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## SPEECH OF HON. J. A. GARFIELD,

OF OHIO,  
On the Constitutional Amendment to Abolish  
Slavery, delivered in the House of  
Representatives, January 13 1865.

The House having under consideration  
the Joint Resolution to amend the Constitu-  
tion of the United States so as to abolish  
slavery,

Mr. Garfield said:  
MR. SPEAKER: We shall never know why  
slavery dies so hard in this Republic and  
in this Hall till we know why sin has such  
longevity and Satan is immortal. With  
marvelous tenacity of existence, it has out-  
lived the expectations of its friends and the  
hopes of its enemies. It has been declared  
here and elsewhere to be in all the several  
stages of mortality, wounded, moribund,  
dead. The question was raised yesterday  
by my colleague (Mr. Cox) whether it was  
indeed dead, or in a troubled sleep. I  
know of no better illustration of its condi-  
tion than is found in Sallust's admirable  
history of the great conspirator, Catalina,  
who, when his final battle was fought and  
lost, his army broken and scattered, was  
found far in advance of his own troops, lying  
among the dead enemies of Rome, yet breath-  
ing a little, but exhibiting in his con-  
science all that ferocity of spirit which  
characterized his life. So, sir, this body of  
slavery lies before us among the dead en-  
emies of the Republic, mortally wounded,  
impotent in its fiendish wickedness, but  
with its old ferocity of look, bearing the un-  
mistakable marks of its infernal origin.

Who does not remember that thirty years  
ago—a short period in the life of a nation—  
but little could be said with impunity in  
these Halls on the subject of slavery? How  
well do gentlemen here remember the history  
of that distinguished predecessor of  
mine, Joshua R. Giddings, lately gone to  
his rest, who, with his forlorn hope of faith-  
ful men, took his life in his hand, and in the  
name of justice protested against the great  
crime, and who stood bravely in his place  
until his white locks, like the plume of  
Henry of Navarre, marked where the battle  
for freedom raged furthest!

We can hardly realize that this is the  
same people, and these the same Halls,  
where now scarcely a man can be found  
who will venture to do more than falter out  
an apology for slavery, protesting in the  
same breath that he has no love for the dy-  
ing tyrant. None I believe, but that man  
of more than mortal boldness, from the  
city of New York, (Mr. Fernando Wood,)  
has ventured, this season, to raise his voice  
in favor of slavery, for its own sake. He  
still sees in its features the reflection of  
heavenly and divinity, and only he. How  
art thou fallen from heaven, O Lucifer, son  
of the morning! How art thou cut down  
to the ground, which didst weaken the na-  
tions! Many mighty men have been slain  
by thee; many proud ones have humbled  
themselves at thy feet! All along the coast  
of our political sea these victims of slavery  
lie like stranded wrecks, broken on the  
headlands of freedom. How lately did its  
advocates, with impious boldness, maintain  
it as God's own, to be venerated and cher-  
ished as divine! It was another and higher  
form of civilization. It was the holy evan-  
gel of America, dispensing its mercies to a  
blighted race, and destined to bear count-  
less blessings to the wilderness of the West.  
In its mad arrogance it lifted its hand to  
strike down the fabric of the Union, and  
since that fatal day it has been a "fugitive  
and a vagabond upon the earth." Like the  
spirit that Jesus cast out, it has, since then,  
been "seeking rest and finding none."

It has sought in all the corners of the  
Republic to find some hiding place in which  
to shelter itself from the death it so richly  
deserves.

It sought an asylum in the unrodden  
territories of the West, but, with a whip of  
scorpions, indignant freemen drove it thence.  
I do not believe that a loyal man can now  
be found who would consent that it should  
enter them. It has no hope of harbor  
there. It found no protection or favor in  
the hearts or consciences of the freemen of  
the Republic, and fled for its last hope of  
safety behind the shield of the Constitution.  
We purpose to follow it thence, and drive it  
thence as Satan was expelled from heaven.  
But now, in the hour of its mortal agony,  
in this Hall, it has found a defender.

