WASHINGTON, D. C.

Admission of Oregon.

SPEECH OF HON. JOHN A. BINGHAM, OF OHIO,

IN THE U. S. HOUSE OF REPRESENTATIVES,

FEBRUARY 11, 1859.

MR. SPEAKER: I am constrained to oppose this bill for the admission of Oregon as a State, with the Constitution presented by the people of that Territory. I would refer the question back to that people, as proposed by the amendment of which I have given notice, and allow them without delay to frame a Constitution in conformity with the Constitution of the United States.

My opposition to this bill cannot be attributed to any mere sectional prejudice. The geographical locality of Oregon excludes any such conclusion as to myself. Oregon belongs to the Northwest—that portion of the country from which I come, and which I have the honor, in part, to represent on this floor. Nor can gentlemen attribute my hostility to this bill to the consideration that Oregon has not population equal to that required by law for a Representative in Congress. This Constitution was adopted by the people of Oregon on the 9th day of November, 1857. She had not then, in my judgment, over fifty thousand of representative population; even the Delegate from that Territory [MR. LANE] has not ventured to say that she had then the representative number. But, sir, although Oregon had not then, and has not now, the representative ratio—certainly no more population than Kansas—I would not exclude her on that account.

It does not become gentlemen who have suspended the right of petition in Kansas by the infamous provision of the conference act, to insist that those of us on this side shall not only recognise the right in Oregon to come in with her present population, but shall grant their petition for admission, even though it asks a departure from, and an infraction of, the Constitution of the United States. There never was any enabling act passed, authorizing the people of Oregon to frame this Constitution. In my judgment, no enabling act was needful to authorize the people of Oregon to frame a Constitution and memorialize Congress for admission under it. Their right so to petition Congress is inherent, and guarantied by the Constitution. But I ask why this right should be regarded in Oregon and forbidden in Kansas? Gentlemen have no right thus to discriminate; and if they do, they cannot claim that they are the exclusive friends of free States, and of their admission into the Union. They may prate that to marines, not to old sailors. The Constitution declares that each State shall have at least one Representative in Congress, irrespective of population. Hence I conclude that the want of ninety-three thousand four hundred and twenty of population in Oregon ought not to exclude her.

Sir, the reasons which constrain me to oppose the admission of Oregon, apply irrespective of latitude or of any prevailing political sentiment among the people of the proposed State. In my judgment, sir, no Representative should inquire, upon a question of the admission of a new State, whether its locality be in the North or South, the East or West of the Republic; whether its people range themselves politically as Democrats or Republicans. I protest that no such considerations do now, or have at any time, influenced my mind upon this question. I look upon the erection of new States and their admission into the Union as an object of patriotic desire. No man does or can sympathize more warmly than myself with the pioneers of American civilization—the founders of new States, who extend the limits of the Republic, who carry the arts of civilization into the wilderness, and make glad its solitary places with the homes of freemen; who make your hitherto wild and uncultivated lands to yield their annual increase, and your hitherto solitary rivers to bear the products of a thrifty industry or contribute their motive power to the production of new wealth; whose rugged, busy hands, energized by the creative power of genius, uncover the immense mineral deposits of the great West, subject them to the tried processes of science, and mould them, amid the darkness which broods over the blast of the furnace and the rolling of the wheel, into forms of strength and use and beauty. Such men, sir, are entitled to our consideration, and no man will more cheerfully or cordially than myself, favor any legitimate or just legislation for their benefit.

But, however much I desire the admission of the new State of Oregon, I cannot consent to sanction the Constitution now before us, by giving my vote for this bill. I know, sir, there are those, and amongst them, I regret to say, the gentleman from Massachusetts, [MR. THAYER,] who hold that we do not sanction this Constitution by voting for the bill admitting Oregon into the Union. The gentleman from Massachusetts [MR. THAYER] said, that when he took his official oath to support the Constitution of the United States he did not swear that other people should not violate it. I tell that gentleman, and all who agree with him, that every officer, Federal and State, whether legislative, executive, or judicial, who has taken that official oath which we have all taken, to support the Constitution of the United States, are bound in conscience and in law by that oath, neither to violate that Constitution themselves, nor to permit others to violate it by their act and with their consent. What we do by another, we do ourselves. The fact, sir, cannot be gainsayed, that by passing this bill, we sanction the Oregon Constitution, and make it the fundamental law of that Territory. It is equally clear that, by our rejection of this bill, that instrument called the Constitution of Oregon will have no more effect than the paper on which it is printed.

Suppose the proposed Constitution organized an absolute despotism; would gentlemen say that they had no alternative left them but to register their votes for it, and thereby give force and effect to it, because it was the will of the people in that distant Territory, and republican in form? The people of the Territory of Oregon have the sole right to frame a State Constitution for themselves, but they must so exercise that right as not to embody in their Constitution provisions repugnant to the Constitution of the United States, violative of the rights of citizens of the United States. In my judgment, sir, this Constitution, framed by the people of Oregon, is repugnant to the Federal Constitution, and violative of the rights of citizens of the United States. I know, sir, that some gentlemen have a short and easy method of disposing of such objections as these, by assuming that the people of the State, after admission, may, by changing their Constitution, insert therein every objectionable feature which, before admission, they were constrained to omit in order to secure the favorable action of Congress. If this assumption implies that new States have the right so to do, to the infringement of the Constitution of the United States, and of the rights of the citizens thereof, I deny the assumption. If the assumption only means that they *might* arrogate to themselves and exercise powers which they do not possess, to the prejudice and injury of themselves, and in contravention of the Federal Constitution and of the rights of citizens of the other States of the Union, it only tends to prove, if anything, too much, to wit: that new States ought not to be admitted. Such reasoning, to my mind, proves nothing; or, if anything, that we should consent to a violation of the Constitution of our country, and of the rights of the people and the rights of the States, because the same wrong might be done by others.

This assumption, sir, implies, that by the very act of admission, under whatever form of Constitution, you arm the new State with the sole power over persons and property within its territorial limits; and therefore, however oppressive or unjust its legislation may be, however odious or unconstitutional, it is without remedy, and is resultant from our action here. This assumption supposes that the States are not limited by the Constitution of the United States, in respect of the personal or political rights of citizens of the United States. I cannot agree to that; it is a marked advance even upon the Squatter Sovereignty of the Kansas-Nebraska act, which, in express terms, limits the sovereignty of the people by the expressive and significant words, that the domestic institutions, which they are declared "perfectly free" to form, must be "subject to the Constitution of the United States." This assumption ignores these words of limitation upon State sovereignty, set forth in the Constitution of the United States, to wit: "this Constitution, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land, the Constitution and laws of any State to the contrary notwithstanding."

I cannot give this Oregon Constitution the force and effect of law, upon the assumption that, to require the people first to make it conformable to the Constitution of my country and natural justice, is a mere abstraction; that, after admission upon a just Constitution, they may of right change it to an unjust one, and by our act be armed with the power to do so; and that, too, without remedy. No man has any right to assume any such result. What, sir, is a State, formed under the Constitution of the United States, but a collection of citizens, each of whom is bound by the restrictions of the Federal Constitution, and so continue to be collectively after their State organizations, as they were individually before? This is an old idea. It was entertained by the fathers of the Republic, and by them incorporated in their early legislation for the government of the Territories and the organization and admission of new States. I have seen this principle illustrated in this House since I have had the honor of a place on this floor.

