

SELECTIONS.

SPEECH

HON. CHARLES SUMNER,

IN THE

SENATE OF THE UNITED STATES,

ON HIS MOTION TO

REPEAL THE FUGITIVE SLAVE BILL.

FEBRUARY 23, 1855.

Mr. PRESIDENT.—On a former occasion, as Slavery was about to clutch one of its triumphs, I rose to make my final opposition to it at midnight. It is now the same hour. Slavery is again pressing for its accustomed victory, which I again undertake for the moment to arrest. It is hardly an accidental conjunction which thus constantly brings Slavery and midnight together.

Since eleven o'clock this forenoon, we have been in our seats, detained by the dominant majority, which, in subservience to Slavery, has refused to postpone this question or to adjourn. All other things are neglected. The various public interests which, at this late stage of the session, all press for attention, are put aside. According to the usages of the Senate, Friday is dedicated to the consideration of private claims. I have been accustomed to call it our day of justice, and I have been glad that, since these matters are referred to us, at least one day in the week has been thus set apart. But Slavery grasps this whole day, and changes it to a day of injustice. By the Calendar, which I hold in my hand, it appears that, at this moment, upwards of seventy-five private bills, with which are associated the hopes and fears of widows and orphans, and of all who come to Congress for relief, are on your table neglected, ay, sir, sacrificed to the bill which is now urged with so much pertinacity. Like Juggernaut, the bill is driven over the prostrate victims. And here is another sacrifice to Slavery.

But I do not adequately expose the character of this bill when I say it is a sacrifice to Slavery. It is a sacrifice to Slavery in its most odious form. Bad as Slavery may be, it is not so bad as hunting slaves. There is a seeming apology for Slavery at home, in the States where it prevails, founded on the difficulties in the position of the master and the relations of personal attachment which it sometimes excites; but every apology fails when you seek again to enslave the fugitive whom the master could not detain by duress, or by kindness; and who, by courage and intelligence, under the guidance of the north star, has achieved a happy Freedom. Sir, there is a wide difference between a Slaveholder and a Slave-Hunter.

But the bill before you is to aid in the chase of slaves. This is its object. This is its being's end and aim. And this bill, with this object, is pressed upon the Senate by the honorable Senator from Connecticut, [Mr. TOCCEV.] Not from slave soil, but from free soil, comes this effort. A Senator from the North—a Senator from New-England—lends himself to the work, and with unnatural zeal helps to bind still stronger the fetters of the slave.

Mr. RUSK. Will the honorable Senator allow me to interrupt him?

Mr. SUMNER. Certainly.

Mr. RUSK. I ask him to point out the words in this bill where Slavery is mentioned.

Mr. SUMNER. I am glad the Senator from Texas has asked the question, for it brings attention at once to the true character of this bill. I know its language well, and also its plausible title. On its face it purports to be a bill to protect officers and other persons acting under the authority of the United States; and it proceeds to provide for the transfer of certain proceedings from the State court to the Circuit Courts of the United States. And yet, sir, by the admission of this whole debate, stretching from noon to midnight, it is a bill to bolster up the Fugitive Slave Act.

Mr. RUSK. I have not listened to the debate, but I ask the Senator to point out in the bill the place where Slavery is mentioned. If the Constitution and laws appoint officers, and require them to discharge duties, will he abandon them to the mob?

Mr. SUMNER. The Senator asks me to point out any place in this bill where Slavery is mentioned. Why, sir, this is quite unnecessary. I might ask the Senator to point out any place in the Constitution of the United States where 'Slavery' is mentioned, or where the word 'slave' can be found, and he could not do it.

Mr. RUSK. That is erasing the question. I asked the Senator to point out in the bill the clause where Slavery is mentioned. The bill proposes to protect officers of the United States, whom you appoint, in discharging their duties. If they are to be left unprotected, repeal your law.

Mr. SUMNER. I respond to the Senator with all my heart, 'repeal your law.' Yes, sir, repeal the Fugitive Act, which now requires the support of supplementary legislation. Remove this ground of offence. And before I sit down, I hope to make that very motion. Meanwhile, I evade no question propounded by the honorable Senator; but I do not consider it necessary to show that 'Slavery' is mentioned in the bill. It may not be found there in name; but Slavery is the very soul of the bill.

