

DEBATE IN THE SENATE, ON THE MISSOURI QUESTION.

Mr. OTIS'S SPEECH CONCLUDED. But, sir, said Mr. Otis, the fair and undeniable conclusions resulting from this article do not rest here. By the same article, Congress have power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States. Much stress has been laid, and with great propriety, upon the latter branch of the power—that 'making the needful rules,' &c.—but none that he had yet seen or heard upon the first words, 'to dispose of,' &c. It was taken for granted, that these words imparted to Congress merely the faculty of selling the territorial lands. But he claimed for them a much greater latitude. The verb to dispose, signified not merely to sell, but to 'adapt,' 'to form for any purpose,' 'to apply to any purpose,' &c. These are the definitions not merely to be found in a dictionary, but such as had by legislative construction been applied to this very subject. In the third section of the act enabling the people of Ohio to form a constitution, is provided among other things, that all that part of the territory, not included within the boundaries of the State, shall be attached to Indiana, subject to be hereafter 'disposed of,' by Congress, according to the right reserved in the 5th article of the ordinance. Upon advertising to this article, it will be found to prescribe the manner of forming states, and of admitting them into the Union; and not at all to the sale or alienation of the lands. Of consequence, the power to dispose of the territory of the U. S. expressly delegated to Congress by the Constitution, is to be executed afterwards, in the same mode that it had before been exercised, under the confederation. That is to say, by forming it into states, agreeably to its pleasure and discretion, and with such conditions as (without infringing upon a republican form) its views of policy might dictate and require. Here, then, said Mr. Otis, is found an express and indubitable power, couched in language free from ambiguity, to admit new states, and to bind them by compact to the observance of just and moral conditions. In pursuance of this authority, limitations have uniformly accompanied the grant of the power to frame state constitutions. The very assignment of boundaries in the nature of a condition; so are restraints upon the right of taxation; the language of judicial proceedings; the security of trial by jury, and of habeas corpus; all which are subjects of municipal jurisdiction in the old states; of the navigation of rivers, the reservations of mines, and of the soil itself. If Congress possessed no discretion in these particulars, the entire territory of Louisiana, according to the letter of the treaty, should have belonged to those who were inhabitants at the time of the cession, and been admitted as one state, into the Union; for the requiring the inhabitants of one part to confine their jurisdiction to a limited tract, was equivalent to imposing a condition that they should renounce the residue; for which, it might be said, the treaty offered no justification. Without this power of annexing conditions, the U. S. he said, would be a strange anomaly in the society of nations; compelled to admit to their bosom and to a participation of their fundamental powers and privileges, without terms or restrictions, any people, in whatever part of the world, which the Executive Government should acquire by treaty; however alien their laws and usages might be from those of our own nation. For it is insisted that a colonial policy is abhorrent from the genius of our constitution, and that states must be formed as soon as possible in all our possessions. He believed no nation on earth but ourselves, were ever placed in such a predicament, nor did he perceive how a sovereign state could ever form a union with a foreign sovereign or people, without such a power. On the same foundation alone could Scotland be held to the restrictions imposed by the articles of union with England. Cases, and those by no means extreme, might be imagined, in which the exercise of such a power would be indispensable to the safety and policy of the principal state. It is not long, for example, since the feudal system prevailed in France; and the indignation, though with features somewhat relenting, still holds its iron sway in Spain. Louisiana has belonged to these nations in succession. He knew not whether feudal tenures had been ever introduced into that country. But there was nothing extravagant in the supposition that they, or at least some of the badges of feudalism might have been there tolerated. If such had been the circumstances, should the U. S. be held to admit new states in that territory, without stipulating for the abolition of these tenures? Must we have subjected our citizens migrating thither to all the oppressions of vassalage, of aids and services, and the detestable bondage of the feudal vassals? Or if a branch of the acquisition had been established there, could we not have interposed to put down