By the Constitution of Illinois, all votes cast for two of her Representatives, elected to the Thirty-fourth Congress, were declared void by reason of disabilities imposed upon them by the amended Constitution of that State. On this ground, their seats were contested by gentlemen who received all the legal votes cast, if the superadded restrictions of the State Constitution of Illinois were to be allowed to control the rights of the people under the Federal Constitution. This House disregarded the State restrictions, because it contravened the rights of the people under the Federal Constitution, and decided that votes for Representatives in Congress, given for persons having the qualifications prescribed by the Federal Constitution, were valid, the State Constitution to the contrary notwithstanding. The conclusion that any State Constitution, or State law, which conflicts with the Constitution of the United States, and impairs any right, political or personal, guarantied thereby, is null and void, logically results from that provision which declares the Constitution of the United States, and the laws and treaties made in pursuance thereof, to be the supreme law of the land. To the right understanding of the limitations of the Constitution of the United States upon the several States, it ought not to be overlooked, that whenever the Constitution guaranties to its citizens a right, either natural or conventional, such guarantee is in itself a limitation upon the States; whenever the Constitution confers a general power to legislate or make treaties, the limitation arises only upon the rightful exercise of the power. In the one case it is the Constitution, in the other it is the law or treaty, that is the supreme law.

The Oregon Constitution, in its first section, second article, violates a law of the United States; unless, indeed, your proposed act of admission, being inconsistent with a pre-existing law of the United States, be a repeal of that law. I shall not consider the question of the repeal of the naturalization laws at this time. I take it for granted that gentlemen who insist on the passage of this bill, and the establishment thereby of this Oregon Constitution as the fundamental law of that Territory, do not advocate a repeal of the naturalization laws of the United States. The second section of the second article of the Oregon Constitution contains these words:

> "In all elections not otherwise provided for in this Constitution," * * * "every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election," * * * "shall be entitled to vote at all elections authorized by law."

Now, sir, this is simply a provision that aliens, upon one year's residence, after a mere declaration of intention to become a citizen of the United States, may vote at all general elections, for all Federal and State officers; that aliens, by reason of one year's residence after a declaration of intention, may elect your Representative in Congress, and select the State Legislature to choose your United States Senators, and elect Presidential electors for the purpose of choosing a President and Vice President of the United States. I do not hesitate to say that this presents the question, whether a State may transfer the sovereignty of the ballot, which is the ultimate sovereignty of the country, to aliens, on one year's residence, and a mere declaration of intention to become citizens of the United States when it suits them, and not before. If there were no other objection to this Constitution, I might surrender my individual judgment to the bad precedents in the cases of the admission of Michigan, Wisconsin, and, more recently, of Minnesota. I think such concessions to new States most pernicious in policy, and of doubtful constitutionality.

By declaring his intention to become a citizen of the United States, an alien does not renounce his allegiance to the Government of his native country, nor does he acknowledge any allegiance to ours. He only gives notice that he may do so at his pleasure. He may never carry out his intention, and there is no law to compel him. When the Oregon enabling act passed this House, in the Thirty-fourth Congress, it was so amended, by an overwhelming vote of the House, as to limit the elective franchise in the election of delegates to frame a Constitution for Oregon, and in the ratification thereof, to citizens of the United States. That act never passed the Senate. But a like amendment to the Minnesota enabling act was, in the Senate, voted for by every Senator present at the time, except one. The Constitution of the United States, in its first article, provides that the Representatives in Congress "shall be chosen by the people of the several States;" and that the electors shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures of the several States. The people here referred to are the same community, or body politic, called, in the preamble of the Federal Constitution, "the people of the United States." They are citizens of the United States, and no other people whatever. It has always been well understood amongst jurists in this country, that the citizens of each State constitute the body politic of each community, called the people of the State; and that the citizens of each State in the Union are *ipso facto* citizens of the United States. (Story on the Constitution, vol. 3, p. 565.)

Who are citizens of the United States? Sir, they are those, and those only, who owe allegiance to the Government of the United States; not the base allegiance imposed upon the Saxon by the Conqueror, which required him to meditate in solitude and darkness at the sound of the curfew; but the allegiance which requires the citizen not only to obey, but to support and defend, if need be with his life, the Constitution of his country. All free persons born and domiciled within the jurisdiction of the United States, are citizens of the United States from birth; all aliens become citizens of the United States only by act of naturalization, under the laws of the United States. What I have said on this question of United States citizenship, and the words "the people," as used in the Constitution of the United States, is sustained by jurists and the decisions of the courts, Federal and State.

Rawle writes as follows:

> "The citizens of each State constituted the citizens of the United States when the Constitution was adopted. The rights which appertain to them as citizens of those respective Commonwealths accompanied them in the formation of the great compound Commonwealth which ensued. They became citizens of the latter, without ceasing to be citizens of the former; and he who was subsequently born a citizen of a State, became, at the moment of his birth, a citizen of the United States."—*Rawle on the Constitution*, page 86.

Chancellor Kent says:

> "If a slave, born in the United States, be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes thenceforward a citizen."—2 *Kent's Com.*, 4th ed., page 257—Note.

For the benefit of the other side of the House, who profess a more than Eastern devotion to the Supreme Court of the United States, and its decision in the Dred Scott case, I quote from the opinion of the Chief Justice in that case the following:

> "The words 'people of the United States,' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives."—19 *Howard, S. C. R.*, page 404.

I undertake to say, that the terms "people of the United States," and "people of the several States," as used in the Constitution of the United States, have invariably received this judicial construction in all our courts, State and National; and on this point I challenge contradiction.

In the same case, the same court says further:

> "It is true, every person, and every class and description of persons, who were, at the time of the adoption of the Constitution, recognised as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity; but for no one else. And the personal rights and privileges guarantied to citizens of this new sovereignty, were intended to embrace those only who were then members of the several State communities, or who should afterwards, by birthright or otherwise, become members according to the provisions of the Constitution, and the principles on which it was founded. It was the union of those who were, at that time, members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens, as to rights of person and rights of property—it made him a citizen of the United States."

The importance that attaches to this question of who are citizens of the United States, may be inferred from the fact that the fathers of the Republic provided that death should be the punishment of that crime which only citizens can commit. The first section of the crimes act for the punishment of treason is the only statute of the United States on that subject, and is as follows:

> "That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted," * * * "such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."—1 *United States Laws*, page 112.

The Congress of the United States should not consent that the sovereignty of the ballot, which is the sovereignty of America, should be transferred by its act to those who may use it to aid treason, and who may themselves levy war upon us, and give aid and comfort to the enemy, without any legal responsibility for their acts.

Who would admit the adhering subjects of the perjured House of Hapsburg to the use of a part of the sovereignty of our country in aid of their infamous master?

