THE GREAT RAILROAD ACCIDENT—FURTHER PARTICULARS.

TORONTO, Friday, March 13, 1857.

We learn the following particulars of the Railroad accident at Hamilton, from a gentleman who left the scene of disaster this morning. The accident occurred on the Great Western Railway at the bridge over the Des Jardine's Canal, which is elevated some sixty feet above the water. The bridge swings, and it is supposed that the train which passed for the East a short time before, had sunk the bridge so much that the locomotive of this train was obstructed by the abutments to such a degree that the passenger cars were raised up and thrown into the Canal. The train was the local accommodation from Toronto to Hamilton, and left Toronto at 4 o'clock yesterday afternoon. The number of passengers was estimated at from 75 to 100, of whom only 15 were taken alive from the wreck, and of these five have since died. The water in the Canal is 18 feet deep, and nearly all those not immediately killed were drowned. The engine and tender with the engineer and fireman were pitched headlong into the Canal and are buried 20 feet below the surface. The baggage car and two passenger cars are completely shattered, and one of the latter turned bottom side upward and nearly submerged. When our informant arrived this morning the parties were still busy in extricating the bodies from the wreck. In an outhouse adjoining the station-house at Hamilton about fifty or sixty corpses of men, women and children were lying on one floor. No inquiry into the cause of the accident had yet been held. Most of the passengers were from Hamilton, Toronto and the adjoining towns. Samuel Zimmerman of Niagara Falls, Isaac Buchanan of Hamilton, Vice President of the Road, and Capt Twokey, a popular commander on Lake Ontario, are among the victims. Only one of the lady passengers was saved, and she was much cut and bruised. A German lad in the hind car seeing the conductor hastily retreating to the back door took after him and followed him, and he, the conductor, and two others were the only ones who escaped with trifling injuries. Mr C. J. Brydges, the Managing Director of the Railway, Dr. Macklem and Mr. Thomas C. Street of Chippewa, were on the train, and although considerably injured, escaped with their lives. The following is a list of the bodies recognized up to this morning: Donald Stuart, the Rev. A. Booker, father of Mayor Booker, Erastus W. Green, and a little girl, the daughter of Mr. J. R. Clarke, all of Toronto; Jas. Garnon and Thos. Benson of Port Hope; John Sharp, bookbinder; A. Grant, Mr. Russell, of the firm of Mellet, Merrell & Russell, of Beautford, Joseph Barr of Niagara, and John C. Henderson of Hamilton. In one of the company's buildings lay the bodies of sixteen men, two women and one child, and of these but three were recognized—Edward Duffield; the Rev. Dr. Heisse and John Morley. The remains of Mr. Zimmerman will be taken to his residence at Niagara Falls this afternoon. He was in the baggage car at the time of the accident.

SECOND DISPATCH.

A Jury was impanneled this forenoon, and commenced immediately to view the bodies and investigate the cause of the accident. The following additional bodies have been identified: Mrs. Doyle and Thomas Doyle, Dumbarton; Joseph Major, Two Rivers; David McFiggan, Galt; Mr. Kendall, Lockport, N. Y.; Mr. and Mrs. Bearfield, Suspension Bridge; Mrs. Duffin, Toronto; John Beck, wife and two children; Mrs. Russell, wife of Mr. Russell, also dead; Mr. Curtiss, of Dowlings, cannot survive his injuries; James Ross, Toronto; John Willard, late of Buckinghamshire, England; Burnfield, the engineer of the train, and John Knight, fireman. Mr. Barton, sen., of Stratford, Robert Crawford of Saltfleet, Mr. Sturdee and Hugh McFloy, London; Timothy and Patrick Doyle, Dumberton; Joseph Harkness, Toronto; Chas. Brown, Galt; Ellen and Mary Donnie, and James Forbes, Milton; Ralph Wade, Coburg; Chas. Caldwell, Albion; George Macdonnell, and Mr. McFloy, St. Catharines. It is intended to have a public funeral of the unfortunate sufferers on Monday. Committees have been formed to wait on the friends of the deceased. Many of the bodies have already been removed by the relatives. Fifty-seven bodies have been recovered up to to-night.

SUPPOSED CASE OF WIFE-POISONING.

BOSTON, Friday, March 13, 1857.

The body of Mrs. Lavina Briggs, who died in Stoughton, on the 27th ult., has been exhumed, and an analysis of the stomach shows that she was poisoned with arsenic. Her husband, Hosea Briggs, and a young woman named Adaline Drake, a boarder in the family, have been arrested on suspicion to await the investigation of the Coroner. The affair causes much excitement in Stoughton, where the parties have lived many years.

FIRE AT FRANKLIN, N. H.

FRANKLIN, N. H., Friday, March 13, 1857.

The Franklin Hosiery Mill caught fire this morning in the picker room, and was totally consumed. The looms were saved. Loss about $75,000; insured for $45,000.

NEW-HAMPSHIRE ELECTION.

From Our Own Correspondent.

MANCHESTER, N. H., March 11, 1857.

The battle roll of the gallant Republican army in this State has been called anew, and hosts have gathered around the standard, and with brave hearts and strong hands have made one more charge upon the allies of the slave-driving oligarchy. Again the "Gibraltar of Democracy" has been taken, but this time the Republican forces have used neither shot nor shell, but taken the rotten fortress with "HAILE!" Such a "Haile" storm was never before witnessed upon the weather-beaten hills of old Democratic New-Hampshire as prevailed here yesterday. The "old Granite State" has again set her seal of disapprobation on the principles of the Border Ruffian party; has again rebuked her imbecile son who has attempted to govern this Republic for four years past; has again vindicated those principles her yeoman sons love so well, and given assurances that she will evermore be found strongly in favor of Free Labor, Free Schools, Free Territory and Free Men. The recent decision of the United States Supreme Court in the Dred Scott case gave the freedom-loving citizens of New-Hampshire an idea of the controlling influence of the Slave Power, and aroused them to a sense of their condition, and made them more active in behalf of Freedom and their constitutional rights. That decision was everywhere received with feelings of horror and contempt, and people expressed themselves astonished that the Judiciary of the United States was at last prostituted to the Slave Power. It had a magical effect here, however, in arousing the People to action.