Mr. RUSK rose.

Mr. SUMNER. The Senator has interrupted me several times; he may do it more; but perhaps, he had better let me go on.

Mr. RUSK. I understand the Senator; but I make no boast of that sort.

Mr. SUMNER. Very well. At last I may be allowed to proceed. Of the bill in question, I have little to say. Its technical character has been exposed by various Senators, and especially by my valued friend, the Senator from Ohio, [Mr. CHASE,] who opened this debate. Suffice it to say, that it is an intrusive and offensive encroachment on the State Rights, calculated to subvert the power of the States in the protection of the liberties of her citizens. This consideration alone would be ample to secure its rejection, if the attachment to State Rights, so often avowed by Senators, were not utterly lost in a stronger attachment to Slavery. But on these things, although well worthy of attention, I do not dwell. Objectionable as the bill may be on this ground, it becomes much more so when I regard it as an effort to bolster up the Fugitive Slave Act.

Of this act it is difficult to speak with moderation. Conceived in defiance of the Constitution, and in utter disregard of every sentiment of justice and humanity, it should be regarded as an outlaw. It may have the form of legislation, but it lacks every essential element of law. I have so often exposed its character on this floor, that I shall be brief now.

There is an argument against it which has especial importance at this moment, when the Fugitive Act is made the occasion of a new assault on State

Rights. This very act is an assumption by Congress of power not delegated to it under the Constitution, and an infraction of rights secured to the States. You will mark, if you please, the double aspect of this proposition, in asserting not only an assumption of power by Congress, but an infraction of State Rights. And this proposition, I venture to say, defies answer or cavil. Show me, sir, if you can, the clause, sentence, or word, in the Constitution, which gives to Congress any power to legislate on this subject. I challenge honorable Senators to produce it. I fearlessly assert that it cannot be done. The obligations imposed by the 'fugitive' clause, whatever they may be, rest upon the States, and not upon Congress. I do not now undertake to say what these obligations are; but simply that, whether much or little, they rest upon the States. And this interpretation is sustained by the practice of Congress on another kindred question. The associate clause, touching the 'privileges of citizens,' has never been made a source of power. It will be in the recollection of the Senate, that, during the last session, the Senator from Louisiana, [Mr. BENJAMIN,] in answer to a question from me, openly admitted that there were laws of the Southern States, bearing hard upon colored citizens of the North, which were unconstitutional; but when I pressed the honorable Senator with the question whether he would introduce or sustain a bill to carry out the clause of the Constitution, securing to the citizens their rights, he declined to answer.

Mr. BENJAMIN. I think, Mr. President, I have a right to set the record straight upon that point. I rose in the Senate on the occasion referred to, as will be perfectly well recollected by every Senator present, and put a respectful question to the Senator from Massachusetts. Instead of a reply to my question, he put a question to me, which I answered, and then I put my question. Instead of replying to that, he again put a question to me. Considering that as an absolute evasion of the question which I put to him, I declined having anything further to say in the discussion. I was not here submitting to an interrogatory from a gentleman. I put to him a respectful question. He preferred to put one to me, instead of answering mine. I yielded and answered; and when I again repeated mine, he continued interrogating me. It was obvious to every Senator present, that he evaded an answer to my question, and I therefore let the matter drop.

Mr. SUMNER. The Senator from Louisiana will pardon me, if I suggest that there is an incontrovertible fact which shows that the evasion was on his part. The record testifies not only he did not reply, but that I was cut off from replying by the efforts and votes of himself and friends. Let him consult the *Congressional Globe*, and he will find it all there. I can conceive that it might have been embarrassing to him to reply, for had he declined to sustain a bill to carry out the clause in question, it would have been awkward, at least, to vindicate the Fugitive Slave Act, which is derived from an identical source in the Constitution. And yet there are Senators on this floor, who, careless of the flagrant inconsistency, vindicate the exercise of power by Congress under the 'fugitive' clause, while their own States at home deny to Congress any power under the associate clause, on the 'privileges of citizens,' assume to themselves a complete right to determine the extent of its obligations, and ruthlessly sell into Slavery colored citizens of the North.