If I am right in this, sir, then I submit that the elective franchise for the election of Federal officers, either directly or indirectly, should be confined to, and exercised exclusively by, citizens of the United States, resident within the several States. That the several States have, by the terms of the Federal Constitution, the exclusive power to regulate and control the exercise of the elective franchise in all general elections, Federal and State, is conceded; but I do deny that any State can rightfully, under the Federal Constitution, transfer this great political privilege, in whole or in part, from the citizens of the United States, native and naturalized, to aliens, who owe no allegiance to our Constitution, who are not obliged to bear arms in defence of our country, and who cannot be held to answer for treason if they give aid and comfort to the public enemy, or if they themselves levy war against us. If the States may transfer this right in part to aliens, they may give it exclusively to *aliens!* What is the elective franchise, which you propose to give to aliens? It is the sovereignty of America, secured by the Constitution to the people, the citizens of the United States resident within the several States, and by the exercise of which, directly or indirectly, the people appoint persons of their choice to fill the legislative, judicial, and executive departments of their own Government; make, interpret, and enforce their own treaties and laws, and do all other acts which a free and independent people may of right do.

Between myself and gentlemen there is a perfect agreement in this, that the several States may determine who, amongst the citizens of the United States resident within their respective limits, may exercise the elective franchise; they may prescribe the age of majority requisite to the exercise of this right; the term of residence within the State; whether citizens, male or female, shall vote; whether a tax or property qualification shall be required; but I deny that any State may rightfully transfer this political right from the citizen to the alien, and, it may be, to the open and avowed enemy of the country and the Constitution! Of the several States composing the Union, there are but four which, by their Constitutions, confer the elective franchise upon aliens. These are all modern innovations; they are Michigan, Wisconsin, Indiana, (by her amended Constitution,) and Minnesota. This last State not only makes aliens electors, but also declares them elegible to the State Legislature. The words used in some instances in the Constitutions of some of the original States, and of the first of the new States, such as "freemen" and "inhabitants," have generally, if not always, been construed to mean and intend citizens.

The Constitution very clearly imports that only persons born here or naturalized by law are citizens of the United States; for, in prescribing the qualifications of Senators and Representatives in Congress, the Constitution employs the term "citizens of the United States," and in prescribing the qualifications of President of the United States, it employs the terms, "natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution." These provisions, together with the express power conferred upon Congress to establish a uniform system of naturalization, are only intelligible upon the hypothesis that citizens of the United States are the free inhabitants, born and domiciled within the United States, or naturalized under the laws thereof, and that these alone are citizens, when resident therein, of the several States, and, as such, constitute the body politic, the people of the several States, who should exercise the elective franchise in the general elections, either State or National.

That such is the true intent and meaning of the Constitution, may well be inferred from the express provisions of the fourth and fifth sections of the first article of the Constitution; the first of which is, that the "times, places, and manner, of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators:" and the latter of which provides, that "each House [of Congress] shall be the judge of the elections, returns, and qualifications, of its own members." Here is a power expressly given to Congress to prescribe, by law, the manner, as well as the times, of choosing Representatives and Senators. This power was manifestly conferred, as was also the power in each House to judge of the elections of its members, to enable the people of the United States, as one body politic, to maintain their National Government, under the peaceful operation of law, against any and every attempt on the part of any of the States, or the Legislatures thereof, to interrupt or overthrow it; and, above all, I maintain that these powers were conferred for the especial protection of the political rights of the citizens of the United States. How strongly they proclaim the fact—one people, one Constitution, and one country!

Sir, what are the distinctive political rights of citizens of the United States? The great right to choose (under the laws of the States) severally, as I remarked before, either directly by ballot, or indirectly through their duly-constituted agents, all the officers of the Federal Government, legislative, executive, and judicial, and through these to make all constitutional laws for their own government, and to interpret and enforce them; the right, also, to hold and exercise, upon election thereto, the several offices of honor, of power, and of trust, under the Constitution and Government of the United States. It is worthy of remark, that every political right guarantied by the Constitution of the United States is limited by the words people or citizen, or by an official oath, to those who owe allegiance to the Constitution. The right to exercise the office of a Representative or Senator in Congress is a political right, and, by the terms of the Constitution, its exercise is limited to citizens of the United States, being inhabitants of the States *in* which, not *by* which, they are chosen. The reservation of political powers is a reservation to the States or the people—both of which terms import citizens of the United States—and limit the exercise of all reserved powers to the citizens of the United States, acting as such through their National or State organizations.

And in further illustration of my position, I invite attention to the significant fact that natural or inherent rights, which belong to all men, irrespective of all conventional regulations, are by this Constitution guarantied by the broad and comprehensive word "person," as contradistinguished from the limited term citizen—as in the fifth article of amendments, guarding those sacred rights which are as universal and indestructible as the human race, that "no person shall be deprived of life, liberty, or property, but by due process of law, nor shall private property be taken without just compensation." And this guarantee applies to all citizens within the United States. That these wise and beneficent guarantees of political rights to the citizens of the United States, as such, and of natural rights to all persons, whether citizens or strangers, may not be infringed, it is further in this National Constitution provided:

> "That this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."—*Article 6.*

There, sir, is the limitation upon State sovereignty—simple, clear, and strong. No State may rightfully, by Constitution or statute law, impair any of these guarantied rights, either political or natural. They may not rightfully or lawfully declare that the strong citizens may deprive the weak citizens of their rights, natural or political; and if the State should do so by enacting statutes to that effect, there stands the limitation of the Constitution of the United States, sanctioned by the strong avertment assented to and ratified by all the people and all the States—this Constitution shall be the supreme law; and the judges in every State shall be bound thereby. Every State in this Union, either by the express words of their respective Constitutions, or by construction, restrict the right of the elective franchise to those who owe allegiance to the Government and Constitution of the United States, except the States of Michigan, Indiana, Wisconsin, and Minnesota. If resistance to the admission of new States, on the ground that their Constitutions confer this great political right of the citizen upon aliens, is not allowable, and will not be heard here, I shall then appeal to that public opinion which, after all, is the strongest defender of the Constitution against such innovation, and of the rights of the people against such infringement.

I have but a word more on the point that the States may not transfer the great right of American sovereignty from the citizens of the United States, resident therein, to aliens, nor make aliens citizens of the United States. Let the self-constituted champions of State rights, who clamor for the right of the States to make the alien a citizen of the United States by investing him with the highest privilege of a citizen, remember that Jefferson, the great apostle of State rights, signed the act of 1802, which still stands in full force on your statute book, and contains these words:

> "Any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise."

After these words follow the provisions for naturalization. Any alien shall become a citizen of *any* State of the Union only as prescribed by this law! For State-rights men to talk about the right of any of the States to confer the right of citizenship on aliens, in violation of this Jeffersonian statute, is enough to make the very ashes of that apostle of the rights of the States move in his coffin!