Yesterday was a rough, unpleasant day; but, notwithstanding the inclemency of the weather, a large vote was polled in this State. Of course it fell short of the vote for President last Fall several thousands, and no one expected either party would poll so large a vote as then. Up to this hour, we have not received either very full or complete returns, but enough has come to hand to render it certain that WILLIAM HAILE and the whole Republican ticket is elected by nearly 4,000 majority. Our faithful Representatives in Congress, Messrs. Pike, Tappan and Cragin, are certainly reelected by handsome majorities.

In this, the IId Congressional District, the Hon. Mason W. Tappan has a large majority over Geo. W. Morrison, Democrat, which shows how the constituents of Mr. Tappan feel in regard to his labors in Congress for two years past. We have not yet received full returns from all parts of the District, but it is quite evident that the author of "Democracy, the ally of Slavery," will run ahead of his ticket in this District. Mr. Cragin has a large majority in the IIId District, but Mr. Pike's majority in the Ist District will be rather small.

Present appearances indicate that the Council will be *entirely* Republican, yet this is not certain. Out of the twelve members of the State Senate, the Republicans have elected *nine* and may possibly get ten. In the House the Republicans will have from 30 to 40 majority—thus both branches of the Legislature will be strongly Republican.

Returns from 113 towns and cities give Haile, Rep., 20,655; Wells, Dem., 17,575; Scattering, 108.

The latest reports show that 129 Republicans have been elected to the Legislature and 52 Democrats, being a gain of 22 from last year.

The Republicans have carried the Cities of Manchester, Concord, Dover and Nashua by large majorities, and have swept everything clean in Exeter, Great Falls, Keene, Claremont, Milford, Lebanon, Hanover and all the large towns in the State. A municipal election was held in the City of Nashua, and the Hon. Thomas W. Gillis, Republican, was elected Mayor.

Manchester gives Haile 676 majority over Wells, which is a handsome gain on the vote for Governor last year. This city has elected 15 Representatives, all Republicans. Not a single Slave Democrat got elected in any Ward in the city.

Thus it will be seen that the Republican banner waves in triumph over the "old Granite State." She has again vindicated her character, and reaffirmed her adherence to correct principles. Too many Free Schools are found among her hills—too many church spires point toward heaven—too many newspapers are taken and read and circulated here—and there is too much virtue among her intelligent yeomanry, to ever make New-Hampshire a tool of the Slave Power again.

And at this auspicious moment the "old Granite State" sends a greeting to her sister State Connecticut, where a State Election will soon be held, and asks her to emulate her example, and do her whole duty in the coming contest. J. E. M.

THE WASHINGTON RAT CATASTROPHE.

DEATH OF ANOTHER VICTIM.

It was hoped, when, a week or two ago, we informed our readers of the extraordinary rumor regarding the rat poisoning case at the National Hotel in Washington, no further developments would manifest themselves beyond the mere sickness of the guests who had partaken so freely of the water provided for their use; but *The Cleveland Plaindealer* subsequently informed us that a Mr. Lenox, from the State of Ohio, who had been sojourning at Washington, and who was a guest at the National Hotel at the time of the excitement caused by so much sickness, "was taken sick, started for "home, and died on the way;" and in our columns of yesterday was a notice of the death of the wife of a respectable citizen of New-York, who, it is rumored, died a victim to sickness caused by participation of the water drawn from the tanks of the National Hotel at Washington. The following is the notice alluded to.

"On Wednesday evening, March 11, in the 27th year of her age, Susan Martha, wife of Jay L. Adams, and only daughter of Peter R Warner."

This lady, according to the information received by our reporter, having been on a visit to Savannah, was returning home by way of Washington, where she stopped at the National Hotel. She was taken with a violent fit of sickness, presenting the same symptoms as the other victims, and upon returning home to New-York became rapidly worse, until Wednesday evening last, when she died. Of course rumor at once gave the origin of the cause of her death a location, and put it down as the place mentioned above. Although an effort was made to suppress any tendency which would give such a rumor publicity and thereby leave an impression of its validity upon the public mind, yet it transpired sufficiently to reach the ear of our reporter, who, upon inquiry yesterday, ascertained that a post-mortem examination had been made to determine upon the cause of death. At first the cause of Mrs. Adams's death had been set down as "inflammation on the lungs." This, however, it would seem has been superseded by the result of the post-mortem examination, which, it is said was conducted by four of the ablest physicians in the city. The statement made to our reporter was the following: "That the stomach was ascertained "to have been partially eaten away; the bowels man-"ifested symptoms of violent inflammation; the lungs "were congested, and the kidneys severely affected." These results were reluctantly narrated to two or three friends, who have named it over again; and, as there is no disgrace in being, accidentally, the victim in such a case as that at Washington, or in being related to a victim, we give this to our readers—not with any desire to parade before the public anything of a revolting character, but rather as an incentive to care and watchfulness in any attempt to destroy vermin. There may be other instances in which death has ensued, in which a like care has been exercised to prevent publicity. While we deeply sympathize with those who are deprived of valued and beloved friends yet we can see no reason why the public should not know the consequences of the want of foresight or calculation.