that pillar of an established religion? Or if the torture had been practised as it was under the civil law in France and Spain, could no controlling power be retained by any compact or agreement, to extirpate that abomination? He said he would suppose another case, not likely to happen, but yet, as he trusted, not outrageously improbable. There was, it was, well known, in many parts of this country, societies of persons called Shakers, of good moral characters, and exemplary habits of industry, whose fundamental doctrines were founded on the duty of celibacy. They are also a rich people, and in some of the states, experience interruptions in their endeavors to augment their numbers, and inconveniences from laws which press upon their consciences, especially in military concerns. Imagine, sir, said he, all these sects combined and determined to make a pilgrimage, and become sojourners in this new country of promise. Figure to yourself four or five thousand adults of both sexes, with their children, in separate and dismal processions, marching beyond the Mississippi until they should find a spot suited to their occasions, then halting, & sending you a missionary with the intelligence of their 'demand,' to be admitted a state. Are you bound to admit them without a stipulation that they shall make no laws prohibiting marriage, at the moment you know this to be the main design of their emigration, and thus secure to a sect of those peculiar and anti-social tenets a monopoly of the entire state, and a power of virtually excluding from its jurisdiction the great mass of your citizens? There is no end to the instances which might be multiplied, where your interference would be indispensable for the protection of your citizens and the prevention of contagious customs, and institutions adverse to the policy and nature of our government. The consequences of the doctrine maintained on the other side would be detrimental to the territorial inhabitants; it would create a reluctance to admit them at all into the Union. Besides, if compacts of this description would not be obligatory hereafter, those already framed are void; and, being void in part, are wholly null. Hence would arise uproar and confusion wild; all things done under the ordinance and the laws which recognize it, are liable to be abrogated. The great and flourishing state of Ohio, and her contiguous neighbors, and all that is fixed to their soil, should of right revert to the Union, and the grants of Georgia & N. Carolina are ipso facto rescinded; for the subject matter being within the powers of the constitution, all contracts respecting it, or growing out of it, must be void. Here, then, Mr. Otis said, he might safely rest the question. Language could not furnish a power more clear and express than the constitutional article to admit new states; and, having these express words for his basis, he would again request nothing better than the speech of the gentleman from Md. not his speech of yesterday, but the model of forensic eloquence which he had exhibited in the case of the Bank of the U. S. to show that the faculty of imposing conditions was among the necessary derivative powers, even if the meaning of the word States was not as explicit as he had shewn it to be. In the view which he had thus presented of the subject, Mr. Otis said, he had endeavored to establish principles which, if sound, contained a substantial refutation of the most important dogmas advanced by the honorable gentleman from Maryland, tho' not in the order in which they had been arranged by him. He would therefore pass rapidly over a review of some of his objections, though his answers might seem like repetitions in another form, of a portion of his previous remarks; and if, among the specimens of brilliant ores and gems that were scattered through the honorable gentleman's collection, he should occasionally find some whose genuineness he doubted, he would beg leave to point them out, though his unskilful finger might disturb the beauty of the whole arrangement. The honorable member had dwelt with great pathos upon the enormous character of the power claimed for Congress under the constitution, and its consequent liability to abuse. But the power of full sovereignty is in its nature enormous. If the U. S. are capable of taking and holding a grant in full sovereignty, there is no security against their abuse of powers, except what arises from the character of the people and their institutions. Here, however, limitations are provided by the treaty. There can be no abuse of power where the inhabitants are entitled to all the rights of citizens of the U. S. It has been also contended, that, as Congress has not the constitutional power to abolish slavery, so neither is it competent to attempt to do so. To this he answered, that the attempt was neither to do the one or the other; but to prevent its introduction, by a fair compact, into a new region, where it had not been established by law. He disavowed entirely the right of Congress to interpose its authority in relation to slavery in the old states, and protested against the wish or design to promote a general emancipation of their slaves, nothing doubting but that such a measure would be pregnant with evil to