But, sir, there is still more objectionable feature than alien suffrage in this Oregon Constitution. That is the provision of the schedule which declares that large numbers of the citizens of the United States shall not, after the admission of the proposed State of Oregon, come or be within said State; that they shall hold no property there; and that they shall not prosecute any suits in any of the courts of that State; and that the Legislature shall, by statute, make it a penal offence for any person to harbor any of the excluded class of their fellow-citizens who may thereafter come or be within the State. This provision seems to me, in its spirit and letter, to be injustice and oppression incarnate. This provision, sir, excludes from the State of Oregon eight hundred thousand of the native-born citizens of the other States, who are, therefore, citizens of the United States. I grant you that a State may restrict the exercise of the elective franchise to certain classes of citizens of the United States, to the exclusion of others; but I deny that any State may exclude a law-abiding citizen of the United States from coming within its territory, or abiding therein, or acquiring and enjoying property therein, or from the enjoyment therein of the "privileges and immunities" of a citizen of the United States. What says the Constitution:

> "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."—*Article 4, section 2.*

Here is no qualification, as in the clause guarantying suffrage or an elective representation to the people; here is no room for that refined construction, that each State may exclude all or any of the citizens of the United States from its territory. The citizens of each State, all the citizens of each State, being citizens of the United States, shall be entitled to "all privileges and immunities of citizens in the several States." Not to the rights and immunities of the several States; not to those constitutional rights and immunities which result exclusively from State authority or State legislation; but to "all privileges and immunities" of citizens of the United States in the several States. There is an ellipsis in the language employed in the Constitution, but its meaning is self-evident, that it is "the privileges and immunities of citizens of the United States in the several States" that it guaranties.

This guaranty of the Constitution of the United States is senseless and a mockery, if it does not limit State sovereignty, and restrain each and every State from closing its territory and its courts of justice against citizens of the United States. Lest it may be said that I have overstated the odious provisions of this Oregon Constitution, I read the entire provisions of this section of the schedule, and which is expressly declared to be "a part of this Constitution:"

> "SEC. 4. No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."—*Oregon Constitution, Mis. Doc., No. 38, page 20.*

The Constitution of Oregon, which contains this infamous atrocity, was adopted on the 9th of November, 1857; and we, by approving it, and giving to it the force of law, as we shall do if we pass this bill, declare that our legislation for this horrid oppression shall not only operate upon these proscribed eight hundred thousand freemen, citizens of the United States, from and after this day, but, by relation to the time of the adoption of this instrument, shall operate from the 9th of November, 1857. Since that day, doubtless, some of this excluded class have entered that Territory; and, if they have, you declare, by passing this bill, that their entrance of that Territory, after that day, was a crime; "that they shall not reside, or be," within that State; that they shall hold no real estate there, although acquired before you passed this bill, or gave effect to that act of exclusion; that they shall make no contract; that they shall maintain no suit, either for the enforcement of a right or the redress of a wrong; that they shall be expelled and "effectually excluded" by penal enactments; and that whoever harbors them within that State, whoever shelters them in sickness or distress, in hunger or in cold, shall be guilty of a crime before the law, and punished as a criminal. Would not this be an *ex post facto* law? By what authority, sir, can you enact it? It is forbidden by the Constitution of the United States.

That our country might be saved the shame and infamy and crime of such legislation, our fathers inserted in the first article, ninth section, of the Constitution, an absolute and perpetual prohibition in these words: "No *ex post facto* law shall be passed." This inhibition of our National Constitution, sir, is as sacred as any other provision of that great instrument; and the official oath "to support the Constitution," which you in your great office administered to all of us, binds us, in my judgment, to respect alike all the specific requirements and limitations of the Constitution, not only to save it from violation or infringement by our own act, but by the act of others with our consent! But, sir, this odious section is not only retroactive in its penal and offensive provisions, but it extends the same prohibitions over the future—all the future: "No free negro or mulatto, not residing in this State at the adoption of this Constitution, shall ever come, reside, or be, within this State, or hold any real estate, or make any contract, or maintain any suit therein;" and this denial to eight hundred thousand citizens of the United States and their descendants forever to hold real estate in Oregon, or make contracts, or maintain any suit in vindication of their rights, or for the redress of their wrongs, is to be enforced by the same atrocious sanction—the enactment of penal laws—which is especially enjoined by this infamous instrument upon the Legislative Assembly of Oregon.

Gentlemen say that we violate the ordinance of 1787, which, by the act of 1848, was extended over Oregon, by resisting the admission of Oregon upon this Constitution. I very much fear that gentlemen who say this, have never read the ordinance of 1787. I mean no disrespect, sir; but I say the veriest dolt cannot fail to see that this provision of the Oregon Constitution is in direct conflict with, and violative of, the second article of that great ordinance. That article declares that the inhabitants of that Territory shall always be entitled to the benefit of the writ of *habeas corpus* and of the trial by jury. This Constitution of Oregon denies both these rights to some of the inhabitants. That article declares that no man shall be deprived of his liberty or property but by the judgment of his peers or the law of the land. This sacred provision is also violated by this Constitution of Oregon, unless, indeed, gentlemen say a negro or mulatto is no man, but only a brute. That article further declares:

> "For the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said Territory, that shall, in any manner whatever, interfere with private contracts or engagements, *bona fide* and without fraud previously formed."

This will be the very effect of your retroactive legislation, which gives force to this Constitution of Oregon; which declares, in section three of the schedule, that it shall take effect from its adoption, and that no negro or mulatto not residing there at the time of its adoption, (9th November, 1857,) "shall ever hold any real estate, make any contract, or maintain any suit therein." Contracts, therefore, made by such persons, since 9th November, 1857, are to be held null and void, and real estate, by them acquired, confiscated.

Sir, if the persons thus excluded from the right to maintain any suit in the courts of Oregon were not citizens of the United States; if they were not natives, born of free parents within the limits of the Republic, I should oppose this bill; because I say that a State which, in its fundamental law, denies to any person, or to a large class of persons, a hearing in her courts of justice, ought to be treated as an outlaw, unworthy a place in the sisterhood of the Republic. A suit is the legal demand of one's right, and the denial of this right by the judgment of the American Congress is to be sanctioned as law! But, sir, I maintain that the persons thus excluded from the State by this section of the Oregon Constitution, are citizens by birth of the several States, and therefore are citizens of the United States, and as such are entitled to all the privileges and immunities of citizens of the United States, amongst which are the rights of life and liberty and property, and their due protection in the enjoyment thereof by law; and therefore I hold this section, for their exclusion from that State and its courts, to be an infraction of that wise and essential provision of the National Constitution to which I before referred, to wit:

> "The citizens of each State shall be entitled to all the privileges and immunities of citizens IN THE SEVERAL STATES."

Who, sir, are citizens of the United States? First, all free persons born and domiciled within the United States—not all free white persons, but all free persons. You will search in vain, in the Constitution of the United States, for that word *white*; it is not there. You will look in vain for it in that first form of National Government—the Articles of Confederation; it is not there. The omission of this word—this phrase of caste—from our national charter, was not accidental, but intentional. I beg leave to refer gentlemen to the Journal of the Continental Congress, volume 2, page 606. By this reference it will be seen that in that Congress, on the 25th June, 1778, the Articles of Confederation being under consideration, it was moved by delegates of South Carolina to amend the fourth article, by inserting after the word "free," and before the word "inhabitants," the word "white," so that "the privileges and immunities of citizens in the several States should be limited exclusively to white inhabitants." The vote on this amendment was taken by States, and stood two States for and eight against it, and one equally divided. This action of the Congress of 1778 was a clear and direct avowal that all free inhabitants, white and black, except "paupers, vagabonds, and fugitives from justice," (which were expressly excepted,) were entitled to all the privileges and immunities of free citizens in the several States."

