SPEECH OF Hon. R. S. Donnell,

OF NORTH CAROLINA, On the Bill offered by Mr. Cleyton in the Be as a Compromise on the question of bla-very in the Territorics.

D-livered in the House of Representatives, July 29, 1848.

MR. SPEAKER: I am aware that in declaring relactings to ask the attention of the House to my views of the important constitutional questions, growing out of the accession of territory under the late treaty with Mexico, I am adopting the custo pary, and often unmeaning, introducnon to speeches in this Hall. In my case, at least, I trust you will believe it is sin-

My colleague from the fifth Congres-

ged the House, at different times during

the session, with opinions which I do not think either meet or merit the approbation of a majority of the people of the State which he and I, in part, represent. I have waited until this late period of the session, in the hope that some other Repthe House would reply to him. I do not feel at liberty to remain silent any longer. The extraordinary manner in which he has reflected upon those who differ from him, requires an answer from some one of us before we go back to our constituents, He made a speech here on the first day of June last which I did not have the pleasure of hearing, but of which I have in my hands a printed copy. In this he represents him-elf as speaking " for his own Carolina;" and I remember, also, that in a spe ch on the 11th of January, upon the subject of internal improvement, he also represents his opinions as the opinions of the State. How came she his Carolina! When did she accommodate him with her name for the endorsement of such oninions as he then avowed? 1 beg him to remember that he represents but one Congressional district. Let him speak for that, and I shall not object. But he speaks of the State as holding the opinions of Mr. Polk on the subject of internal improvements at the very time that we had upon our desks the resolutions of her last legi-lature requesting us to use our exertions to obtain an appropriation from Congress for the purpose of re-opening one of the inlets on her coast. Not content to disregard her expressed wish; nay, more, openly, I had almost said, reproachfully to thwart, it as far as his speeches against the whole system would resent her views upon the subject, and unwarrantably invoke her spotless name to support doctrines which, by her actions, she had just repudiated. Those constituents of mine who have been tempted to read his remarks, have been, no doubt, that almost all the lighthouses and lightboats on her sounds and her rivers are there, and have been there since the beginning of the Government, in direct violiation of the Constitution. Let me inform my colleague that on those waters a ship of war can never ride unless Con-The lights there can never serve our navv. and are, therefore, according to his aric friends, who have the offices there be-Dogberry's watch, "good men and true," in unconstitutional berths and trimming unconstitutional lamps. We may erect beacons for our navy, and if the same fight should happen to save a trader from skipwreck, why, it's all well enough. He will not complain. The Government must turn away from the cry of the sinking mariner, unless he sails under the stripes and stare, and wears the uniform of her navy. All those beacons upon the waters of his " own Carolina," that fret with golden light the dark recesses of her on his pathless way, are to be extinguished, and there is no constitutional power which can such lights " relume." But I desire to direct my remarks to the speech which I have in my hand, and which purports to have been made on the first day of tucky.

There is in this speech another matter much more objectionable than the one to his views upon this subject on the third day of which I have alluded. It is the unchari- June, the day after Mr. Badger's speech. tableness of accusing those colleagues who differ from him on a constitutional ques- June 3, 1848: tion of deserting their constituents. In . order that he may do this, that he may as well as his statesmanlike views, I am anxious have some excuse for the introduction of to hear a distinct enunciation of his principles as such matter, he refers on that first day of to the right of the Federal Government to ex-June to a speech that was made by his clude slavery in the territories under its jurisdiccolleague in the Sonate, (Mr. BADGER,) tion. Did I or did I not understand him to admit on the second day of the same month. He resorts to the proceedings of the Senate to find the excuse for introducing into his printed speech a sweeping denunciation of all Southern gentlemen who were so unfortunate as to have an opinion upon a constitutional question differing of clairs or once, or whatever else it may senetion of law tolerating it.

June last.

of the power of Congress over territory colleague was prescient of, while it was yet unuttered by the honorable Senator from North Carolina, and which called forth such unspaining censure from his in-dignam patriotism; and because I think it due to Me. Badger that the fact should be noted here where my colleague's remarks are represented to have been made.* 1 throw back upon him the charges which he has so complacently hesped upon others. I will endeavor to show that it is he and those who set with him who are the deseriers, who have " pulled down the flag." and surrendered the citadel, and whose votes and opinious would have yielded forever the claims of the South, and committed his constituents, politically, to the mercy of the North. In doing so, I shall siond district, (Mr. VENABLE.) has indul- be explaining the reasons which induced