MR. BUCHANAN AT BALTIMORE.

The Inland City, a daily journal of Lancaster, Pa., has the following statements with reference to the allegation of a telegraphic correspondent at Baltimore, that no insult was offered to Mr. Buchanan or his escort while they were in that city:

"A member of the Fencibles informs us that, although the above communication to THE TRIBUNE [that contradicted by the telegraphic correspondent at Baltimore] is somewhat exaggerated, it is substantially correct. Mr. Buchanan *was* insulted in Baltimore City by a gang of rowdies, who hissed and shouted as the carriage in which he was seated passed by; and much as the people of Baltimore may wish to deny it, the allegation can be proved by numbers of our citizens who were present. That stones were repeatedly thrown among the procession, and several members of the Fencibles injured thereby, is a fact too well known for denial. Neither the Fencibles or any other visitors attribute this insulting conduct to any others than the cowardly rowdies who infest the City of Baltimore, and have caused a stigma to be attached to it, that will long remain as a reproach to its fame. That any honesty loving, true-minded citizen should undertake to denounce as a falsehood, or palliate this well-founded truth, is a wonder, and only shows the level to which some persons will descend in endeavoring to purge themselves of an uncleanliness that is universally attributed to them. If the citizens of Baltimore are ashamed of the government of their city, they should not attempt to conceal their shame by evasion, but rather endeavor to correct the abuses by choosing public officers who will discountenance and punish the lawlessness that is well known to reign in that city.

MASSACHUSETTS.—The House of Representatives of this State has just passed the following bill:

An Act relating to the Competency of Witnesses.
Be it enacted, &c.

SECTION 1. No person offered as a witness shall be excluded from giving evidence, either in person or by deposition, in any Court, or before any person having authority to receive evidence, by reason of any religious belief, or want of religious belief of the person so offered.

SEC. 2. Evidence of disbelief in the existence of God may be received to affect the credibility, but not the competency of any person testifying.

SEC. 3. The evidence of any person offered as a witness, who does not believe in the existence of God, shall be taken under his solemn affirmation, subject to the pains and penalties of perjury: provided the fact that he does not believe in the existence of God shall be made to appear to the Court or person having authority to receive his evidence before he is sworn.

—This bill puts the whole matter on its true footing—admit all the relevant testimony that is offered, and then let its credibility and value be thoroughly sifted. A criminal or notorious reprobate may give testimony which supplies an important link in a chain of evidence, vindicating impeached innocence or securing the conviction of guilt. Atheism may affect a witness's credibility, but cannot justly deprive the party whom his evidence would favor of his right to have that testimony given and weigh with the jury for whatever it may seem to be worth. We trust this bill is destined to become a law, not merely in Massachusetts but in all the States.

JOHN WENTWORTH, Editor of *The Chicago Democrat*, and the new Republican Mayor of that city, has commenced his official term by paying off the mortgage of $800 or over on the house of Mr. Seiffert, the German Republican, who was killed by the Irish Democrats in a riot at the late Election. He has written to the Secretary of the Firemen's Benevolent Association, tendering to that body his salary for the first four months, amounting to nearly $1,200. John will do.

SECOND REPORT ON THE AFFAIRS OF TRINITY CHURCH.

From The Albany Evening Journal, 12th.

The Select Committee of the Senate, on the affairs of Trinity Church, have presented a second Report, which will attract quite as much attention as the first. They had given Trinity full notice of their sittings during the recess, and then had the Controller and several of the Clergy and Vestrymen of the Parish before them; but as the Corporation claimed the right to be still further heard, it has been fully granted. They have occupied eleven days in presenting a mass of evidence before the Committee, Bishops Potter and Delancey, the Rector of Trinity, and the leading Assistant Ministers and Vestrymen, testifying. The leading questions were put by their own counsel, the answers being carefully prepared, and arguments were heard from counsel at the close.

The present state of the Parish is said to be one "full of spiritual life and ability," with an increased number of clergy, Sunday Schools, Industrial Schools, Parochial Schools lay visiting among the emigrants and poor, &c., established and in operation with great vigor; all of which has been done since the adoption of the Resolution of Inquiry in the Senate, in 1855. Since the beginning of its history Trinity is said to have aided, more or less, 201 parishes in the State; of which 41 are in the City of New-York; 89 in the rest of the Diocese of New-York and 71 in the Diocese of Western New-York. And the grants, annuities, loans and stipends in money since 1814 have amounted to $998,705 60 ($23,778 a year), an amount not materially differing from that stated by the Committee in their report.

The torpor is denied by the witnesses. The small number attending the election is claimed as proof of high satisfaction with the Vestry. The diminution of the collections is owing to the diminished number of wealthy persons now left in the parish. The monopoly of power in the Vestry by its Standing Committee is denied; but its decisions appear to be overruled only "sometimes, on unimportant matters." No annual statement of affairs is printed; and no information whatever is at any time laid before the Corporators.

Partisanship in making grants is most emphatically denied; but the most striking instances of disproportionate grants are left unexplained. It is not testified that any except *one* low-church clergyman receives a stipend, and his is $300 a year.

It does not appear that any "Institution of Charity or Benevolence" has been founded or endowed, except such as are commonly reckoned to be "Institutions of Learning." In this category of "founding or endowing Institutions of Charity or Benevolence," the witnesses include grants to African Missions, collections in their churches, the alms for the poor, and the Dorcas Society. The land on which St Luke's Hospital stands is shown to have been derived virtually, from a grant by Trinity to St George the Martyr.