At the time of the adoption of the Constitution, only some States—South Carolina, Virginia, and Delaware—made *color* a qualification or basis of suffrage. In five of the others, the elective franchise was exercised by free inhabitants, black and white; and therefore, in five of the States, black men co-operated with white men in the elections, and in the formation of the Constitution of the United States. Inasmuch as black men helped to make the Constitution, as well as to achieve the independence of the country by the terrible trial by battle, it is not surprising that the Constitution of the United States does not exclude them from the body politic, and the priviliges and immunities of citizens of the United States. That great instrument included in the new body politic, by the name of "the people of the United States," all the then free inhabitants or citizens of the United States, whether white or black, not even excepting, as did the Articles of Confederation, paupers, vagabonds, or fugitives from justice. Thenceforward, all these classes, being free inhabitants, irrespective of age, or sex, or complexion, and their descendants, were citizens of the United States. No distinctions were made against the poor and in favor of the rich, or against the free-born blacks and in favor of the whites. This Government rests upon the absolute equality of natural rights amongst men. There is not, and cannot be, any equality in the enjoyment of political or conventional rights, because that is impossible.

The franchise of the office of a Representative in Congress is a political right. It cannot be exercised by all; it is therefore limited to those who possess the qualifications of citizenship, age, and residence, prescribed by the Constitution, and who are duly elected by the majority of the people of any State or district entitled so to elect. So the elective franchise is a political right, which all cannot exercise, and is therefore limited to some citizens, to the exclusion of others. An infant in its cradle, the child of a citizen of the United States, is also a citizen of the United States, but has not the capacity to exercise this political right, and is therefore excluded from it. Practically, political rights are exercised only by the majority of the male population, and are subject to just such limitations as the majority see fit to impose. To this I have, and can have, no objection. Gentlemen need not trouble themselves, therefore, about the demagogue cry of "the political equality of the negro." Nobody proposes or dreams of political equality, any more than of physical or mental equality. It is as impossible for men to establish equality in these respects as it is for "the Ethiopian to change his skin." Who would say that all men are equal in stature, in weight, and in physical strength; or that all are equal in natural mental force, or in intellectual acquirements? Who, on the other hand, will be bold enough to deny that all persons are equally entitled to the enjoyment of the rights of life and liberty and property; and that no one should be deprived of life or liberty, but as punishment for crime; nor of his property, against his consent and without due compensation?

But it is not necessary to take time in demonstrating that all free persons born and domiciled within the United States are citizens of the United States. The fact is notorious, that at the formation of the Constitution but few of the States made color the basis of suffrage, and all of them, either by the words or the construction of their Constitutions, affirmed the fact that all native-born free persons were citizens. Allow me to cite from those early State Constitutions. New Hampshire, by her Constitution of 1792, declared that every male inhabitant of the State, twenty-one years of age and upward, except paupers and persons excused from paying taxes at their own request, shall have a right to vote at all elections. This was construed to admit all but aliens. This Constitution also declares that "all men are born equally free and independent." Massachusetts, by her Constitution of 1780, declared that "all men are born free and equal, and have certain natural, essential, and inalienable rights, amongst which are the right of enjoying and defending life and liberty, and of acquiring and possessing property." And contained the same general provision for suffrage as New Hampshire, with a small property qualification.

Rhode Island, under the charter of Charles II, allowed negroes to vote, and recognised them as citizens.

Connecticut, under her charter, did the same.

New York, by the Constitution of 1777, gave suffrage to "every male inhabitant," upon six months' residence, and a property qualification.

All free persons, then, born and domiciled in any State of the Union, are citizens of the United States; and, although not equal in respect of political rights, are equal in respect of natural rights. Allow me, sir, to disarm prejudice, and silence the demagogue cry of "negro suffrage," and "negro political equality," by saying, that no sane man ever seriously proposed political equality to all, for the reason that it is impossible. Political rights are conventional, not natural; limited, not universal; and are, in fact, exercised only by the majority of the qualified electors of any State, and by the minority only nominally.

While, therefore, I recognise the obligation of the majority to extend political privileges, so far as consistent with the stability of good government, to the largest number of the citizens, I as fully recognise the fact that all political privileges are, and ought to be, under the absolute control of the majority in a republican Government; and their will is, and should be, the law. But, sir, while this is cheerfully conceded, I cannot and will not consent that the majority of any republican State may, in any way, rightfully restrict the humblest citizen of the United States in the free exercise of any one of his natural rights; those rights common to all men, and to protect which, not to confer, all good Governments are instituted amongst men; and the failure to maintain which inviolate furnishes, at all times, a sufficient cause for the abrogation of government; and, I may add, imposes a necessity for such abrogation, and the reconstruction of the political fabric on a juster basis, and with surer safeguards.

Of my resistance to the passage of this bill, sir, and the enactment into a law of this Oregon Constitution, let no demagogue say that it is a mere negro question, and for making a negro equal, politically, with a white man. I ask no change of the law as it is written in the Federal Constitution. I leave the States as that Constitution leaves them, free to regulate the elective franchise among citizens of the United States; to extend it to or withhold it at their pleasure from all colored citizens, or only some of them; from all minors, white or black; and, if they see fit, from the best portion of the citizens of the United States—from all the free intelligent women of the land. But I protest against the attempt to mar that great charter of our rights, almost divine in its conception and in its spirit of equality, by the interpolation into it of any word of caste, such as white or black, male or female; for no such word is in that great instrument now, and, by my act, or word, or vote, never shall be.

The equality of all to the right to live; to the right to know; to argue and to utter, according to conscience; to work, and enjoy the product of their toil, is the rock on which that Constitution rests—its sure foundation and defence. Take this away, and that beautiful and wise and just structure, so full of the goodness and truth of our fathers, falls. The charm of that Constitution lies in the great democratic idea which it embodies, that all men, before the law, are equal in respect of those rights of person which God gives, and no man or State may rightfully take away, except as a forfeiture for crime. Before your Constitution, sir, as it is, as I trust it ever will be, all men are sacred, whether white or black, rich or poor, strong or weak, wise or simple. Before its divine rule of justice and equality of natural rights, Lazarus in his rags is as sacred as the rich man clothed in purple and fine linen; the peasant in his hovel, as sacred as the prince in his palace, or the king on his throne.

I cannot consent to mutilate and destroy that great instrument, the Constitution of my country, by supporting a bill which, on its face, gives effect to a State Constitution which denies to citizens of the United States the right of a fair trial in the courts of justice for the enforcement of a right or the redress of a wrong. In opposing this bill, sir, I am doing what I can to maintain the Constitution and the honor of my country. In opposing it, I am doing what I can to secure my country from the shame and dishonor and crime of declaring, by solemn, written statute, in favor of a denial of justice to the citizen and stranger within our gates. Oh, sir, how will this burning disgrace, about to be enacted into law, hiss among the nations, that your boasted trial by jury is to be withheld from eight hundred thousand of our own citizens and their posterity forever, because they were so weak or so unfortunate as to be born with tawny skins!