Compromise bill, upon the table. I gave that vote with a full sense of the painful responsibility then resting upon an American Representative. No one in this Hall realized more fully than I did resentative from the State on this side of the obligation we were under to adopt, if possible, some measure that would tend to calm the public mind upon this exciting subject. I regarded that bill as a blind surrender of the claims of the South, a treacherous but thrown out to entangle her. And, so far from being a measure to quiet the agitation in the country, I tegarded it as the beginning of another convulsion more violent and more to be dreaded than any which the Union has yet encountered. I would not grasp at the shadow, and let go the substance.

tion to lay the Senate bill known as the

The only claims which it had to southern support are founded on what is called the non-intervention principle; that is, the principle that Congress should not legislate upon the subject of slavery in the territories. It is contended that, under the Con-stitution of the United States, and without any law of Congress upon the subject, the citizens of the -lave States have a right to carry their slaves into the territory belonging to the United States; and that those slaves would be regarded and protected there as property by the Constitution, although there was a law in the territory at the time of its cession which excluded the institution This, I believe, is the doctrine of my colleague. I confess that I am not sure I represent him correctly; for, although I have read his remarks again and again, I am not satisfied that I have extracted his idea upon the point. I was puzzled at the outset. He lays down in the first paragraph, as the basis have a tendency to do it, he must misrep- of his argument, this new and remarkable judgment, equally unsound in his argument, ciple: postulate:

> " Truth reduced to its elementary principles affords the only safe guide to investigation, and the only satisfactory conclusions are those which are formed from such a development."

In my simplicity I had supposed that startled to find their own State declaring, truth was itself an elementary principle in all sciences - in policies as well as philosophy. I was not a little startled at a proposition to reduce it, lest it should approximate its antagonistic principle. I was relieved to find that it was afterwards to be developed again. Not being very well skilled in metaphysics, I have not yet folgrees will improve the inlets on the coast. ly comprehended what it was when it had gone through my colleague's crucible, and come out in its new form. But this progument, unconstitutional. His Democrat- found piece of metapysics enabled me afterwards to reconcile some apparent concause they have been to their party like tradictions in his remarks, which would have otherwise hopelessly puzzled me. have been alarmed to learn from my ho- He starts with the position, that the only norable colleague that they are sleeping legislative power which Congress has over the territory of the United States under the Constitution need be found in the clase which declares that-

> " Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the

Speaker after Mr. Doxwell's hour expired, in the course of an explanation on this subject, said that, in his speech on the 1st June, he had named no Senator, but had in his mind distinguished Whig Senators from the South, and that, upon seeing bays, and throw a welcome radiance over afterwards that Mr. Badger held the same opin-

> Mr. Doxxett denied that any Whig Senator from the South had, at the time, opened his lips upon the subject in the Senate, and asked to whom his colleague alluded?

> Mr. VENABLE said, to Mr. Underwood, of Ken-

Mr. Donness denied that Mr. Underwood had then spoken upon the subject. The Register of debates in the Senate showed that he expresse Extract from the Register of Senate Debates,

Mr. DARTON .- As the Senator from Kentucky the existence of that right?

Mr. Unnerwoon.-I admit that, during the existence of territorial governments, you have a right to legislate for them within the limits of the Constitution of the United States. It is said, however, that there is a constitutional prohibition to the passage of a law prohibiting slavery in a territory, but I am inclined to think there is none; I cutire government of the persons and property am, moreover, inclined to the opinion that slavery in the territories to the will of a single individual. from his. I refer to this singular instance cannot exist in a territory without the positive

me to give an affirmative vote on the mofor the government of the land and naval ment, that the words " or other property" must restrict the power which would seem as property only. The answer is obvious, not inconsistent with that equality which ought The property which a government has empire-this very right of sovereign com- injure, in any manner, the common use."

> limited time. cation of his doctrines about truth :

and thus present the anomaly of a despotism crested and sustained by the Constitution itself, -a radoption of the Constitution. They both Kentucky.

arguing himself onto the belief that there would be called upon by his own party was no power under this clause to govern friends and southern coordinates to vote for our territory, felling isto the following a bill vesting the legislative power of New how many of his respectable descendants themselves. By it Congress is prolabili-Mexico in four men, and that of a alter- are now in the district he represents. ed from forbidding the importation of such "It is true, that the power to acquire territory min in five, who were to be the creatures there is a proviso or condition that " no property into such States, then in existing the power to govern it when acquired; but of executive appointment. When this regulation made, or to be made, by Contence, as should " think proper to admit it is also true, that such government must be in according with the Constitution. But Congress bill was before us for senion, dress not sequire territory. The People of the Control States require territory. The People of the realization of the exercise of such power and it proves also that, in those days of case of bills of exchange, drawn by a citigovern it, and have limited Congress, as their by Congress, the horror with which he simplicity, a regulation was not thought zen of one State upon a citizen of anothtrustee, in the name of Government, by the Conanticipated it. He hogged the monto be a very different thing from a law. Again, in a subsequent part of his remarks:

Again, in a subsequent part of his remarks:

At all events, whether a law or not, it was operates upon foreign hills. The records thought comprehensive enough to abolish and judicial proceeding of the courts of one of the States would be regarded by "There can be no civil dominion over any terri- upon the motion to lay the bill upon the tory of the United States which is not founded table. He reasoned upon truth " reduced," of the territory of the United States as to cords and judicial proceedings of a fobut voted upon truth "developed."

right to govern territory; but I believe that Why, is not the power of Congress over circumstances, slavery can ever go there, another, as to their municipal laws, by the clause in the Constitution confers ex- the territories as great as the power of a Slavery will cease to exist, when slave providing against its effect in particular pressly upon Congress the right to legis. State Legislature over the State? No one labor is reduced to hunting bear and set cases. It is difficult to see how the relate for territory belonging to the United denies that a State Legislature may forbid ting beaver traps. If our territorial acqui- lation of the States to the territories is States. If we have a right to acquire for- or establish it within the limits of the sitious had been confined to the goal of the states to eign territory under the Constitution, State. Why may not Coogless exercise tended even to 54° 40', we should not now one another, which I am not prepared to admit, then the same power over the territories? It is be deliberating how the Republic is to be it must necessarily fall under the description of property provided for by that the restriction is to be found in the the apples of discord. We are already lifetime, at the time acquisition is clause. Laws are rules; they are so nature and objects of the trust. I admit reaping the bitter fruit of national cupidi-defined in all the books. The word rule, that the powers of government are a trust ty. Could my voice prevail, they should very is a very different thing. As far as in its primary sense, is more comprehensive, but is often used synonimously with law. A law is a particular kind of rule. It is a "rule of action, prescribed by the labor of the same rules as "rule of action, prescribed by the labor of the same rules as "rule of action, prescribed by the labor of the la supreme power in a State." This is the to govern the relations of the trustee to the exist, not as I would have them. very kind of rule meant by the Conceasus que trust. It is a trust and general, without some action by Congress, can
stitution. My colleague, following the controlled by its own principles, and the slavery exist in those territories? If leremarks of an honorable Senator from trustee is the supreme power. Take, for gal authority is of any weight it cannot contract with his master, and of South Carolina, (Mr. Calhonn.) as they example, the case of public property in the Blackstone thus writes on the subject : course could not be subjected under that South Carolina, (Mr. Calhonn.) as they were "developed" in a speech, made after his, of the I-t of June, says that this power is restricted to such rules as are necessay to dispose of the lands. He gives no reason for it; but the Senator from South Carolina does. That Senator asserts that the terms "rules and regulations are not applicable to Government;" "they are never so applied in the Constitution;" "they are never so applied in the Constitution;" "they refer to property, things, or some process, such as rules of court," I find, process in the case of public property in the disposed of the deventment, to be disposed of the subjects, all the English laws then in being, which are units of the English laws then in being, which are units of the English laws then in being, which are units of the English laws then in being, which are units of the English laws then in being, which are units of the English laws then in being, which are units of the English laws then in being, which are into the laws which are already laws of their own, the English law, unless, he first become free. Africantly the discovered and planted by English law, unless, he first become free. Africantly the discovered and planted by English law, unless, he first became shored; and under that territory at the time in the law, unless, he first become free. Africantly the discovered and planted by English law, unless, he first b process, such as rules of court." I find, with respect to their relations to one Chief Justice Marshall, in his opinion in conflict with the Constitution. I think by reference to the Constitution, power is another and to the Government. It must in the Case of the American Insurance that I have shown that a law prohibiting ing captures on land and water;" "rules it as to make it bring the largest sum of courts: money, without reference to any other forces." The honorable Senator is, in my matter. Vattel thus lays down the prin- entirely subdued, to consider the holding of con-

"All the members of a community have an equal right to the use of the common property. to be given by the terms "rules and re- But the body of the community may make such those terms relate to the territory regarded think proper, provided that these regulations are to be preserved in a community of property.'