master and man. A more important principle asserted by the honorable gentleman, he said, was this: That when Missouri becomes a state, she would acquire, ipso facto, the right to abrogate our restrictions, as an incident to state sovereignty. This assertion is, in fact, begging the question. If by the constitution, conditions may be imposed as precedent to her becoming a state, they cannot be rescinded by Missouri in her capacity of a state. There is the widest possible distinction between legislating upon the internal concerns of a state, after she assumes that character, & framing a compact by a legislative act previously to that event, which is to constitute, prospectively, the fundamentals of their future constitution. In order to effect the latter object, it is necessary only to settle the question, whether the inhabitants of a territory have a capacity to contract? If they are destitute of this power, there is no safety in dealing with them, no security for any of your reservations, for your exemption from taxation on your own lands, for securing the trial by jury, or habeas corpus, or any other privilege. If they, on the contrary, are capable of making a compact, how can they become entitled to commit a fraud by breaking it, in consequence of changing the form of their community? If they can bind the United States, they can bind themselves. If they can claim charter rights, they must be held to the performance of charter obligations. The people of the U. S. have framed a constitution; but their debts, contracts and obligations, antecedently incurred, have not been, and can never be, with justice or honor, renounced. It would be a most unhappy exposition of state rights that should render the opposite theory convincing to the nation; its moral would be, that no good faith could be expected from a territorial population, and its corollary, that no bargain should be made with them. It has also been strenuously urged, that you cannot exact from one state considerations for her admission, which you dispense with in others, and that Missouri, reduced to a pigmy, a shadow, with amputated limbs and restricted faculties, would not be a state within the meaning of the constitution. But, he replied, there is not an exactness of any consideration whatever in the proposed instance. A consideration is doing or forbearing what the party granting it may lawfully do or forbear. But Missouri neither does, or refrains from doing, any thing for the benefit of the Union. She requests a boon; it is offered on conditions, demanded by your views of right and policy. She may accept or not. Whether she would be a state on an equal footing, he must again leave to the honorable members from Ohio, Indiana, and Illinois. Let them decide whether they conceive themselves to be members of degraded states, shorn of the rights of freedom and independence. He should not like to face the storm that would gather over him who should undertake to prove this to their faces. Again, it is insisted that you cannot make a grant and annex to it conditions repugnant to its nature, which must defeat its operations. Here, he declared once more, with all due respect, was another petio principle. The condition was precedent in its nature, independent of the grant, binding before it goes into operation. It takes nothing from the state, but imposes a disqualification upon the people of the territory before they become a state, which binds them in good faith from doing afterwards an act affecting injuriously the interests of those from whom the grant of state power is derived. To illustrate the principle by an example from common life—if a man, having an estate and children, should promise his nephew to make him equal to his children, by giving him, at a certain period, a share in the estate, and upon his claiming the performance of his promise, the donor should require from him a stipulation that he should bring no dogs upon the farm, there being already more kept in the family than was consistent with the safety or convenience of the actual occupants, there would seem to be, in such a request, nothing unreasonable, and in the agreement, nothing repugnant to the equitable performance of the promise. No ridiculous, or invidious, or degrading allusion, however, was intended by the comparison of the cases. Great stress, he observed, had been placed, not only by the honorable gentleman from Maryland, but by the honorable gentleman from North Carolina also, upon the presumed analogy between the controversy of Great Britain, and the colonies and the relations of the U. S. and Missouri, if this amendment should prevail. But he denied that the revolt of the American colonies originated in their unwillingness to conform to the terms of their charters. The reverse of this is the truth—it was the violation of chartered rights, by the mother country, which forced the colonies to resort to arms. But he did not believe the good people of Missouri would have recourse to such an extremity, in pursuit of a right which they should have relinquished. They would find no supporters or allies in a cause so odious and unjust.