This provision, sir, which denies a fair trial in the courts of justice, excludes the same class of our fellow-citizens, native-born, forever from the territory of that State. This is not only a violation of that provision of the Constitution of the United States to which I before referred, which secures to the citizens of each State the privileges and immunities of citizens in every State of the Union, but it is, I maintain, a flagrant violation of the law of nature, as recognised by every civilized nation on the globe. It is, sir, the public law of the civilized world, that every free man is entitled to live in the land of his birth. Oregon, by becoming incorporated into the Union, becomes part of the country of every American citizen, and therefore no citizen of the United States can rightfully be excluded from it. If one State may rightfully do this, every State may; if it be right for one State thus to violate this law of domicile, acknowledged by all the world, it would be right for every State in the Union to exclude every native-born colored man in America. What, in the name of God, would you do with these men, these eight hundred thousand free, native-born men, of our common country! In the name of eternal justice, I deny this pretended State right to exile any of its native-born freemen, or deny them a fair hearing in maintenance of their rights in the courts of justice.

No, sir; it was not to legalize this horrid injustice that America was allowed to assume her proud place amongst the nations. It was not to this end that the immortal Genoese, guided alone by Providence and that tiny magnet which twinkles on its card like a beam of light, gave to the oppressed nations of the Old World this new heaven and new earth. It was not to this end that the Pilgrims came with their hymns of lofty cheer:

> "And the stars heard, and the sea;
> And the sounding aisles of the dim woods rang
> To the anthem of the free!"

It was not to this end that the fathers of the Republic put forth their great Declaration, and in defence of it walked through the fire and storm and darkness of a seven years' war. It was not to this end that God gave them the victory, and set for them his bow in the cloud, like a brightness out of heaven, giving token that the wild deluge of oppression and blood should not again sweep over their habitations. It was not to this end that, after the victory was thus achieved, those brave old men, with the dust of Yorktown yet fresh upon their brows, and the blood of Yorktown yet fresh upon their garments, proclaimed to the world, and asked it to be held in everlasting remembrance, "that the rights for which America had contended were the rights of human nature."

THIRTY-FIFTH CONGRESS, Second Session.

Tuesday, February 22, 1859.

SENATE.

The General Appropriation Bill.—A motion gave rise to considerable discussion; pending which, Mr. Hunter moved to take up the executive, legislative, and judicial appropriation bill. Motion carried.

The total amount appropriated is about five and a half millions.

About half past one o'clock, a debate ensued as to the order of business.

The Chair submitted to the Senate, whether they should continue the consideration of the appropriation bill, or take up the bill for the acquisition of Cuba.

Mr. Slidell, of Louisiana, said if the Cuba bill was postponed, he would consider it as an evasion of a direct vote on the bill.

A vote being taken on the question of postponing the Cuba bill, it was agreed to, by yeas 33, nays 32.

The only amendments of importance introduced in the bill, as reported from the Finance Committee, were one making an appropriation of $20,000 to take a census of the people of Kansas, with the view of her admission into the Union as a State.

Mr. Hale, of N. H., moved, as an additional section, to repeal the restriction clause of the act to admit Kansas, and called on the Oregon Senators to do by her as they themselves had been done by.

Messrs. Lane and Smith said, when Kansas came before Congress seeking admission, they would act by her with justice. The latter made a speech of some length.

Mr. Douglas, of Ill., held that Kansas ought to come in, irrespective of the census, with such a Constitution as she shall choose. Hence he did not admit the necessity of the appropriation. He wanted either the appropriation stricken out, or the restrictive clause repealed.

Mr. Green, of Mo., entered his protest against the introduction of this exciting and inflammatory subject. He mentioned that he was to-day authorized to report against a Constitution framed at Leavenworth, and which had been offered by the Senator from New York, and that he was delaying it at the instance of the delegate from the Territory, who says the people do not wish to come in under that Constitution. Mr. Green, after some further remarks, concluded by inculcating the duty of unity and feeling in all sections of the country.

After several attempts to adjourn, most of them defeated by the vigilance of Mr. Hunter, who was anxious to get the bill passed, the Senate, at a late hour, adjourned.

HOUSE.

The Post Office Appropriation Bill.—The House went into Committee on the Post Office appropriation bill.

Mr. Hatch, of New York, offered an amendment, that the supplies for the Department be given by contract to the lowest responsible bidder.

The amendment was rejected.

Mr. Garnett, of Virginia, offered an amendment restricting the Postmaster General to the present appropriations in next year's expenditures.

Mr. John Cochrane, of New York, was convinced the Department should not, in an economical or political sense, be a self-sustaining machine. As to New York, the receipts were largely in excess of the expenditures.

Mr. John Cochrane (resuming) spoke in favor of the abrogation of the franking privilege, as a commencement of a wholesome reform.

After further debate, Mr. Garnett's amendment was rejected by yeas 34, nays not counted.

Without concluding action on the bill, the Committee rose.

The Tariff Question.—Mr. Hughes, of Indiana, asked leave to introduce a bill to revive the tariff of 1846.

The House then adjourned.

Wednesday, February 23, 1859.

SENATE.

The legislative, executive, and judicial appropriation bill came up as the special order.

The question recurred on Mr. Hale's amendment, to repeal the restrictive clause of the Kansas admission act.

Mr. Stuart, of Michigan, said he would vote against requiring a census to be taken.

Mr. Seward, of New York, said Congress had decided that Kansas should come in with the Lecompton Constitution, without reference to population; but, on the other hand, should not come in outside of the Lecompton Constitution unless she had 92,400 population. There was, therefore, a discrimination by the Congress of the United States, as against Freedom, in favor of Slavery. Oregon, because she was a Democratic State, was admitted without reference to population, and Kansas, because of her different politics, was excluded. He was glad of this occasion to renew his vote. He was glad, also, to hear that so many gentlemen on the other side will give Kansas a fair hearing. It indicates that the time is coming when any State applying for admission will be heard on its merits, apart from all other considerations. He thought it goes to show, that if Texas should be divided, or free States, as he thought they would, be formed in Mexico, they will come in as free States.

Mr. Brown, of Mississippi, made a strong Southern speech.

He held to the doctrine of State rights; denied the squatter sovereignty of Territories; and threatened secession, with banners flying, if the South was deprived of her rights. His address was directed to Northern Democrats. He placed his views frankly on record, and desired neither to cheat nor be cheated.