My gallant colleague, (Mr. Pendleton),  
for I recognize him as a gallant and able  
man, plants himself at the door of his dar-  
ing, and bids defiance to all assailants. He  
has followed slavery in its flight, until it  
has reached the great temple where liberty  
is enshrined—the Constitution of the United  
States—and there, in that last retreat, de-  
clares that no hand shall strike it. It re-  
minds me of that celebrated passage in the  
great Latin poet, in which the serpents of  
the Lonian sea, when they had destroyed  
Laocoon and his sons, fled to the heights of  
the Trojan citadel, and coiled their slimy  
lengths around the tutelary goddess, and  
were covered by the orb of her shield. So,  
under the guidance of my colleague, (Mr.  
Pendleton), slavery, gorged with the blood  
of ten thousand freemen, has climbed to the  
high citadel of American nationality, and  
coiled itself securely, as he believes, around  
the shield of the Constitution of the United  
States. We desire to follow it even there,  
and kill it beside the very altar of  
liberty. Its blood can never make atone-  
ment for the least of its crimes.

But the gentleman has gone farther. He  
is not content that the snake scorpions shall  
be merely under the protection of the Con-  
stitution. In his view, by a strange meta-  
morphosis, slavery becomes an invisible es-  
sence, and takes up its abode in the very  
grain and fiber of the Constitution, and  
when we would strike it he says, "I cannot  
point out to you any express clause that  
prohibits you from destroying slavery; but  
I find a prohibition, in the intent and mean-  
ing of the Constitution. I go under the  
surface, out of sight, in the very genius of it,  
and in that invisible domain slavery is en-  
shrined, and there is no power in the Re-  
public to drive it thence." That I may do  
no injustice to my colleague, I will read  
from his speech of yesterday the passage to  
which I refer:

"My colleague from the Toledo district,  
(Mr. Ashley), in the speech which he made  
the other day, told us with reference to this  
report:

"If I read the Constitution aright, and  
understand the force of language, the sec-  
tion which I have just quoted is to day free  
from all limitations and conditions save  
two, one of which provides that the suffrage  
of the several States in the Senate shall be  
equal, and that no State shall lose this  
equality by any amendment of the Consti-  
tution without its consent; the other relates  
to taxation. These are the only conditions  
and limitations."

"I deny it. I assert that there is another  
limitation stronger even than the letter of  
the Constitution; and that is to be found in  
its intent and its spirit and its foundation  
idea. I put the question which has been  
put before in this debate: can three-fourths  
of the States constitutionally change this  
Government, and make it an autocracy? It  
is not prohibited by the letter of the Con-  
stitution.

"It does not come within the two classes  
of limitations and conditions asserted by  
my colleague. Why is it that this change  
cannot be made? I will tell you why. It  
is because republicanism lies at the very  
foundation of our system of government,  
and to overthrow that idea is not to amend,  
but to subvert the Constitution of the  
United States; and I say that if three-fourths  
of the States should undertake to pass an  
amendment of that kind, and Rhode Island  
alone dissented, she would have the right to  
resist by force and her cause would be sac-  
cred in the eyes of just men."

J. Brown Davis and his fellow-conspir-  
ators will ask for a better defense of their  
religion. South Carolina will ask no more  
than to be placed in the same category with  
Rhode Island—in the gentleman's argu-  
ment, South Carolina being her own judge,  
and sacrificed in the eyes of just God."

He goes behind the letter of the Consti-  
tution, and finds a refuge for slavery in its  
intent, and with that intent he declares we  
have no right to deal in the way of amend-  
ment.

But he has gone even deeper than the  
spirit and intent of the Constitution. He has  
announced a discovery to which I am sore  
no other statesman will lay claim. He has  
found a domain where slavery can no more  
be reached by human law than the life of  
Satan by the sword of Michael. He has  
marked the hither boundary of this newly  
discovered continent, in his response to the  
question of the gentleman from Iowa, (Mr.  
Wilson.) I will read it:

"I will not be drawn now into a discus-  
sion with the gentleman as to the origin of  
slavery, nor to the law which lies behind  
the Constitution of the United States, by  
which these people are held to slavery."