We are admonished, sir, said he, of the distance of the proposed new state. With distance, it is eloquently repeated, even despotism must truck and huckster. But the very distance furnished a sufficient reason for perpling the country with inhabitants whose strength and resources will not be impaired by a slave population. We are also apostrophized to know why we object to the diffusion of slavery? Whether it is not to force manumission? And, it is added, that we cannot get rid of those who are emancipated; but, by opening the door, the master and slave will migrate together, and the condition of both will be ameliorated—while, in the other event, the master will go and the slave stay, and the state of all those who are left behind will be still more unfortunate. All the arguments, he said, which had been pressed upon these points, proceeded upon the admission that a redundant slave population was an evil—and an evil too whose tendency was to increase. He certainly was not now prepared to go into a consideration of the nature and extent of this evil in the old states; or of any present or future remedy. It was, however, a subject of most serious reflection, from which the Congress of the United States could not always escape. It was a common concern, and he doubted not that the wisdom of the nation would, in sufficient season, find some adequate means of relief, from the threatened calamity, and to this end, and in reasonable measure, supply the needful funds. But, it was enough for his present purpose, that opening the door would aggravate the evil, and spread it far and wide. If it were now an acknowledged evil in the old states, it most speedily became so in the new ones. Congress is the guardian of the rights, not of the present generation only, but of posterity; and however remote might be the period, the time must happen when the inconveniences of a slave population, whatever is their nature, would, if the amendment was rejected, be amplified to an extent that would be absolutely remediless. In considering the expediency of the proposed measure, Mr. Otis observed that he should confine himself within very limited bounds. It involved a very prodigious variety of topics, on which he could not touch without being misunderstood. Besides, all the principal views of which the question was susceptible had been exhibited in various publications. He would not attempt to describe the effects of slavery upon the state of society in which it existed. He would leave that exclusively to the judgment and opinions of the individuals composing that society. With respect to those persons, as individuals, he was ready to admit, that he believed them to be as wise, as good, as just, and as generous, as those of any other section of the country. Among them he should be at no loss to choose his friends or his executors. Every man felt, or ought to feel, a predilection for his dear and native home. He felt it in his full force without any liberal prejudice towards other states or their citizens. It was also, a great error to impute to the North an apathy and cold feeling of security respecting the situation of the South in particular of their slave population. Whatever difficulty, embarrassment, or danger could be foreseen, connected with that object, must affect the entire union; and called loudly upon their combined intelligence and fraternal feelings to adopt the preventives as it would apply the remedy. These remarks he made in the spirit of adulation, but of sincerity. He would acknowledge, too, that, in supporting the amendment, he was not influenced by maxims of inductions from any religious or moral code, that might serve as a rule for his private conduct, or for his opinions as a man. Neither did the claims of humanity, as affecting the wretched beings who were doomed to bondage, decide him in his course on this occasion. He looked to it entirely as a question of policy, affecting the equitable rights of the various parts of the Union, and the security and welfare of the whole people now and hereafter. It might be conceded that the condition of the slaves would be improved by opening this flood-gate and the whole force of his natives would still be in reserve. His charity and humanity began at home. He rested on the solitary ground of an admitted political evil, which slavery was acknowledged to be, and which he conceived it to be in a variety of particulars; and then enquired whether its introduction into this new world would not tend to promote its indefinite extension? If so, could he rightfully, and was he bound in conscience and duty, to oppose a barrier to its progress? This he would do first, and meet the evil afterwards, in its compressed and inevitable shape. In this light, he regarded the diffusion of slavery, as pregnant with great injustice and danger. It was not only unjust in reference to the white peopled states, but it was bringing into contact with foreign nations, with England, Spain, and perhaps Russia, a weak frontier and the degraded instruments of intrigue and revolution, which their owners might not be able in process of time to hold in check. On the other hand, let the country be settled by a white population, and the secu-