The Committee's previous report is fully corroborated in all its important points, by these witnesses produced by Trinity on her own behalf.

The curious management of pew leases at the new chapel is shown to have been to prevent the intrusion of any new corporators except such as "sympathized with the Vestry."

The claim on the part of others beside parishoners of Trinity to vote at the annual elections, has been made both before and after 1814. That the policy of the parish has altogether changed since 1814, is now admitted and defended.

The increase of the debt during the past ten years is not so much as the cost of the new chapel.

No attempt is made to prove the valuation of the estate made by the Committee to be too high; except that the deduction on account of leases yet to run, it is claimed, ought to be $2,690,143, instead of $1,222,338. It is admitted by all the witnesses that the value of the estate is greater now than ever before.

Mortgages held by Trinity on the old Zion and Christ Churches did not prevent their sale and alienation.

St. John's square was testified by the Controller to be worth $400,000 to Trinity Church. Another member of the Standing Committee states it to be only $75,000.

It is admitted that the Episcopal Church has not kept pace with the growth of the city, and that if Trinity does not remedy the deficiency, nobody will. It is admitted that Trinity has never built a free church though it is claimed that she has done so in effect; and also that Trinity Church, and St. Paul's and St. John's Chapels, are becoming more and more free churches, from the removal of persons able to rent pews.

There is no attempt to disavow or disclaim the authority of Col. Troup's representations, when urging the passage of the law of 1814. It is shown that Col. Troup was a vestryman at the time, and was one of the Committee appointed "with full power" to get that law passed.

The Corporation is now under no practical responsibility whatever for the manner in which it administers its trust, except to the few corporators which remain to it under the disfranchising effects of the law of 1814, and even to them no report is made in a manner to diffuse knowledge of its affairs. The Corporation repudiates altogether the idea that its property is in the nature of a trust, but claims that it is its own, and has the right to do as it pleases with its own. It denies the right of the Legislature to inquire into its affairs, and appears before the Committee not as a matter of duty, but as in the performance of an act of grace and favor to the Senate.

It is proved conclusively, too, that the body of corporators has very greatly diminished by the removal of nearly all the parishioners of any wealth or condition up town. No less than 335 families and 70 individuals left the parish from 1840 to 1848, and the same process has been going on since. The congregation down town are now made up almost wholly of strangers, clerks, artizans, washerwomen, hucksters, and daily laborers, whose intelligence does not qualify them to hold control over the administration of such a fund. The range was "wider in former times than now" for the selection of distinguished and intelligent vestrymen.

The new chapel will soon contain nearly all that is left of the old class of corporators, and they are liable to be outvoted by the very different class of corporators now forming in the lower congregation. The ultimate safety of the Trust, therefore, imperatively demand that the body of corporators be reenforced from that class of the "inhabitants of the City of New-York" to which it originally belonged.

The Committee conclude by recommending two amendments of the law of 1814—one substituting the substance of the law of 1784 in place of the second section of the law of 1814, so as to enable those who were entitled to vote for wardens and vestrymen before the passage of that law to exercise the right of which, it is claimed, that the law deprived them, and takes nothing from the present corporators. In other words it places all who were corporators under the grants of the Crown and by the laws of the State on the same footing.

The other amendment makes an addition to the 6th section of the same law, requiring the Vestry to make a full annual report to its own corporation on the 1st of February in each year.

If this be the sum and substance of all that Trinity Church can urge in her own behalf, the question is settled.

FIRES.

THE FIRE IN BROADWAY.

Messrs. Hodges & Phelps, in whose store, No 202 Broadway, a fire occurred on Thursday night, as reported in yesterday's papers, are insured in the following Companies:

Commonwealth	$5,000	James Union, Pa.	$5,000
Exchange Mutual, Phil.	5,000	Merchants' Phil.	5,000
City, New-Haven	5,000	Firemen's, Charleston	5,000
City, Boston	10,000	N. E. Mutual, Boston	10,000
Del. Trust Safety, Phil.	5,000	Lamar	10,000
Metropolitan	5,000		
Equitable, London	10,000	Total	$80,000

The Fire Marshal will make a full investigation of the matter. This is the second mysterious fire that has occurred on the block within a few days.

FIRE IN UNION-SQUARE, FOURTH AVENUE.

Last night, shortly after 9 o'clock, a fire broke out in the building No. 6 Union-square, Fourth avenue, first floor occupied by T. & J. J. Yates as a paper-hanging store, and the upper part by J. J. de Soccarraz as a dwelling. The fire originated in the store, and before it could be extinguished completely destroyed the contents, beside damaging the building considerably. The loss of Messrs. T. & J. J. Yates is estimated at $3,000. They are insured for $2,000 in the Peter Cooper Insurance Company. The building is owned by Mr. Soccarraz, and is damaged to the extent of $500. His furniture sustained $300 damage by water. Insured $3,000 on furniture and $9,000 on building in the Bowery and Harmony Insurance Companies. The origin of the fire is not yet known. One of the firm is absent in Europe, and as the other partner was absent at the time at the theater, no definite information could be obtained.

FIRE IN WATER STREET.

About 2½ o'clock on Friday morning a fire broke out in the building No. 252 Water street, occupied by Pritchet & Reed, plumbers, but being discovered at an early hour, it was extinguished before any damage of consequence occurred.

The Hon. Z. KIDWELL, formerly a Member of Congress from the Wheeling District, has been nominated as the Democratic candidate for Commissioner of the Public Works for the Upper District of Virginia, in place of Col. Armstrong, whose term of office expires on the 1st of July next.

THE DRED SCOTT CASE.

THE OPINION OF MR. JUSTICE CURTIS.