Mr. BUTLER. Does the Senator allude to my State?

Mr. RUSK. No; to mine.

Mr. BUTLER. If he means South Carolina, I will reply to him. This is about the fourth time, I think, that the Senator, and his predecessor [Mr. Winthrop] before him, have alluded to the laws of South Carolina. If that be his allusion, I intend to give some facts in relation to the subject, of which I have put myself in possession since Mr. Winthrop formerly brought it here for discussion. If the Senator intends to allude to South Carolina, let him say so.

Mr. SUMNER. I do allude to South Carolina, and also to other Southern States; but especially to South Carolina.

Mr. RUSK. Does the Senator allude to Texas?

Mr. SUMNER. The Senator had better allow me to go on. When I have finished, he can make any explanation he thinks necessary.

Mr. RUSK. I will not take the trouble; I do not think the game is worth the candle.

Mr. SUMNER. Very well. The Senator can do as he pleases. But let me say, that if I allude to these States, it is not to bring up and array the hardships of individual instances, but simply to show the position occupied by them on a constitutional question identical with that involved in the Fugitive Act. And now, at the risk of repetition, if I can have your attention for a brief moment, without interruption, I will endeavor to state anew this argument.

The rules of interpretation, applicable to the clause of the Constitution securing to 'the citizens of each State all privileges and immunities of citizens in the several States,' are equally applicable to its associate clause, forming a part of the same section, in the same article, and providing that 'persons held to service or labor in one State, under the laws thereof, escaping into another, shall be delivered up, on claim of the party to whom such service or labor may be due.' Of this there can be no doubt.

If one of these clauses is regarded as a compact between the States, to be carried out by them respectively, according to their interpretation of its obligations, without any intervention of Congress, then the other must be so regarded; nor can any legislative power be asserted by Congress under one clause, which is denied under the other. This proposition cannot be questioned. Now mark the consequence.

Congress, in abstaining from all power under the first clause, when required thereto, in order to protect the liberty of colored citizens, while it has assumed power under the second clause, in order to obtain the surrender of fugitive slaves, has shown an inconsistency, which becomes more monstrous when it is considered that, in the one case, the general and commanding interests of Liberty have been neglected, while in the other, the peculiar and subordinate interests of Slavery have been carefully secured; and such an exercise of power is an alarming evidence of that influence of Slavery in the National Government which has increased, is increasing, and ought to be overthrown.

Looking more precisely at these two clauses, we shall arrive at the true conclusion. According to the express words of the Constitution, in the tenth amendment, 'the powers not delegated to the United States, are reserved to the States respectively, or to the people; and since no powers are delegated to the United States, in the clause relating to the privileges and immunities of citizens, or in the associate clause of the same section, relating to the surrender of persons held to service or labor,' therefore all legislation by Congress, under either clause, must be an assumption of un-

delegated powers, and an infraction of rights secured to the States respectively, or to the people; and such, I have already said, is the Fugitive Slave Act.

I might go further, and, by the example of South Carolina, vindicate to Massachusetts, and every other State, the right to put such interpretation upon the 'fugitive' clause as it shall think proper. The Legislature of South Carolina, in a series of resolutions, adopted in 1844, asserts the following proposition:

'Resolved, That free negroes and persons of color are not citizens of the United States within the meaning of the Constitution, which confers upon the citizens of one State the privileges and immunities of the citizens of the several States.'

Here is a distinct assumption of a right to determine the persons to whom certain words of the Constitution are applicable. Now, nothing can be clearer than this: If South Carolina may determine for itself whether the clause, relating to 'the privileges and immunities of citizens' be applicable to the colored citizens of the several States, and may solemnly deny its applicability, then may Massachusetts, and every other State, determine for itself whether the other clause, relating to the surrender of 'persons held to service or labor,' be really applicable to fugitive slaves, and may solemnly deny its applicability.