city of the slave holding states would be increased, and the strength of the whole nation essentially promoted. There was a subject on which he never thought in connection with the present enquiry—but with uneasiness and regret, and to which he would now do no more than slightly allude. It was the state of affairs in the black empire, rising up in the Atlantic so far as it was open to an examination. There was a phenomenon which modern times had not witnessed—a nation of black people, intent upon improving in the arts of civilization, bold, fierce and warlike, & growing more and more capable of ruminating and feeling for the oppressions inflicted upon their race from time immemorial. First, or last, these people will be acknowledged as an independent state, and commerce will give them access to all parts of your country. Whenever his imagined Louisiana peopled by slaves, scattered in immense groups throughout that vast region; and the face of the country itself; possibilities resulting from any intercourse with St. Domingo, rushed upon his mind, which it was enough merely to intimate, to be understood. He would then leave the question of expediency, inexhaustible as he felt it to be, with these few general remarks, being unable to agree to any measure which should counteract the spirit of the age, by increasing the mischiefs of slavery to a degree boundless in extent, and perpetual in duration, and to entail on posterity a scourge, for which we reproach the memory of our ancestors. STATE OF NORTH-CAROLINA, RUTHERFORD COUNTY, Court of Pleas and Quarter Sessions, January Sessions, 1820. James Morehead } Original attachment levied on Land, Iron and Mill Stones. John Oliver } It appearing to the satisfaction of the Court that the Defendant is not a resident in this State; it is ordered that a further proceeding be stayed in his case for three months, and that publication be made three times in the course of three months in Raleigh Register, for the Defendant to appear at our next Court of Pleas and Quarter Sessions, at the Court-house in Rutherford County, on the 3d Monday after the 4th Monday in March next, and reply, plead to issue or demur; otherwise Judgment by default will be entered against him. Witness. 67-3t ISAAC BRATON, C. C. THE IMPORTED HORSE, EAGLE, The finest Horse ever seen, and was the speediest horse at New Market—published, August, 1810, by Thomas H. Morland, London. Eagle is in high health and vigor; will stand the ensuing season in or near Sallsbury, N. C. to be let to Mares at Fifty Dollars the Season, which may be discharged by Forty if paid in the season; Twenty-five Dollars the leap, to be paid at the time of service; and Seventy-five Dollars to insure a mare to prove with foal—One dollar to be paid the Groom in every case. Eagle is a fine bay, upwards of sixteen hands high, handsomely marked, and one of the finest looking horses on the continent—and as to a race horse, England never produced his equal in his day, which may be seen by reference to the English Stud Book, &c. Eagle's Pedigree and Performance will be published in handbills in due time. LEWIS SHERLEY. Jan. 14, 1820 61p The unequalled Race Horse, TIMOLEON, Now in full health and vigor—will stand the ensuing season at my Stable in the town of Warrenton, at the moderate price of thirty-five dollars the season; which sum may be discharged by the payment of twenty-five dollars if paid at any time within the season, fifteen dollars the single leap. to be paid at the time the mare is covered; and fifty dollars for insurance, which will be demanded as soon as the mare is discovered to be in foal, or the property is transferred—One dollar to the Groom in every instance. Mares sent will be fed with grain at the neighborhood price—the money for which must be paid when they are taken away. Good pasturage well on foot, gratis; and particular attention will be paid to mares entrusted to my care; but will not be liable for any accidents or escapes whatever. This season will commence the first of March and end the first of August. TIMOLEON is a beautiful sorrel, seven years old the ensuing spring, five feet three and a half inches high, of most excellent symmetry, and possesses as much power as any horse in the Union. DAVID DANCY. February 8, 1820 PEDIGREE. TIMOLEON was gotten by the noted and famous horse Sir Archy, his dam by the old Saltram, his grandam by old Wildcat, his great grandam by the fall bred horse Driver, his great great grandam by the imported horse Fall-w, out of a Vampire mare. BAKI JONES. BLANK BONDS, &c. For sale here.