Delivered in the Supreme Court of the United States at Washington, on Saturday, March 7, 1857.

[Concluded.]

CONGRESS HAS POWER TO PROHIBIT SLAVERY IN THE TERRITORIES.

I have thus far assumed, merely for the purpose of the argument, that the laws of the United States respecting Slavery in this territory were unconstitutionally enacted by Congress. It remains to inquire whether they are constitutional and binding laws.

In the argument of this part of the case at bar it was justly considered by all the counsel to be necessary to ascertain the source of the power of Congress over the territory belonging to the United States. Until this is ascertained it is not possible to determine the extent of that power. On the one side it was maintained that the Constitution contains no express grant of power to organize and govern what is now known to the laws of United States as a territory. That whatever power of this kind exists, is derived by implication from the capacity of the United States to hold and acquire territory out of the limits of any State, and the necessity for its having some government.

On the other side it was insisted that the Constitution has not failed to make an express provision for this end, and that it is found in the third section of the fourth article of the Constitution.

To determine which of these is the correct view, it is needful to advert to some facts respecting this subject, which existed when the Constitution was framed and adopted. It will be found that these facts not only shed much light on the question whether the framers of the Constitution omitted to make a provision concerning the power of Congress to organize and govern the Territories, but they will also aid in the construction of any provision which may have been made respecting this subject.

Under the Confederation, the unsettled territory within the limits of the United States had been a subject of deep interest. Some of these States insisted that these lands were within their chartered boundaries, and that by their independence they had succeeded to the title of the Crown to the soil. On the other hand, it was argued that the vacant lands belonging to the Crown had been acquired by the United States, by the war carried on by them under a common government and for the common interest.

This dispute was further complicated by unsettled questions of boundary among several States. It not only delayed the accession of Maryland to the Confederation, but, at one time, seriously threatened its existence. (6 Jour. of Congress, 208, 442.) Under the pressure of these circumstances Congress earnestly recommended to the several States a cession of their claims and rights to the United States. (5 Jour. of Cong., 442.) And before the Constitution was framed, it had been begun. That by New York had been made on the first day of March, 1781; that of Virginia on the first day of March, 1784; that of Massachusetts on the nineteenth day of April, 1785; that of Connecticut on the fourteenth day of September, 1786; that of South Carolina on the eighth day of August, 1787, while the Convention for framing the Constitution was in session.

It is very material to observe in this connection that each of these acts cedes, in terms, to the United States as well the jurisdiction as the soil.

It is also equally important to note that, when the Constitution was framed and adopted, this plan of vesting in the United States, for the common good the great tracts of ungranted lands, claimed by the several States, in which so deep an interest was felt, was yet incomplete. It remained for North Carolina and Georgia to cede their extensive and valuable claims. These were made by North Carolina on the 25th day of February, 1790, and by Georgia on the twenty-fourth day of April, 1802. The terms of these last-mentioned cessions will hereafter be noticed in another connection, but I observe here that each of them distinctly shows, upon its face, that they were not only in execution of the general plan proposed by the Congress of the Confederation, but of a formed purpose of each of these States existing when the assent of the respective people was given to the Constitution of the United States.

It appears, then, that when the Federal Constitution was framed and presented to the people of the several States for their consideration, the unsettled territory was viewed as justly applicable to the common benefit, so far as it then had, or might attain thereafter a pecuniary value, and so far as it might become the seat of new States, to be admitted into the Union upon an equal footing with the original States. And also, that relations of the United States to that unsettled territory were of various kinds. The titles of the States of New-York Virginia, Massachusetts, Connecticut and South Carolina, as well of soil as of jurisdiction, had been transferred to the United States. North Carolina and Georgia had not actually made transfers, but a confident expectation, founded on the appreciation of the justice of the general claim, and fully justified by the result, was entertained, that these cessions would be made. The ordinance of 1787 had made provision for the temporary government of so much of the territory actually ceded as lay northwest of the river Ohio.

But it must have been apparent both to the framers of the Constitution and the people of the several States who were to act upon it that the government thus provided for could not continue unless the Constitution should confer on the United States the necessary powers to continue it. That temporary government under the ordinance, was to consist of certain officers, to be appointed by and responsible to the Congress of the confederation; their powers had been conferred and defined by the ordinance. So far as it provided for the temporary government of the Territory, it was an ordinary act of legislation, deriving its force from the legislative power of Congress, and depending for its vitality upon the continuance of that legislative power. But the officers to be appointed for the North western Territory, after the adoption of the Constitution, must necessarily be officers of the United States, and not of the Congress of the Confederation; appointed and commissioned by the President, and exercising powers derived from the United States under the Constitution.

Such was the relation between the United States and the North-western Territory, which all reflecting men must have foreseen would exist when the Government created by the Constitution should supersede that of the confederation. That, if the new Government should be without power to govern this Territory, it could not appoint and commission officers and send them into the Territory to exercise their legislative, judicial and executive power; and that this Territory, which was even then foreseen to be so important, both politically and financially, to all the existing States, must be left not only without the control of the General Government, in respect to its future political relations to the rest of the States, but absolutely without any Government, save what its inhabitants, acting in their primary capacity, might from time to time create for themselves.

But the North-westerly Territory was not the only territory, the soil and jurisdiction whereof were then understood to have been ceded to the United States. The cession by South Carolina, made in August, 1787, was of "all the territory included within the river Mis-"sissippi, and a line beginning at that part of said "river which is intersected by the Southern boundary "of North Carolina, and continuing along the said "boundary line until it intersects the ridge or chain of "mountains which divides the eastern from the west-"ern waters; then to be continued along the top of the "said ridge of mountains until it intersects a line to be "drawn due west from the head of the southern "branch of the Tugaloo river to the said mountains, "and thence to run a due west course to the river Mis-"sissippi."