Mr. President, I have said enough to show the usurpation by Congress under the 'fugitive' clause of the Constitution, and to warn you against renewing this usurpation. But I have left untouched those other outrages, plentiful as words, which enter into the existing Fugitive Slave Act, among which are the denial of trial by jury; the denial of the writ of *habeas corpus*; the authorization of judgment on *ex parte* evidence, without the sanction of cross-examination; and the surrender of the great question of human freedom to be determined by a mere Commissioner, who, according to the requirements of the Constitution, is grossly incompetent to any such service. I have also left untouched the hateful character of this enactment, as a barefaced subversion of every principle of humanity and justice. And now, sir, we are asked to lend ourselves anew to this enormity, worthy only of indignant condemnation; we are asked to impart new life to this pretended law, this false act of Congress, this counterfeit enactment, this monstrosity of legislation, which draws no life from the Constitution, as it clearly draws no life that Supreme Law which is the essential fountain of life to every human law.

Sir, the bill before you may have the sanction of Congress; and in yet other ways you may seek to sustain the Fugitive Slave Act. But it will be in vain. You undertake what no legislation can accomplish. Courts, too, may come forward, and lend it their sanction. All this, too, will be in vain. I respect the learning of judges; I reverence the virtue, more than learning, by which their lives are often adorned. But nor learning, nor virtue, when, with mistaken force, bent to this purpose, can avail. I assert confidently, sir, and ask the Senate to note my assertion, that there is no court, however endowed with judicial qualities, or surrounded by public confidence, which is strong enough to lift, this act into any permanent consideration or respect. It may seem, for a moment, to accomplish the feat. Its decision may be enforced—amidst tears and agonies. A fellow man may be reduced anew to Slavery. But all will be in vain. The act cannot be upheld. Anything so entirely vile, so absolutely atrocious, would drag an angel down. Sir, it must drag down every court, which in an evil hour ventures to sustain it.

And yet, sir, in zeal to support this enormity, Senators have not hesitated to avow a purpose to break down the recent legislation of State, calculated to shield the liberty of their citizens. 'It is difficult,' says Burke, 'to frame an indictment against a whole people.' But here in the Senate, where are convened the jealous representatives of the States, we have heard whole States arraigned, as if already guilty of crime. The Senator from Louisiana, [Mr. BENJAMIN,] in plaintive tones has set forth the ground of proceeding, and more than one sovereign State has been summoned to judgment. It would be easy to show, by a critical inquiry, that this whole charge is without just foundation, and that all the legislation, so much commended, is as clearly defensible under the Constitution, as it is meritorious in purpose.

Sir, the only crime of these States is, that Liberty has been placed before Slavery. Follow the charge, point by point, as this will be apparent. In securing to every person claimed as a slave the protection of trial by jury and the *habeas corpus*, they simply provide safeguards, strictly within the province of every State, and rendered necessary by the usurpation of the fugitive Act. In securing the aid of counsel to every person claimed as a slave, they but perform a kindly duty, which no phrase or word in the Constitution can be tortured to condemn. In visiting with severe penalties every malicious effort to reduce a fellow-man to Slavery, they respond to the best feelings of the human heart. In prohibiting the use of the county jails and buildings as barracks and slave-pens; in prohibiting all public officers, holding the commission of the State, in any capacity—whether as chief justice or justice of the peace, whether as Governor or constable—from any service as a slave-hunter; in prohibiting the *volunteer militia* of the State, in its organized form, from any such service, the States simply exercise a power under the Constitution, recognized by the Supreme Court of the United States, even while upholding Slavery, in the fatal *Prigg* case, by positive prohibition, to withdraw its own officers from this offensive business.

