and which is, if possible, more alarming than any other yet referred to. It is to the fact that a majority of the Court has not only made the deliberate effort to nullify the plain provisions of the Constitution, to repudiate the wise lessons of all past history and experience, to declare null and void solemn acts of Congress, the validity of which was never before questioned, and to overturn State laws and State constitutions, and that the attempt *to do all these things has been made in a case in which the Court in fact, and by its own admission, had no jurridiction.* The first question raised in the case was one of jurisdiction, and this the Court decided against the plaintiff, and having so decided, there was legally no case, and no parties before them, and all subsequent opinions and declarations on other questions are, by all recognized rules, extra judicial, *coram non judice*, inoperative and void.

The soundness of this principle has never been heretofore questioned. Justice M'Lean in his dissenting opinion in this very case says, "In this case a majority of the Court have said that a slave may be taken by his master into a territory of the United States, the same as a horse or any other kind of property. It is true this was said by the Court, as also many other things, which are of no authority." Nothing that has been said by them which has not a direct bearing on the jurisdiction of the Court, against which they decided, can be considered as authority. I shall certainly not regard it as such. The question of jurisdiction being before the Court was decided by them, authoritatively, but nothing beyond that question."

Judge Curtis is equally emphatic on this point. He says: I regret I must go further, and dissent from what I deem their assumption of authority to examine the constitutionality of the act of Congress commonly called the Missouri Compromise act, and the grounds and conclusions announced in their opinion. On so grave a subject as this, I feel obliged to say, that, in my opinion, *such an exercise of judicial power transcends the limits of the authority of the Court, as described by its repeated decisions, and as acknowledged in this opinion of the Court. I do not consider any opinion of this Court, or any Court, binding when* expressed on a question not legitimately before it.—(Carroll vs. Carroll 16, Howards' Rep., 275.) The judgment of this Court is, that the case is to be dismissed for want of jurisdiction. Into that judgment according to the settled course of this Court, nothing appearing after a plea to the merits can enter. A great question of constitutional law, deeply affecting the peace and welfare of the country, is not, in my opinion, a fit subject to be thus reached."

It takes two parties to make a suit, and to give jurisdiction, and the judges admit this; and if they have the right in a pretended case which has but one party to it, to proceed, and by a *quasi* official mandate to nullify constitutions and laws, then may they also do the same thing without any pretence of a case, and where there is neither plaintiff nor defendant.

In the opinion of your committee, "a decent respect for the opinions of mankind" required that the monstrous doctrines promulgated in this Dred Scott case should have originated in a case which had two parties to it, or at least in one in which the Judges did not admit they had no jurisdiction.—By thus traveling out of the record, and attempting by *obiter dicta*, and judicial fiat to overturn the Constitution and laws, the Court voluntarily assumed legislative powers and forfeited that respect with which its decisions have ever heretofore been regarded. In the examination of this dangerous usurpation, your committee could not but call to mind and admire the prophetic wisdom of Thomas Jefferson who long since foresaw this tendency to consolidation, and predicted these unwarranted encroachments by the federal judiciary. His patriotic writings, and especially those after he had retired from the Presidency are full of apprehensions on this subject; and from the seventh volume of his works we quote a few sentences expressive of his views. In a letter dated Monticello, August 13, 1821, he says: "It has long, however, been my opinion, and I have never shrunk from its expression, that the germ of dissolution of our federal government is in the constitution of the federal judiciary, an irresponsible body, (for impeachment is scarcely a scarecrow) working like gravity by night and by day, gaining a little to-day and a little to morrow, and advancing its noiseless step like a thief, over the field of jurisdiction, *until all shall be usurped from the States*, and the government of all be consolidated into one. If the States look with apathy on this silent descent of their government into the gulf which is to swallow all, we have only to weep over the human character formed uncontrolable but by a rod of iron, and the blasphemers of man, as incapable of self-government, become his true historians."

In another letter dated the next year, in speaking of the federal judiciary, he says:

"We already see the power, installed for life, responsible to no authority, advancing with a noiseless and steady pace to the great object of consolidation. The foundations are already deeply laid by their decision."