Mr. Douglas felt it incumbent on him as a Northern Democrat to make a reply. He admired the frankness, candor, and directness, with which Mr. Brown had approached the question. He, (Douglas,) too, would put his opinions on record in such a manner as will acquit him of a desire to cheat or be cheated. He agreed at the outset with Mr. Brown, and with the decision of the Supreme Court, that slaves are property, and that their owners have a right to carry them into the Territories as any other property. Having the right of transit into the Territory, the question arises, how far does the power of the Territorial Legislature extend to slave property; and the reply is, to the same extent, and no further, than to any other description of property. Mr. Brown has said that slave property needs more protection than any other description. If so, it is the misfortune of the owners of that kind of property. Mr. Douglas's remarks, from the frequent interruptions, assumed so much the form of question and reply, and running comments on the various issues started, that we can only notice the salient points of the main discussion, which extended throughout many hours, he sustaining the principal part. His general scope was, that he would leave all descriptions of property, slaves included, to the operation of the local law, and would not have Congress interfere in any way therewith. If the people of the Territory want Slavery there, they will foster and encourage it, and if they do not find it for their advantage, they will do otherwise. So it becomes a question of soil, climate, production, &c. He illustrated by saying, that if any discrimination is to be made in any description of property, the owner of stock, or liquors, or any other, might claim it likewise.

After some other illustrations, he went into discussion of the Kansas-Nebraska bill, which, he said, was passed by a distinct understanding between Northern and Southern Democrats, however differing on some points, to give to the Territorial Legislature the full power, with appeal to the Supreme Court, to test the constitutionality of any law, but not to Congress to repeal it. If the Court decides such law to be constitutional, it must stand; if not, it must fall to the ground, without action of Congress. That doctrine of non-intervention by Congress with Slavery in the States and Territories has been a fundamental principle of the Democratic platform, and every Democrat is pledged to it by the Cincinnati platform. Here Mr. Douglas, in reply to a question by Mr. Clay, (who also made the remark that, according to Mr. Douglas's interpretation, squatter sovereignty is superior to the Constitution,) said that the limit of Territorial legislation is the organic act and the Constitution. In reply to Mr. Clay's question, "Can a slaveholder take his slave property into the Territory?" he would reply, Yes; and hold it as other property. To the question, "Will Congress pass a law to protect other kinds of property in the Territories?" he would answer, No; for the doctrine that Congress is to legislate on property and persons without representation, is the doctrine of the Parliament of George III, that brought on the Revolutionary war. We said then it was a violation of the rights of power to assume to legislate for Englishmen without their consent. Now, was he (Mr. Douglas) to be called on to force this same odious doctrine on the people of the Territories, without their consent? He answered, No; let them govern themselves. If they make good laws, let them enjoy the blessings; if bad, let them suffer until they are repealed. Referring to the great battles fought and gained in 1854 and 1856, he said he would like to know how many votes Mr. Buchanan would have got in Pennsylvania or Ohio, if he had then understood the doctrine of popular sovereignty as he claims to do now.

Mr. Bigler asked how many votes Mr. Buchanan would have received in 1856, had the Senator from Illinois and those who acted with him told the people that the Kansas act was not intended to extend to the Territories the sacred right of self-government, but simply to give the people the right to petition for redress of grievances—a right not denied to any citizen, white or black?

Mr. Douglas said that there are no colored citizens, and he trusted in God there never would be. He did not recognise the black brothers.

Mr. Bigler knew that as well as the Senator, and should have said inhabitants.

Mr. Douglas resumed. In 1856 he took the same ground as now, and Mr. Buchanan, when he accepted the nomination, took the same ground. His letter of acceptance to the Cincinnati Convention shows he then understood that the people of the Territories should decide whether Slavery should or should not exist within their limits. When gentlemen called for Congressional intervention, they step off the Democratic platform. He (Mr. Douglas) asserted that the Democratic creed was non-intervention by Congress, and the right of the people to govern themselves. He would frankly tell gentlemen of the South, that no Democratic candidate can carry one State North, but on the principles of the Cincinnati platform, as construed by Mr. Buchanan when he accepted his nomination, and which he (Mr. Douglas) stood here to-day to defend.

Mr. Davis replied to Mr. Douglas elaborately, denying that he (Douglas) rightly interpreted the obligations of the Democratic party.

Mr. Pugh said, Mr. Brown had asked if Northern Democrats would vote for Congressional intervention to protect the people against local legislation. He would answer, Never. It is monstrous. It is against the plighted faith both of the South and North. Mr. Pugh discussed the question at length, and said he stood on the platform of his party with the intepretation which he explained.

Mr. Green was sorry that this subject of contention had been brought forward. It was to try and bring discord into the Democratic party, the only party able to override the Republican party. He hoped and believed there was no difference between the North and the South. A Government is formed to protect persons and property; and when it ceases to do either, it ceases to perform its one great function. Mr. Hale's amendment had brought up the question, "What is property?" He (Green) maintained that, under the Constitution and by the decision of the Supreme Court, slaves are property; and he argued the subject in many aspects, concluding by calling on the Democratic party to stand united, and not permit a combination to make use of a mere figment to disorganize them. In the course of his remarks, he quoted from Mr. Douglas's Springfield speech, to show that he had therein proposed Congressional intervention in Utah. He could not see the consistency of the Senator's course, then and now.

Mr. Douglas denied that he had proposed Congressional intervention to regulate the internal affairs of Utah. The intervention he proposed was alone on the ground of rebellion—not on account of their domestic affairs, but as aliens and rebels.

Mr. Green, in speaking of how Territorial legislation could destroy the rights of slave property, said he had before him a copy of the bill passed by the Kansas Legislature to abolish Slavery.

Mr. Douglas remarked that several speeches had been made very pointedly at him, making him out no better than an Abolitionist, for leaving the Territories to carry out their own affairs. It does well to attack one man for his opinion; but when was the most aggravated act ever committed, that he did not say it was committed in manumitting your slaves and confiscating your property? The gentleman who spoke thus, says: "It is not yet time." There is no better time than the present, to introduce a bill to repeal that act of the Kansas Legislature. Senators say that he (Douglas) may go out. No; he stands on the platform, and it is for those who jump off, to go out. [Laughter.]

The Chair called the Senate to order, threatening to clear the galleries, unless it was maintained.

Mr. Green said he had received information of the bill by telegraph, but could not legislate on such information.

Mr. Douglas would take it for granted that Mr. Green meant that he received authentic information, and would introduce a bill to repeal the act. The South, he said, had reluctantly acquiesced in the movement with the Democrats of the North to settle the question. He went at some length into a discussion and approval of the decision of the Supreme Court in the case of Dred Scott. He did not agree with Senator Douglas's views as to the power of the people of a Territory, and did not believe that the Nebraska-Kansas bill gave them independent power. The Senator from Virginia then gave his ideas as to the people of the Territories, and the people of the States. The right of property is recognised in the former, but the inhabitants of a Territory are unknown to the Constitution. Congress cannot divest itself of its power over the property of the Territories, but it can grant them nothing. South of the Potomac river, to the confines of Mexico, there is not one dissentient voice. The South would be recreant to itself, if it would give one vote for its rights to be taken from the Constitution, and remitted to the pleasure of the people temporarily in the Territories.

Mr. Davis took an animated part in the debate against Mr. Douglas, who, in the Kansas-Nebraska act, had made a great error, and drawn the Senate into a great error.