For myself, let me say that I look with no pleasure on any possibility of conflict between the State and National jurisdiction; but I trust that, if the interests of Freedom so require, the States will not hesitate. From the beginning of this controversy, I have sought, as I still seek, to awaken another influence, which, without the possibility of conflict, will be mightier than any act of Congress and the words of the National Government. I mean an enlightened, generous, humane, Christian public opinion, which shall blast with contempt, indignation, and abhorrence, all who, in whatever form, or under whatever name, undertake to be agents in enslaving a fellow-man. Sir, such an opinion you cannot bind or subdue. Against its subtle, pervasive influence, your legislation and the decrees of courts will be powerless. Already in Massachusetts, I am proud to believe, it begins to prevail; and the Fugitive Act will soon be there a dead letter.

Mr. President, since things are so, it were well to remove this act from our statute book, that it may no longer exist as an occasion of ill-will and a point of conflict. Let the North be relieved from this usurpation, and the first step will be taken towards permanent harmony. The Senator from Louisiana [Mr. BENJAMIN] has proclaimed anew to-night what he has before declared on this floor—that Slavery is a subject with which the Federal Government has nothing to do. I think him for teaching the Senate that word. True, most

true, sir, ours is a Government of Freedom, which has nothing to do with Slavery. This is the doctrine which I have ever maintained, and which I am happy to find recognized in form, if not in reality, by the Senator from Louisiana. The Senator then proceeded to declare that 'all that the South asks is to be let alone.' This request is moderate. And I say, for the North, that all that we ask is to be let alone. Yes, sir, let us alone. Do not involve us in the support of Slavery. Hug the viper to your bosoms, if you perversely will, within your own States, until it stings you to a generous remorse, but do not compel us to hug it too; for this, I assure you, we will not do.

But the Senator from Louisiana, with these professions on his lips, proceeds to ask, doubtless with complete sincerity, but in strange forgetfulness of the history of our country: 'Did we ever bring this subject into Congress?' Yes, sir, that was his inquiry, as if there had been any moment, from the earliest days of the Republic, when the supporters of Slavery had ceased to bring this subject into Congress. Almost from the beginning it has been there, through the exercise of usurped power, nowhere given under the Constitution: for I am glad to believe that the Constitution of my country contains no words out of which Slavery, or the power to support slavery, can be derived; and this conclusion, I doubt not, will yet be affirmed by the courts. And yet, the honorable Senator asks: 'Did we ever bring this subject into Congress?' The answer shall be plain and explicit. Sir, you brought Slavery into Congress, when, shortly after the adoption of the Constitution, you sanctioned it in the District of Columbia, within the National jurisdiction, and adopted that barbarous slave code, still extant on your statute-book, which the Senator from Connecticut [Mr. GILLETTE] has so eloquently exposed to-night. You brought Slavery into Congress, when at the same period you accepted the cession of territories from North Carolina and Georgia, now constituting States of the Union, with conditions in favor of Slavery, and thus began to sanction Slavery in Territories within the exclusive jurisdiction of Congress. You brought Slavery into Congress, when, at different times, you usurped a power not given by the Constitution, over fugitive slaves, and by most offensive legislation thrust your arms into distant Northern homes. You brought Slavery into Congress, when, by express legislation, you regulated the coastwise slave trade, and thus threw the national shield over a traffic on the coast of the United States, which on the coast of Congo you justly brand as 'piracy.' You brought Slavery into Congress, when, from time to time, you sought to introduce new States with slaveholding Constitutions into the National Union. And, permit me to say, sir, you brought Slavery into Congress when you called upon it, as you have done even at this very session, to pay for slaves—and thus, in defiance of a cardinal principle of the Constitution, made the National Government recognize property in men. And yet the Senator from Louisiana, with strange simplicity, says that the South only asks to be let alone. Sir, the honorable Senator only borrows the language of the North, which, at each of these usurpations, exclaims, 'Let us alone.' And let me say, frankly, that peace can never prevail until you do let us alone—until this subject of Slavery is banished from Congress by the triumph of Freedom—until Slavery is driven from its usurped foothold, and Freedom is made national instead of sectional—and until the National Government is brought back to the precise position it occupied on the day that Washington took his first oath as President of the United States, when there was no Fugitive Act, and the national flag, as it floated over the national territory, within the jurisdiction of Congress, nowhere covered a single slave.