" All the members of a body having an equal -the mere title to the land. It is in the have the profits of it in a manner that does not

be the territory belonging to the United indicate a fair partition of our whole ter-States, and strictly and properly be deno- ritory, with a reference to its situation, minated its property. In thevery message soil, and climate, as the true basis of a by the newly-created power of the State." under consideration Mr. Polk, in his unsa- compromise. It is true that, strictly tisfactory account of the value of our ac- speaking, the exclusion of slavery from quisitions, asserts that it is this very sove- the territory would not exclude any citireignty which we have acquired that " con- zen of the slave States from settling in the stitutes indemnity for the past." But territory, but it imposes restrict ons upon however that may be, my colleague admits the enjoyment of that right, which would States." that Congress has the general right of practically destroy, or unjustly impair it. legislation over the territories, and so does. On the other hand, while the toleration the Senator from South Carolina; although of slavery would not prevent a citizen of they do not derive that authority from the the free States from going there, it is con-reported in 16th volume of Peters' Uni express words of the Constitution. This tended that, according to his views, it im-Compromise bill, as it is called, admits it poses such objectionable political and soby the strongest implication. It makes a cial encumbrances upon the territory, as, bound to recognise the state of slavery, as to form of government for Oregon, Califor- practically, would exclude him. As it reign slaves found within its limits, when it is in by the strongest implication. It makes a cial encumbrances upon the territory, as, nis, and New Mexico. In New Mexico would seem, therefore, that the same pors apposition to its own policy, &c." . Mr. VENABLE, who was recognised by the and California it establishes a kind of oli- tion of territory cannot be made equally garchy, withholding from the people of the available to both sections of the Union. territories any voice in the enactment of we can only in a partition hope for or obthe laws that are to govern them. The tain equality of participation. The applilegislative power is all vested in their gov- cation, however, of these, and other prinernors, secretaries, and judges. This anti- ciples relating to government, is a matter the maddened waves to guide the sailor ions, had, in writing out his remarks, made refer republican feature of the bill, and the which addresses itself to be sound discreamalgamation of the power which enacts tion of Government itself. In the apwith that which interprets, or declares the plication it must look to the general good Constitution established slavery; the arlaw, would be sufficient in an ordinary case of the whole, taking care never to sacrito determine my tote against it. No one fice the interests of any section of the who advocates this bill can deny the right country, or of any individual of the comof Congress to legislate upon the subject, munity, unless the public welfare impefor it is upon that assumption that its riously demands it. In the discharge of character as a compromise is founded. It this trust the Government may err. It is at least intended to make the impression may even abuse its powers. But could at the north, that it affirms the prohibition its action be declared by our courts to be of slavery in the Territory of Oregon for unconstitutional? On the contrary, it would be the abuse of a constitutional If I may be allowed a digression here, power; a violation of the principles of will commend to the attention of the good government, and not the assumption House another extract from my col- of unconstitutional power. The imaginleague's speech, which, when taken in con- ed rights of the North or the South are, nection with his subsequent vote, affords at best, but rights of imperfect obligation. another striking example of his powers of They could not be enforced. I will leave vaticination, as well as the practical appli- this part of the subject with the remark, If the Constitution recognises slaves as that the southern States themselves have "I know that it is asserted; and that by south- heretofore ac ed on the assumption that

be, because I entertain the same opinion between the constitution of the power of Congress over territory shall be so construct as to project any claim ammunication to carry home the conviction of its shall be so construct as to project any claim ammunication to carry home the conviction of its shall be so construct as to project any claim ammunication to carry home the conviction of its shall be so construct as to project any claim ammunication to carry home the conviction of its shall be so construct as any to require the power in the territory which they respectively or the United States or of any particular fallery to every mind."

Constitution which tolerated the classe of the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be convicted as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the conviction of its shall be so constructed as to project any claim ammunication to carry home the co

given to Congress "to regulate combe purchased upon this implicational Company vs. Three hundred and fifty six slavery is not against the Constitution, merce," "to establish an uniform rule of Otherwise, you would make it obligatebales of cotton. (1 Peters' Reports 542.) Indeed, if it were, the laws in the Northnaturalization," "to make rules concerning upon the Government so to dispose of adopts this principle as the rule of our ern States abolishing slavery are null and

"The usage of the world is, if a nation be not quered territory as a mere military occupation, until its fate shall be determined at the treaty of of the nation to which it is annexed, either on the gulations," inasmuch as they show that regulations on the manner of enjoying it as they terms stipulated in the treaty, or on such as its new master shall impose. On such transfer of property it has never been held that the relations in its territory is not simply in the estate right to their common property, each ought to ed, and new relations are created between them right have I to decrive my constituents by and the Government which has acquired their territory. The same act which transfers their mand. If the title to every acre of the These principles, applied to our action exuntry transfers the allegiance of those who reland had been granted away, it would-till on the subject of slavery, would seem to main in it; and the law which may be denominated political is necessarily changed, although that out some hope that it would bring peace. duct of individuals remains in force until altered