Not finding anything in the words and  
phrases of the Constitution that forbids an  
amendment abolishing slavery, he goes  
behind all human enactments, and far  
away, among the eternal equities, he finds  
a primal law which overshadows states,  
nations and constitutions, as space en-  
velopes the universe, and by its solemn  
sanctions, one human being can hold an-  
other in perpetual slavery. Surely human  
ingenuity has never gone farther to  
protect a malefactor, or defend a crime.

I shall make no argument with my col-  
league on this point, for in that high court  
to which he appeals, eternal justice dwells  
with freedom, and slavery has never en-  
tered.

I now turn to the main point of his ar-  
gument. He has given us the key to his  
theory of the Constitution in the words  
which the gentleman from Rhode Island  
(Mr. Jencks) commented upon last evening.  
Upon these words rests the strength or  
weakness of his position. He describes  
the Constitution of the United States as a  
"compact of confederation."

I understand the gentleman, he holds  
that each state is sovereign; that in their  
sovereign capacity, as the source and  
foundation of power, the States, each for  
itself, ratified the Constitution which the  
convention had framed. They did not  
grant to the Federal Government the right  
to control the subject of slavery.—  
That right still resides in the States severally.  
Hence no amendment of the  
Constitution by three-fourths of the States  
can legally affect slavery in the remain-  
ing fourth. Hence no amendment by the  
modes pointed out in the Constitution can  
reach it. This, I believe, is a succinct  
and just statement of his argument. The  
whole question turns upon the sovereignty  
of the States. Are they sovereign and  
independent now? Were they ever so? I  
shall endeavor to answer.

I appeal to the facts of history, and to  
bring them clearly before us, I affirm:  
I. That prior to the 4th day of July,  
1776, these colonies were neither free nor  
independent. Their sovereignty was  
lodged in the crown of Great Britain. I  
believe no man will deny this. It was  
admitted in the first declaration of rights,  
put forth by the revolutionary Congress,  
that assembled in Philadelphia in 1774,  
to pray for a redress of grievances. That  
body expressly admitted that the sov-  
ereignty of the colonies was lodged in the  
crown of Great Britain. It has been  
taught by Jay and Story, and has been  
so decided by the Supreme Court of the  
United States. (See *Chisholm vs. State*  
of Georgia, 2 Dallas, 240.)

"The name and by the authority of 'the  
good people of the colonies,' as one peo-  
ple."

In the following memorable declara-  
tion the sovereignty was transferred from  
the Crown of Great Britain to the peo-  
ple of the colonies:

"We, therefore, the representatives of  
the United States of America, in general  
Congress assembled, appealing to the  
Supreme Judge of the world for the rec-  
titude of our intentions, do, in and by  
the authority of the good people of these col-  
onies, solemnly publish and declare that  
these United Colonies are, and of right  
ought to be, free and independent States;  
that they are absolved from all allegi-  
ance to the British Crown, and that all  
political connection between them and  
the State of Great Britain is, and ought  
to be, totally dissolved; and that as free  
and independent States they have full  
power to levy war, conclude peace, con-  
tract alliances, establish commerce, and  
to do all other acts and things which in-  
dependent States may have right to do."

In vindication of this view I read from  
the 197th page of the first volume of Jus-  
tice Story's Commentaries:  
"The colonies did not severally act for  
themselves and proclaim their own inde-  
pendence. It is true that some of the  
States had previously formed incipient  
governments for themselves, but it was  
done in compliance with the recommenda-  
tion of Congress."

"The declaration of the independence of  
all the colonies was the united act of all.  
It was a declaration by the representa-  
tives of the United States of America in  
Congress assembled, 'by the delegates  
appointed by the good people of the col-  
onies,' as in a prior declaration they were  
called. It was not in an act done by the  
State Governments then organized; nor  
by persons chosen by them. It was em-  
phatically the act of the whole people of  
the United States, by the instrumentality  
of their representatives, chosen for that  
among other purposes. It was an act not  
competent to the State governments, or  
any of them, as organized under the char-  
ters, to adopt. Those charters neither con-  
templated nor provided for it. It was an  
act of inherent sovereignty by the people  
themselves, resulting from their right to  
change their form of government, and to in-  
stitute a new government whenever neces-  
sary for their safety and happiness. So  
the Declaration of Independence treats it.