It is true that by subsequent explorations it was ascertained that the source of the Tugaloo River, upon which the title of South Carolina depended, was so far to the northward that the transfer conveyed only a narrow slip of land, about twelve miles wide lying on the top of the ridge of mountains, and extending from the northern boundary of Georgia to the southern boundary of North Carolina. But this was a discovery made long after the cession, and there can be no doubt that the State of South Carolina in making the cession, and the Congress in accepting it, viewed it as a transfer to the United States of the soil and jurisdiction of an extensive and important part of the unsettled territory ceded by the Crown of Great Britain by the treaty of peace, though its quantity or extent then remained to be ascertained.

It must be remembered also, as has been already stated, that not only was there a confident expectation entertained by the other States that North Carolina and Georgia would complete the plan already so far executed by New-York, Virginia, Massachusetts, Connecticut and South Carolina, but that the opinion was in no small degree prevalent that the just title to this "back country," as it was termed, was vested in the United States by the treaty of peace, and could not rightfully be claimed by any individual State.

There is another consideration applicable to this part of the subject, and entitled, in my opinion, to great weight.

The Congress of the Confederation had assumed the power not only to dispose of the lands ceded, but to institute Governments and make laws for their inhabitants. In other words, they had proceeded to act under the cession which, as we have seen, was as well of the jurisdiction as of the soil. This ordinance was passed on the 13th of July, 1787. The Convention for framing the Constitution was then in session in Philadelphia. The proof is direct and decisive that it was known at the Convention.* It is equally clear that it was admitted and understood not to be within the legitimate powers of the Confederation to pass this Ordinance. (Jefferson's Works, vol. 9, pp. 251, 276, Federalist, No. 38, 43.)

The importance of conferring on the new Government regular powers commensurate with the objects to be attained, and thus avoiding the alternative of a failure to execute the trust assumed by the acceptance of the cessions made and expected, or its execution by usurpation, could scarcely fail to be perceived. That it was in fact perceived, is clearly shown by *The Federalist*, (No. 38), where this very argument is made use of in commendation of the Constitution.

Keeping these facts in view, it may confidently be asserted that there is a very strong reason to believe, before we examine the Constitution itself, that the necessity for a competent grant of power to hold, dispose of and govern Territory ceded and expected to be ceded, could not have escaped the attention of those who framed or adopted the Constitution; and that if it did not escape their attention, it could not fail to be adequately provided for.

Any other conclusion would involve the assumption that a subject of the gravest national concern respecting which the small States felt so much jealousy, that it had been almost an insurmountable obstacle to the formation of the Confederation, and as to which all the States had deep pecuniary and political interests, and which have been so recently and constantly agitated, was nevertheless overlooked; or that such a subject was not overlooked, but designedly left unprovided for, though it was manifestly a subject of common concern, which belonged to the case of the General Government, and adequate provision for which could not fail to be deemed necessary and proper.

The admission of new states to be framed out of the ceded territory, early attracted the attention of the Convention. Among the resolutions introduced by Mr. Randolph on the 29th of May, was one on this subject (Res No. 10, 5 Eliot, 128,) which, having been affirmed in Committee of the Whole on the 5th of June, (5 Eliot, 156,) and reported to the Convention on the 13th June, (5 Eliot, 190,) was referred to the Committee of Detail to prepare the constitution on the 26th of July (5 Eliot, 376.) This committee reported an article for the admission of new states "lawfully "constituted or established." Nothing was said concerning the power of Congress to prepare or form such states. This omission struck Mr. Madison, who, on the 18th of August, (5 Eliot, 439,) moved for the insertion of power to dispose of the unappropriated lands of the United States, and to institute temporary governments for new states arising therein.

On the 29th of August (5 Eliot, 492), the report of the Committee was taken up, and after debate, which exhibited great diversity of views concerning the proper mode of providing for the subject, arising out of the suppressed diversity of interests of the large and small States, and between those which had and those which had not unsettled territory, but no difference of opinion respecting the propriety and necessity of some adequate provision for the subject. Governor Morris moved the clause as it stands in the Constitution. This met with general approbation, and was at once adopted. The section is as follows:

"New States may be admitted by Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress.

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular State."

That Congress has some power to institute temporary governments over the territory, I believe all agree; and, if it be admitted, that the necessity of some power to govern the territory of the United States, could not and did not escape the attention of the Convention and the people, and that the necessity is so great that, in the absence of any express grant, it is strong enough to raise an implication of the existence of that power; it would seem to follow that it is also strong enough to afford material aid in construing an express grant of power respecting that territory; and that they who maintain the existence of the power, without finding any words at all in which it is conveyed, should be willing to receive a reasonable interpretation of language of the constitution manifestly intended to relate to the territory, and to convey to Congress some authority concerning it.

It would seem also that when we find the subject matter of the growth and formation and admission of new States, and the disposal of the Territory for these ends, were under consideration, and that some provision therefor was expressly made, it is improbable that it would be, in its terms, a grossly inadequate provision; and that an indispensably necessary power to institute temporary governments, and to legislate for the inhabitants of the Territory, was passed silently by, and left to be deduced from the necessity of the case.

In the argument at the bar, great attention has been paid to the meaning of the word "Territory."

Ordinarily, when the territory of a sovereign power is spoken of, it refers to that tract of country which is under the political jurisdiction of that sovereign power. Thus, Chief Justice Marshall (in United States agt. Bevans, 3 Wheat. 386) says: "What, then, is the "extent of jurisdiction which a State possesses? We "answer, without hesitation, the jurisdiction of a State "is coextensive with its territory." Examples might easily be multiplied of this use of the word, but they are unnecessary because it is familiar. But the word "territory" is not used in this broad and general sense in this clause of the Constitution.