And now, sir, as an effort in the true direction of the Constitution; in the hope of beginning the divorce of the National Government from Slavery, and to remove all occasion for the proposed measure under consideration, I shall close what I have to say with a motion to repeal the Fugitive Act. Twice already, since I have had the honor of a seat in this floor, I have pressed that question to a vote, and I mean to press it again to-night. After the protracted discussion, involving the character of this enactment, such a motion seems logically to belong to this occasion, and may fitly close its proceedings.

At a former session, on introducing this proposition, I discussed it at length, in an argument, which I fearlessly assert has never been answered. And now, in this debate, I have already touched upon various objections. There are yet other things which might be urged. I might exhibit the abuses which have occurred under the Fugitive Act; the number of free persons it has doomed to Slavery; the riots it has provoked; the brutal conduct of its officers; the distress it has scattered; the derangement of business it has caused, interfering even with the administration of justice, changing court-houses into barracks and barracks into filling streets with armed men, amidst which law is silent. All these things I might expose. But in these hurried moments, I forbear. Suffice it to say, that the proposition to repeal the existing Fugitive Act stands on adamantine grounds, which no debate or opposition can shake.

There are considerations belonging to the present period which give new strength to this proposition. Public Opinion, which, under a popular Government, makes and unmakes laws, and which, for a time, was passive and acquiescent, now lifts itself everywhere in the States where the act is sought to be enforced, and demands a change. Already three States, Rhode Island, Connecticut, and Michigan, by formal resolutions presented to the Senate, have concurred in this demand. The tribunals of law are joining at last with the people. The superior court of Cincinnati has denied the power of Congress over this subject. And now, almost while I speak, comes the solemn judgment of the Supreme Court of Wisconsin—a sovereign State of this Union—made after elaborate argument, on successive occasions, before a single judge, and then before the whole bench, declaring this act to be a violation of the Constitution. In response to Public Opinion, broad and general, if not universal at the North, swelling alike from village and city, from the seaboard and lakes—judicially attested, legislatively declared, and represented, also, by numerous petitions from good men without distinction of party—in response to this Public Opinion, as well as in obedience to my own fixed convictions, I deem it my duty not to lose this opportunity of pressing the repeal of the Fugitive Slave Act once more upon the Senate. I move, sir, to strike out all after the enacting clause in the pending bill, and insert instead thereof these words:

'That the act of Congress, approved September 18, 1850, usually known as the "Fugitive Slave Act," be, and the same hereby is, repealed.'

And on this motion I ask the yeas and nays.

Mr. BUTLER. Mr. President, I have no idea of irritating sectional differences. If gentlemen have the opinions which it seems the gentleman from Massachusetts entertains, be it so. I assure him

I do not intend to bandy words with him. He talks as if he was disposed to maintain the Constitution of the United States; but if I were to put to him a question now, I would ask him one which he, perhaps, would not answer me honestly.

Mr. SUMNER. I will answer any question. Mr. BUTLER. Then I ask you honestly now, whether, all laws of Congress being put out of the question, you would recommend to Massachusetts to pass a law to deliver up fugitives from Slavery? Mr. SUMNER. The Senator asks me a question, and I answer, frankly, that no temptation, no inducement, would draw me in any way to sanction the return of any man to Slavery. But, then, I leave to others to speak for themselves. In this respect I speak for myself.

Mr. BUTLER. I do not rise now at all to question the right of the gentleman from Massachusetts to hold his seat, under the obligation of the Constitution of the United States, with the opinions which he has expressed; but if I understand him, he means that, whether this law, or that law, or any other law prevails, he disregards the obligations of the Constitution of the United States.

Mr. SUMNER. Not at all. That I never said. I recognize the obligations of the Constitution.

Mr. BUTLER. But, sir, I will ask that gentleman one question: If it devolved upon him as a representative of Massachusetts, all Federal laws being put out of the way, would he recommend any law for the delivery of a fugitive slave under the Constitution of the United States?

Mr. SUMNER. Never.

Mr. BUTLER. I knew that. Now, sir, I have got exactly what is the truth, and what I intend shall go forth to the Southern States.