No State has presumed for itself to form  
a new government, or to provide for the  
exigencies of the times, without consulting  
Congress on the subject; and when they  
acted, it was in pursuance of the recom-  
mendation of Congress. It was therefore  
the achievement of the whole for the  
benefit of the whole.

"The people of the United Colonies  
made the United Colonies free and inde-  
pendent States, and absolved them from  
all allegiance to the British Crown. The  
Declaration of Independence has accord-  
ingly always been treated as an act of  
paramount and sovereign authority, com-  
plete and perfect, *per se* and *ipso facto*  
working an entire dissolution of all polit-  
ical connections with an allegiance to  
Great Britain. And this, not merely as  
a practical fact, but in a legal and consti-  
tutional view of the matter by courts of  
justice."

When these people of the colonies be-  
came free, having withdrawn the sov-  
ereignty from the crown of Great Britain,  
where did they lodge it? Not in the States;  
but, so far as they delegated it at all, they  
lodged it in the Revolutionary Congress,  
then sitting in Philadelphia. My col-  
league dissents. I ask his attention again  
to the language of this distinguished com-  
mentator, on page 200 of the same vol-  
ume:

"In the next place, we have seen  
that the power to do this act was not de-  
rived from the State governments; nor  
was it done generally with their co-opera-  
tion. The question then naturally pre-  
sents itself, if it is to be considered as  
a national act, in what manner did the col-  
onies become a nation, and in what manner  
did Congress become possessed of this na-  
tional power? The true answer must be that  
as soon as Congress assumed powers and  
passed measures which were in their na-  
ture national, to that extent the people  
from whose acquiescence and consent they  
took effect, must be considered as agree-  
ing to a form of nation."

Mr. Pendleton. I desire to ask my  
colleague from what power the delegates  
who sat in that Congress derived their  
authority to make the declaration; whether  
they did not derive it from the col-  
onies, or the States, if the gentleman pre-  
fers that word, and whether each dele-  
gate did not speak in the Congress for the  
State government which authorized him  
to speak there?

Mr. Garfield. I say, in answer to the  
point the gentleman makes, as I have al-  
ready said, and in the language of this  
distinguished commentator, that the mo-  
ment the revolutionary Congress assumed  
national prerogatives, and the people, by  
their silence, consented, that moment  
the people of the colonies were constitu-  
ted a nation, and that revolutionary Con-  
gress became the authorized Government  
of the nation. But the declaration was  
made "by the authority of the good peo-  
ple," and hence it was their declaration.

Mr. Pendleton. Will the gentleman per-  
mit me to ask him whether from that mo-

ment they became the representatives of  
the nation, or whether they still retained  
their position as representatives of the  
States?

Mr. Garfield. They were both. They  
were still representatives of the States; but  
the new function was added of national rep-  
resentatives. They then took upon them  
that which now belongs to that gentleman,  
the twofold quality of State citizenship and  
national citizenship. The gentleman is  
twice a citizen, subject to two jurisdictions;  
and so were they.

I shall still further fortify my position  
by reading from the 203d page of the same  
volume:

"From the moment of the Declaration of  
Independence, if not for that purpose at  
an antecedent period, the united colonies  
must be considered as being a nation *de*  
*facto*, having a General Government over it  
created and acting by the general consent  
of the people of all the colonies. The pow-  
ers of that Government were not, and in-  
deed could not be, well defined. But still  
its exclusive sovereignty in many cases  
was firmly established, and its controlling  
power over the States was in most, if not  
all, national measures universally admitted."

III. On the first day of March, 1781, the  
sovereignty of the new nation was lodged,  
by the people, in the "Articles of Confed-  
eration." The Government thus formed was  
a Confederacy. Its Constitution might  
properly be styled a "Compact of Confed-  
eration," though by its terms it established a  
"perpetual union," and left small ground  
for the doctrine of secession.

IV. On the 21st day of June, 1788, our  
national sovereignty was lodged, by the  
people, in the Constitution of the United  
States, where it still resides, and for its  
preservation our armies are to-day in the  
field. In all these stages of development,  
from colonial dependence to full-orbed na-  
tionality, the people, not the States, have  
been omnipotent. They have abolished,  
established, altered and amended, as suited  
their sovereign pleasure.