At the time of the adoption of the Constitution, the United States held a great tract of country north-west of the Ohio; another tract, then of unknown extent, ceded by South Carolina, and a confident expectation was then entertained, and afterward realized, that they then were or would become the owners of other great tracts by cession from North Carolina and Georgia. These ceded tracts lay within the limits of the United States and out of the limits of any particular State; and the cessions embraced the civil and political jurisdiction, and so much of the soil as had not previously been granted to individuals.

These words "Territory belonging to the United States," were not used in the Constitution to describe an abstraction, but to identify and apply to these actual subjects matter then existing and belonging to the United States, and other similar subjects which might afterward be acquired; and this being so, all the essential qualities and incidents attending such actual subjects are embraced within the words "Territory "belonging to the United States," as fully as if each of these essential qualities and incidents had been specifically described.

I say the essential qualities and incidents. But in determining what were the essential qualities and incidents of the subject with which they were dealing, we must take into consideration not only all the particular facts which were immediately before them, but the great consideration, ever present to the minds of those who framed and adopted the Constitution, that they were making a frame of government for the people of the kindred States and their posterity, under which they hoped the United States might be, what they have now become, a great and powerful nation. With these in view, I turn to examine the clause of the article now in question.

It is said this provision has no application to any territory save that then belonging to the United States. I have already shown that, when the Constitution was framed, a confident expectation was entertained—which was speedily realized—that North Carolina and Georgia would cede their claims to that great territory which lay west of those States. No doubt has been suggested that the first clause of this same article, which enabled Congress to admit new States, refers to and includes new States to be formed out of this territory, expected to be thereafter ceded by North Carolina and Georgia, as well as new States to be formed out of territory north-west of the Ohio, which then had been ceded by Virginia. It must have been seen, therefore, that the same necessity would exist for an authority to dispose of and make all needful regulations respecting this territory, when ceded, as existed for a like territory which had been ceded.

No reason has been suggested why any reluctance should have been felt by the framers of the Constitution to apply this provision to all the territory which might belong to the United States, or why any distinction should have been made, founded on the accidental circumstance of the dates of the cessions; a circumstance in no way material as respects the necessity for rules and regulations or the propriety of conferring on the Congress power to make them. And if we look at the course of the debates in the convention on this article we shall find that the then unceded lands, so far from having been left out of view in procuring this article, constituted, in the minds of members, a subject of even paramount importance.

Again, in what an extraordinary position would such a construction of this cause place the territory which lay within the chartered limits of North Carolina and Georgia! The title was then claimed by those States, and by the United States; their respective claims are purposely left unsettled by the express words of this clause, and when cessions were made by those States they were merely of their claims to this territory. The United States neither admitting nor denying the validity of those claims, so that it was impossible then, and has ever since remained impossible, to know whether the territory did or did not then belong to the United States; and consequently to know whether it was within or without the authority conferred by this clause, to dispose of and make rules and regulations respecting the territory of the United States. This attributes to the eminent men who acted on this subject a want of ability and forecast, or a want of attention to the known facts upon which they were acting, in which I cannot concur.

There is not, in my judgment, anything in the language, the history, or the subject matter of this article, which restricts its operations to territory owned by the United States when the Constitution was adopted. And I am not aware that such a construction has ever before been suggested as even possibly true.

But it is also insisted that provisions of the Constitution respecting territory belonging to the United States do not apply to territory acquired by treaty from a foreign nation. This objection must rest upon the position that the Constitution did not authorize the Federal Government to acquire foreign territory, and consequently has made no provision for its government when acquired; or, that, though the acquisition of foreign territory was contemplated by the Constitution, its provisions concerning the admission of new States, and the making of all needful rules and regulations respecting territory belonging to the United States, were not designed to be applicable to territory acquired from foreign nations.

It is undoubtedly true that at the date of the treaty of 1803 between the United States and France for the cession of Louisiana, it was made a question whether the Constitution had conferred on the Executive Department of the Government of the United States to acquire foreign territory by treaty.

There is evidence that very grave doubts were then entertained concerning the existence of this power. But that there was then a settled opinion in the Executive and Legislative branches of the Government that this power did not exist cannot be admitted, without at the same time imputing to those who negotiated and ratified the treaty and passed the laws necessary to carry it into execution, a deliberate and known violation of their oaths, to support the Constitution, and whatever doubts may then have existed, the question must now be taken to have been settled.

Four distinct acquisitions of foreign territory have been made by as many different treaties, under as many different administrations. Six States, formed of such territory, are now in the Union. Every branch of this government, during a period of more than fifty years, has participated in these transactions. To question their validity now, is vain. As was said by Mr. Chief Justice Marshall, in the American Insurance Company *agt.* Carter, 1 Peters 542. "The Constitu-"tion confers absolutely on the government of the "Union, the power of making war and of making "treaties; consequently that Government possesses the "power of acquiring territory, either by conquest or "treaty." And, I add, it possesses the power of governing it, when acquired. Not by resorting to suppositious powers nowhere found described in the Constitution, but expressly granted in the authority to make all needful rules and regulations respecting the Territory of the United States.

There was to be established by the Constitution a frame of government under which the people of the United States and their posterity were to continue indefinitely. To take one of its provisions the language of which is broad enough to extend throughout the existence of the government, and embrace all territory belonging to the United States throughout all time, and narrow down to territory belonging to the United States when the Constitution was framed, while at the same time it is admitted that the Constitution contemplated and authorized the acquisition, from time to time, of other and foreign territory, seems to me to be an interpretation as inconsistent with the nature and purposes of the instrument as it is with its language, and I can have no hesitation in rejecting it.