> " It has already been stated that the laws which were in force in Florida, while a province of Spain, those excepted which were political in their character, which concerned the relations between the people and their sovereign, remained in force until altered by the Government of the United

Slavery is a municipal regulation. The doctrine is to be found in the case of Prigg a Northern or Southern judiciary estabex. The Commonwealth of Pennsylvania, lished in these territories. In the provited States reports, page 611.

" By the general law of nations, no nation

"If it does, it is as a matter of comity and not a matter of international right. The state of sla- ed in one section or the other of the Unvery is deemed to be a mere municipal regulation inn. We have no right to throw the reounded upon and limited to the range of the Ter- spon-ibility of settling this question upon

ritorial laws." over all territory which the Government ed; certainly not in this. It has surprised acquires. Does it carry slavery there? I me very much to see those men who have have never heard it alleged that the heretofore been repudiators of some of the gument is that it recognises it; this is not strictly true; it recognises the municipal wing. I believe it is because they dare laws and regulations of the States which not meet the question. Sir, he who faladmit it, as far as they have any opera- ters now is no true lover of his country. tive force, that is, within the ferritorial Let us meet it in a spirit of calmness and limits of the State. It goes no further, conciliation, not with hested denunciations except in one particular case provided for and angry threats. Let us meet it with expressly in the second section of the a determination to settle it, and we must fourth article : If a slave "escape" into assuredly specsed. the free States, he must, under that clause, institution exists. He cannot hold him in slavery in the free State in which he is them is one excluding slavery. The bill taken, any longer than, under the circum stances, is necessary to carry him back.

to the United States by the States of 2 Marsh R. 470. The first the reports of the de-Georgia and North Carolina, after the cisions in the courts of Louisiana, and the last of property, and consequently will not settle

Imagine may surprise to find him, after er of Cassandra, to have foreseen that he somers, Sanuel Johnston and Benjamin plication, power over the subject outside Let us now see what is the condition the courts of any other State as the reslavery, in the absence of all legislation reign court, were it not for an express pro-Two distinct positions, one the result of an argument based upon teath "reduced," the other upon truth "developed."

I admit the proposition that the right "to acquire," brings with it, ex necessitate, the right to govern territory; but I believe that

peon, which debt is so managed by the

How, then, can I doubt that the courts,

in the present state of the question, and without some action of Congress, would peace. If it be ceded by treaty the acquisition is decide that, in California and New Mexconfirmed, and the ceded territory becomes a part ico, slavery could not exist! Entertaining these views, honestly and conscientiously, whether they be right or wrong, how could I have voted for the bill! the inhabitants undergo any change. Their Would I not be yielding the claim of the relations with their former sovereign are dissolv- South, knowingly and wilfully? What voting for a bill to "keep the word of promise to our ear, and break it in our hope?" Much less could I make the sacrifice withwhich regulates the intercourse and general con- It brought no assurance that the waters were subsiding. There was no spirit of compremise in the manner it was forced through the Senate. It came to the House branded with the spirit of intolerance. Its passage would have been the signal for the cry of repeal. It would have mingled itself in the Presidential campaign. There would have been a struggle to get a Northern or a Southern President, so as to have dence of God, a vacancy might occur in the Supreme Court of the United States. is The judicial ermine might have been stained by political prostitution. At all events, the weight and moral influence of the court must have been forever destroythe Judiciary. I would not permit it to The Constitution, it is true, extends go there in any shape, if it could be avoidquestions, now seeking refuge under its I will examine the bill a little more in

be "delivered up on claim;" his owner detail. The people of Oregon have enactmay take him back to States where the ed a code of laws for themselves. These are subject to our control, and among provides that these laws shall be and continue in force until "three months after the first meeting of the Legislature," property, wherever they may be within When the Legislature meets, these must ern statesmen, that Congress has unlimited pow- Congress had the power to legi-late on the . The same doctrine is affirmed in Jones vs. be re-enacted, or new laws made and er of legislation over the territories; but if this be subject. Passing over the Missonne and Vanzandt, McLean's R., 601, and in many of brought to Congress under the sixth sec-Coquillon, 14 Martin R, 50. Rankins vs. Lydia, ers in the mean time cannot take their there. The Legislature will be composed