For the greater security of liberty, they  
chose to distribute the functions of govern-  
ment. They left to each State the regula-  
tion of its local and municipal affairs, and  
endowed the Federal republic with the  
high functions of national sovereignty.—  
They made the Constitution. That great  
charter tells its own story best:

"We, the people of the United States, in  
order to form a more perfect Union, estab-  
lish justice, insure domestic tranquillity, pro-  
vide for the common defense, promote the  
general welfare, and secure the blessings of  
liberty to ourselves and our posterity, do  
ordain and establish this CONSTITUTION  
for the United States of America."

Not "we, the sovereign States," do enter  
into a league or form a "compact of confed-  
eration."

If the gentleman looks, then, for a kind  
of political "apostolic succession" of Amer-  
ican sovereignty, he will find that neither  
colonies nor States were in the royal line;  
but this is the genealogy—first, the Crown  
and Parliament of Great Britain; second,  
the Revolutionary Congress; third, the Ar-  
ticles of Confederation; fourth and now, the  
Constitution of the United States; and all  
this by the authority of the people.

Now, if no one of the colonies was sov-  
ereign and independent, when and how did  
any of the States become so? The gentle-  
man must show us by what act it was done,  
and where the deed was recorded. I think  
I have shown that his position has no founda-  
tion in history, and the argument based  
upon it falls to the ground.

In framing and establishing the Consti-  
tution, what restrictions were laid upon the  
people? Absolutely no human power beyond  
them but the laws of nature, the laws of  
God, their love of justice, and aspiration for  
liberty. Over that limitless expanse they  
ranged at will, and out of such materials as  
their wisdom selected they built the state-  
ly fabric of our Government. That Consti-  
tution, with its amendments, is the latest and  
the greatest utterance of American sov-  
ereignty. The hour is now at hand when that  
majestic sovereign, for the benignant purpose  
of procuring still further the "blessings of  
liberty," is about to put forth another oracle;  
is about to declare that universal freedom  
shall be the supreme law of the land. Show  
me the power that is authorized to forbid it.

The lapse of eighty years has not abated  
one jot or tittle from the original sov-  
ereignty of the American people. They made  
the Constitution what it is. They could  
have made it otherwise then; they can  
make it otherwise now.

But my colleague (Mr. Pendleton) has  
planted himself on the intent of the Consti-  
tution. On that point I ask him by what  
means the will of this nation reaches the  
citizen with its obligations? Only as that  
will is revealed in the logical and grammat-  
ical meaning of the words and phrases of  
the written Constitution. Beyond this  
there is, can be, no legal force or pow-  
er. If the amending power granted in the  
Constitution be in any way abridged or  
restricted, such restriction must be found  
in the just meaning of the instrument itself.  
Any other doctrine would overthrow the whole  
fabric of jurisprudence. What are the lim-  
itations of the amending power? Plainly  
and only these:

"That no amendment which may be made  
prior to the year 1808, shall in any manner  
affect the first and fourth clauses in the  
ninth section of the first article; and that  
no State without its consent shall be de-  
prived of its equal suffrage in the Senate."

The first restriction being bounded by  
the year 1808, is of course *functus officio*,  
and no longer operative; the last is still  
binding. The gentleman (Mr. Pendleton)  
does not claim that any other sentence is  
restrictive; but he would have us believe  
there is something not written down, a  
*tertium quid*, a kind of exhalation rising out  
of the depths of the Constitution, that has  
the power of itself to stay the hand of the  
people of this great Republic in their attempt  
to put away an evil that is deleterious to  
the nation's life. He would lead us in pur-  
suit of these intangible shadows, would  
place us in the domain of vague, invisible  
powers that exhalate, like odors, from the

Constitution, but are more potent than the  
Constitution itself. Such an *ignis fatuus* I  
am not disposed to follow, especially when  
it leads to a hopeful future for human  
slavery.

I cannot agree with my colleague, and  
the distinguished gentleman from Massa-  
chusetts, (Mr. Boutwell,) who unite in  
declaring that no amendment to the Con-  
stitution can be made which would be in  
conflict with its objects as declared in the  
preamble. What special immunity was  
granted to that first paragraph? Could  
not our forefathers have adopted a differ-  
ent preamble in the beginning? Could  
they not have employed other words and  
declared other objects as the basis of  
their Constitution? If they could have  
made a different preamble, declaring  
other and different objects, so can we now  
declare other objects, in our amend-  
ments. The preamble is itself amendable  
just as is every clause of the Constitu-  
tion, excepting only the ones already re-  
ferred to.

