[illegible] ... the Constitution of the United States ... itself over the acquired territory, and carried along with it the institution of slavery, the proposition is so irreconcilable with any comprehension of reason that I possess, that I hardly know how to meet it.

Why, these United States consist of thirty States. In fifteen of them there was slavery, in fifteen of them slavery did not exist. Well, how can it be urged that the fifteen slave States, by the operation of the Constitution of the U. S., carried into the ceded Territory their institution of slavery, any more than it can be argued on the other side that, by the operation of the same Constitution, the fifteen free States carried into the ceded Territory the principle of freedom which they from policy have chosen to adopt in their limits? Why, sir, let me suppose a case. Let me imagine that Mexico had never abolished slavery there at all—let me suppose it was existing in point of fact and in virtue of law, from the shores of the Pacific to those of the Gulf of Mexico, at the moment of the cession of these countries to us by the treaty in question. With what patience would gentlemen coming from slaveholding States listen to any argument which should be urged by the free States that notwithstanding the existence of slavery within these Territories, the Constitution of the United States abolished it the moment it operated upon and took effect in the ceded Territory? Well is there not just as much ground to contend, as when the majority of the States is free and the other moiety is slaveholding, the principle of freedom which prevails in one class shall operate as the principle of slavery which prevails in the other? Can you come, amidst this conflict of interests, principles, and legislation, which prevails in the two parts of the Union, to any other conclusion than that which I understand to be the conclusion of the public law of the world, of reason, and justice: that the status of law, as it existed at the moment of the conquest or the acquisition, remains until it is altered by the sovereign authority of the conquering or acquiring power? That is the great principle which you can scarcely turn over a page of public law of the world without finding recognised and everywhere established. The laws of Mexico, as they existed, at the moment of the cession of the ceded Territories of this country, remained the laws until and unless they were altered by the new sovereign power which this people and these Territories come under in consequence of the treaty of cession to the United States.

I think then, Mr. President, that without trespassing further, or exhausting the little stock of strength which I have, and for which I shall have abundant use in the progress of the argument, I may leave that part of the argument, I may leave that part of the subject with two or three observations only upon the general power which I think appertains to this Government on the subject of slavery.

Sir, before I approach that subject allow me to say that, in my humble judgment, the institution of slavery presents two questions totally distinct, and resting on entirely different grounds—slavery within the States, and slavery without the States. Congress, the General Government has no power, under the Constitution of the United States, to touch slavery within the States, except in the three specified particulars in that instrument: to adjust the subject of representation; to impose taxes when a system of direct taxation is made; and to perform the duty of surrendering, or causing to be delivered up fugitive slaves that may escape from service which they owe in slave States, and take refuge in free States. And, sir, I am ready to say, that if Congress were to attack, within the States, the institution of slavery, for the purpose of the overthrow or extinction of slavery, then, Mr. President, my voice would be for war; [illegible]

[illegible] ... Territories acquired from Mexico.

Mr. President, we have heard, all of us have read of the efforts of France to propagate—what, on the continent of Europe? Not slavery, sir; not slavery, but the rights of man; and we know the fate of her efforts in a work of that kind. But if the two portions of this Confederacy should unhappily be involved in civil war, in which the effort on the one side would be to restrain the introduction of slavery into new territories, and on the other side to force its introduction there, what a spectacle should we present to the contemplation of astonished mankind! An effort not to propagate right, but, I must say—though I trust it will be understood to be said with no desire to excite feeling—an effort to propagate wrong in the Territories thus acquired from Mexico! It would be a war in which we should have no sympathy, no good wishes, and in which all mankind would be against us, and in which our own history be against us for, from the commencement of the Revolution down to the present time, we have constantly reproached our British ancestors for the introduction of slavery into this country, that it was forced upon us against the wish of our ancestors, our own colonial ancestors, and by the cupidity of our British commercial ancestors.