I construe this clause, therefore, as if it had read, Congress shall have power to make all needful regulations respecting those tracts of country, out of the limits of the several States, which the United States have acquired, or may hereafter acquire, by cessions, as well of the jurisdiction as of the soil, so far as the soil may be the property of the party making the cession at the time of making it.

It has been urged that the words "rules and regulations" are not appropriate terms in which to convey authority to make laws for the government of the territory.

But it must be remembered that this is a grant of power to the Congress—that it is, therefore, necessarily a grant of power to legislate—and, certainly, rules and regulations respecting a particular subject, made by the legislative power of a country, can be nothing but laws. Nor do the particular terms employed, in my judgment, tend, in any degree, to restrict this legislative power. Power granted to a legislature to make all needful rules and regulations respecting the territory, is a power to pass all needful laws respecting it.

The word regulate, or regulation, is several times used in the Constitution. It is used in the fourth section of the first article to describe those laws of the States which prescribe the times, places and manner of choosing senators and representatives; in the second section of the fourth article, to designate the legislative action of a State on the subject of fugitives from service, having a very close relation to the matter of our present inquiry; in the second section of the third article, to empower Congress to fix the extent of the appellate jurisdiction of this Court; and, finally, in the eighth section of the first are the words, "Congress "shall have the power to regulate commerce."

It is unnecessary to describe the body of legislation which has been enacted under this grant of power; its variety and extent are well known. But it may be mentioned in passing that, under this power to regulate commerce, Congress has enacted a great system of municipal laws, and extended it over the vessels and crews of the United States on the high seas and in foreign ports, and even over citizens of the United States resident in China; and has established judicatures, with power to inflict even capital punishment, within that country.

If, then, this clause does contain a power to legislate respecting the territory, what are the limits of that power?

To this I answer that, in common with all the other legislative powers of Congress, it finds limits in the express prohibition on Congress not to do certain things; that, in the exercise of the legislative power, Congress cannot pass an *ex post facto* law or bill of attainder, and so in respect to each of the other prohibitions contained in the Constitution.

Beside this, the rules and regulations must be needful. But undoubtedly the question whether a particular rule or regulation be needful must be finally determined by Congress itself. Whether a law be needful is a legislative or political, not a judicial, question. Whatever Congress deems needful, is so, under the grant of power.

Nor am I aware that it has ever been questioned that laws providing for the temporary government of the settlers on the public lands are needful, not only to prepare them for admission to the Union as States, but even to enable the United States to dispose of the lands.

Without government and social order, there can be no property, for without law, its ownership, its use, and the power of disposing of it, cease to exist, in the sense in which those words are used and understood in all civilized States.

Since then, this power was manifestly conferred to enable the United States to dispose of its public lands to settlers, and to admit them into the Union as States, when, in the judgment of Congress, they should be fitted therefor—since these were the needs provided for—since it is confessed that government is indispensable to provide for these needs, and the power is to make *all needful* rules and regulations respecting the territory, I cannot doubt that this is a power to govern the inhabitants of the territory, by such laws as Congress deems needful, until they obtain admission as States.

Whether they should be thus governed solely by laws enacted by Congress, or partly by laws enacted by legislative power conferred by Congress, is one of those questions which depend on the judgment of Congress—a question which of these is needful.

But it is insisted that whatever other powers Congress may have respecting the Territory of the United States the subject of negro Slavery forms an exception.

The Constitution declares that Congress shall have power to make "*all* needful rules and regulations" respecting the territory.

The assertion is, though the Constitution says all, it does not mean all—though it says all, without qualification, it means all except such as allow or prohibit Slavery. It cannot be doubted that it is incumbent on those who would thus introduce an exception not found in the language of the instrument, to exhibit some solid and satisfactory reason, drawn from the subject matter, or the purposes and objects of the clause, the context, or from other provisions of the Constitution, showing that the words employed in this clause are not to be understood according to their clear, plain and natural signification.

The subject matter is the territory of the United States out of the limits of every State, and consequently under the exclusive power of the people of the United States. Their will respecting it, manifested in the Constitution, can be subject to no restriction. The purposes and objects of the clause were the enactment of laws concerning the disposal of the public lands and the temporary government of settlers threon, until new States should be formed. It will not be questioned that when the Constitution of the United States was framed and adopted, the allowance and the prohibition of negro Slavery were recognized subjects of municipal legislation; every State had in some manner acted thereon; and the only legislative act concerning the territory—the ordinance of 1787, which had then so recently been passed—contained a prohibition of Slavery. The purpose and object of the clause being to enable Congress to provide a body of municipal law for the government of the settlers, the allowance or the prohibition of Slavery comes within the known and recognized scope of that purpose and object.

There is nothing in the context which qualifies the grant of power. The regulations must "be respecting the territory." An enactment that Slavery may or may not exist there, is a regulation respecting the territory. Regulations must be needful; but it is necessarily left to the Legislative discretion to determine whether a law be needful. No other clause of the Constitution has been referred to at the bar, or has been seen by me, which imposes any restriction, or makes any exception concerning the power of Congress to allow or prohibit Slavery in the territory belonging to the United States.

A practical construction, nearly cotemporaneous

* It was published in a newspaper at Philadelphia in May, and a copy of it was sent by R. H. Lee to Gen. Washington on the 15th July. (See page 261, Cor. of Am. Rev., vol. 4, p. 174, and Writings of Washington, vol. 9.