But this point is not necessary in the  
case we are now considering. We need  
no change of the preamble to enable us  
to abolish slavery. It is only by the final  
overthrow of slavery that the objects of  
the preamble can be fully realized. By  
that means alone can we "establish jus-  
tice, insure domestic tranquillity, and secure  
the blessings of liberty to ourselves and our  
posterity."

The gentleman (Mr. Pendleton) puts  
another case which I wish to notice. He  
says that nine of the thirteen original  
colonies adopted the Constitution, and by  
its very terms it was binding only on the  
nine. So, if three-fourths of the States  
should pass this amendment, it would not  
bind the other fourth.

In commenting upon this clause, Judge  
Tucker, of Virginia, in his appendix to  
Blackstone, says that, if the four colonies  
had not adopted the Constitution, they  
would have been a foreign people. The  
writers of the Federalist hold a different  
doctrine, and fall back upon the original  
right of the nation to preserve itself, and  
say that the nine States would have had  
the right to compel the other four to come  
in. But the question is unimportant from  
the fact that they did come in and adopt  
the Constitution. The contract once ratified  
and obligations once taken, they became  
an integral part of an indivisible nation,  
as indivisible as a State.

The argument is irrelevant; for the  
mode of adopting the Constitution is one  
thing; the mode pointed out in the Con-  
stitution for adopting amendments to it, is  
quite another. The two have no neces-  
sary relation to each other.

I therefore agree with my colleague  
from the Columbus district, (Mr. Cox,)  
that except in the two cases of limitation,  
two-thirds of Congress and three-fourths  
of the States can do anything in the way  
of amendment, being bounded only by  
their sense of duty to God and the coun-  
try. The field is then fully open before us.

On the justice of the amendment itself,  
no arguments are necessary. The rea-  
sons crowd in on every side. To enu-  
merate them would be a work of super-  
fluity. To me it is a matter of great sur-  
prise that gentlemen on the other side  
should wish to delay the death of slavery.  
I can only account for it on the ground of  
long-continued familiarity and friendship.  
I should be glad to hear them say of  
slavery, their beloved, as did the jealous  
Moore,

"Yet she must die, else shall I betray my men."  
Has she not betrayed and slain men  
enough? Are they not strewn over a  
thousand battle-fields? Is not this Mo-  
loch already gorged with the bloody feast?  
Is his best friends know that his final hour  
is fast approaching. The avenging gods are  
on its track. Their feet are not now, as  
of old, shod with wool, or slow and stately  
stepping, but winged like Mercury, to  
bear the swift message of vengeance.  
No human power can avert the final cat-  
astrophe.

I did not intend, Mr. Speaker, ever  
again to address the House on the sub-  
ject of slavery. I had hoped we might,  
without a struggle, at once and forever  
remove it from the theater of American  
politics, and turn our thoughts to those  
other and larger fields now opening be-  
fore us. But when I saw the bold and  
determined efforts put forth in this House  
yesterday, for its preservation, I could  
not resist the inclination to strike one  
blow, in the hope of hastening its doom.

The *Ravenna Democrat* reports a  
case of a little girl of that place, who five  
years ago—she then being a year and a  
half old—swallowed a diaper pin two  
inches in length, with a head upon it of  
the size of a six-penny nail. Although  
various efforts were made, the pin could  
not be removed. A few days ago, in a  
severe coughing spasm, the child threw  
up the pin, which showed no sort of evi-  
dence of having been in her person for so  
long a time. It was as perfect as when  
first swallowed. The child has always  
been troubled with a cough, caused it is  
thought by the irritation produced by the  
presence of the pin—otherwise she has  
been very well. Medical men differ in  
opinion, we believe, as to the place where  
the pin had so long remained.

There are now three American captives;  
Miss Hosmer, Miss Stebbins, and a Miss  
Freeman, now in Italy, who is just becom-  
ing known.