Mr. Douglas resumed, saying it won't do to read him out, because they had fallen from the faith. There is no middle ground. It is either intervention or non-intervention.

Mr. Gwin said, if the Senator from Illinois had given the same interpretation to the Kansas-Nebraska bill when it was before the Senate, he (Gwin) would not have voted for it, and believed those around him would not. When the Senator proposed to speak for the Democracy of the free States, he had no right to speak for California, which thought otherwise.

Mr. Broderick contradicted Mr. Gwin's statement of the views of California. He considered the views of his State were those expressed by Mr. Douglas.

Mr. Gwin replied that he was sent here to do his duty in representing the Democracy of California, and he knew they endorse the action of the Administration, and do not at all endorse the interpretation given by the Senator from Illinois.

Mr. Douglas (to Mr. Gwin.) I do say the records show a very general concurrence in the views I then expressed.

Mr. Iverson raised the question of order, that Mr. Douglas had spoken many times. He and Mr. Davis had occupied the floor four or five hours. The point of order was sustained.

Mr. Hunter said it was with reluctance that he occupied the time at the late period of the evening, but the turn the debate had taken rendered an explanation necessary, in justice to himself. He differed with the Senator from Illinois, both in the history of the Kansas-Nebraska act, and what was intended by it. When the proprosition was made to pass that, he maintained, as he has always done since he has had a place on that floor, that the South had a right to protection for their slave property in the Territories.

Mr. Hunter read from his speech of that date, showing the views he then expressed. The case stood thus: Southern men on the one side maintained they had right, under the Constitution, to protection to their slave property; Northern men thought the contrary, and there was no chance of agreement between them, as the act was very carefully framed, neither affirming nor disaffirming the power of the Territory to abolish Slavery, but reserving the question of right, and agreeing to refer to the Judiciary any points arising out of it. It was in itself a compromise, in which neither party conceded their opinions or their rights. They were but placed in abeyance until a case affecting them might arise. No Southern man with whom he acted ever considered he was conferring on the Territorial Legislature the absolute right to deal with this subject. They agreed to this settlement as a consequence, acting together upon points wherein they agreed, and expressing no opinion upon points where the differences were irreconcilable. By this they secured the repeal of the Missouri Compromise, upon which the Democrats were agreed, by confining the act to the general purpose to be accomplished. Justice to himself and the distinguished Senator from South Carolina, now no more, with whom he had acted and consulted on the matter, required the explanation. Mr. Hunter then drew the attention of the Senate to the time consumed in the debate, and urged a vote upon the amendment.

Mr. Stuart, after some general remarks on the subject under discussion, asked, why should the Democratic party be racked and torn by the thought of the contingencies which may not happen? If the Democratic party in a body, if its able and efficient members throughout the country, stand faithfully together, their flag will remain in the ascendant, and the party will rise out of all the difficulties which now beset it.

Mr. Bigler was opposed to Congress extending Slavery in the Territories, and against Congressional intervention with Slavery, and would stand by the Baltimore and Cincinnati platforms of the Democratic party. He believed the best interests of the country were in the hope of the Democracy.

Mr. Clingman. "The Senate is now in debating society, and might as well discuss the question of 'was Cæsar or Hannibal the greatest warrior?' They had better go to business."

Mr. Fessenden said the Senators on the other side of the House had consumed seven mortal hours in their own family quarrels. The Senate had better adjourn, and he so moved.

Rejected—15 against 27.

Mr. Hale had listened to the tale of the slaughter of the innocents in the States from the members on the other side with pleasure. He reviewed the decision in the Dred Scott case, and said that the only thing in it was, could Dred Scott maintain an action in court? In the rest of the decision the court went out of its way for a political purpose. He denounced it as contrary to the enlightened judicial opinion of the country. He charged this debate upon the "harmonious Democracy." The Republicans had said scarcely anything in it. He denied that the Constitution recognised property in slaves, and argued the question at great length.

Mr. Doolittle thought that if Rip Van Winkle had slept ten years, and was called upon to point out the Democratic party on this floor, judging from its actions, he would find it difficult. He defended the Republican party, and said there was not a platform in the party but what had been incorporated from the true principles of Jefferson.

Mr. Clark followed on the Republican side, and was followed by Mr. Smith (Oregon) on the other.

Mr. Trumbull replied to the points made by several Senators, and contended that the Constitution did not create Slavery anywhere. He denied that slaves are property, except when made so by the local law. He showed that the difficulty in which the country now is, arises from the error made in 1854, and that the Democratic party now has no trait of the Jackson Democracy. In his opinion, the power over the Territories is vested in Congress, to be delegated or not, in its discretion.

Mr. Crittenden said he was no Democrat and no Republican, and both parties know it; so he would ask, what good have all the struggles done, with which this country has been afflicted? After twenty years' contention, what has either party gained? His earnest wish was that gentlemen would come together in a more national spirit. The nation and the Constitution were in danger of being superseded by party platforms. He wanted to see the people regain their rights—to see the Constitution regain its supremacy. He wanted to see no conventions, no party platforms. He would vote against the amendment, as he did not wish to send the bill to the House with sting in it, to awaken contention there.

Mr. Hale's amendment was then put, and lost, by yeas 19, nays 27.

Yeas—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Harlan, King, Seward, Trumbull, Wade, and Wilson—19.

Nays—Messrs. Bigler, Chesnut, Clay, Clingman, Crittenden, Davis, Fitch, Fitzpatrick, Green, Gwin, Houston, Hunter, Iverson, Johnson of Tennessee, Johnson of Arkansas, Kennedy, Lane, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Smith, Toombs, Ward, and Yulee—27.

Mr. Mason paired off with Mr. Stuart.

On motion of Mr. Reid, the vote striking out the Charlotte and Dahlonega Branch Mints was reconsidered, but the appropriations were not restored.

The bill was then passed, Mr. Chandler calling for the yeas and nays, which resulted—yeas 27, nays 16.

The Senate then adjourned, exactly at midnight.

There was a considerable audience present to the close.

HOUSE.

The House went into Committee on the Post Office appropriation bill.

Mr. Montgomery, of Pennsylvania, offered an amendment, repealing the present tariff, and reviving the act of 1846, with an amendment imposing specific duties on iron, &c.

The Chairman (Mr. Hopkins, of Virginia) ruled the amendment out of order, on the ground of irrelevancy.

Gentlemen on both the Democratic and Republican sides coincided with the Chair.

Mr. Montgomery appealed from the decision, and proceeded to show that he was acting in accordance with the rules of this House—a tariff bill having, in 1855, been offered by Mr. Letcher, as an amendment to the civil and diplomatic bill.

The decision of the Chair was sustained—yeas 109, nays not counted.

A long debate ensued, on the subject of Butterfield & Co.'s contract for carrying the overland mail.

It was contended on one side that the selection of the route was left to the contractors, but the Administration had violated law by compelling them to go nine hundred miles out of the way. Others argued that this attack was intended to break down the Southern branch of the overland route, and that parties were mutually agreed to the present arrangements for that purpose.

The Committee rose, and reported the bill to the House, which, without definite action thereon, adjourned.