The power, then, Mr. President, in my opinion—and I will extend it to the introduction as well as the prohibition of slavery in the new Territories—I think the power does exist in Congress and I think there is that important distinction between slavery outside of the States, and slavery inside of the States, that all outside is debateable, all inside of the States is undebateable. The Government has no right to touch the institution within the States; but whether she has, and to what extent she has the right or not to touch it outside of the States, is a question which is debateable, and upon which men may fairly and honestly differ, but which, decided however it may be decided, furnishes, in my judgment, no just occasion for breaking up this happy and glorious Union of ours.

I think there are two sources of power, either of which is, in my judgment, sufficient to warrant the exercise of it was deemed proper to exercise it, either to introduce or to keep out slavery, outside the States, within the Territories.

Mr. President, I shall not take up time, of which already so much has been consumed, to show that according to my sense of the Constitution of the United States or rather according to the sense in which the clause has been interpreted for the last fifty years, the clause which confers on Congress the power to regulate the Territories and other property of the United States conveys the authority.

Mr. President, with my worthy friend from Michigan—and I use the term in the best and most emphatic sense, for I believe he and I have known each other longer than he or I have known any other Senator in this hall—I cannot concur, although I entertain the most profound respect for the opinions he has advanced upon the subject adverse to my own; but I must say, when a point is settled by all the elementary writers of our country, by all the departments of our Government, legislative, executive, and judicial—when it has been so settled for a period of fifty years, and never was seriously disturbed till recently, that I think if we are to regard anything as fixed and settled under the administration of this Constitution of ours, it is a question which has thus been invariably and uniformly settled in a particular way. Or are we to come to this conclusion, that nothing, nothing on earth, is settled under this Constitution, but that everything is unsettled?

Mr. President we have to recollect it is very possible—sir, it is quite likely—that when that Constitution was framed, the application of it to such Territories as Louisiana, Florida, California and New Mexico, was never within the contemplation of its framers. It will be recollected that when that Constitution was framed, the whole country northwest of the Ohio river was unpeopled; and it will be recollected, also, that the exercise and the assertion of the power to make Governments for Territories in their infant state, are, in the nature of the power, temporary, and to terminate whenever they have acquired a population competent for self-government. Sixty thousand is the number fixed by the Ordinance of 1787. Now, sir, recollect that when this Constitution [illegible] ... would they not have a right so interdict it? Why, sir, remember how these settlements were made, and what was their progress. They began with a few. I believe that about Marietta the first settlements was made. It was a settlement of some two or three hundred persons from New England. Cincinnati, I believe, was the next point where a settlement was made. It was settled, perhaps, by a few persons from New Jersey, or some other State. Did those few settlers, the moment they arrived there, acquire sovereign rights? Had those few persons power to dispose of these Territories? Had they even power to govern themselves—a handful of men who established themselves at Marietta or Cincinnati? No, sir; the contemplation of the Constitution no doubt was, that inasmuch as this power was temporary, as it is applicable to unpeopled territory, and as that territory will became peopled gradually, insensibly, until it reaches a population which may entitle it to the benefit of selfgovernment, in the mean time it is right and proper that Congress, who owns the soil, should regulate the settlement of the soil, and govern the settlers on the soil, until those settlers acquire number and capacity to govern themselves.

Sir, I will not further dwell upon this part of the subject; but I said there is another source of power equally satisfactory, equally conclusive in my mind, as that which relates to the territories, and that is the treaty making power—the acquiring power. Now, I put it to gentlemen, is there not at this moment a power somewhere existing, either to admit or exclude slavery from the ceded territory? It is not an annihilated power. That is impossible. It is a subsisting, actual existing power; and where does it exist? It existed, I presume no one will controvert, in Mexico, prior to the cession of these Territories. Mexico could have abolished slavery, or introduced slavery, either in California or New Mexico. That must be conceded. Who will controvert this position? Well, Mexico has parted from the territory, and from the sovereignty over the territory; and to whom did she transfer it? She transferred the territory and the sovereignty of the territory to the Government of the United States. The Government of the United States, then, acquires in sovereignty and in territory over California and New Mexico, all, either in sovereignty or territory, that Mexico held in California or New Mexico, by the cession of those Territories. Sir, dispute that who can. The power exists or it does not; no one will contend for its annihilation. It existed in Mexico. No one, I think, can deny that. Mexico alienates the sovereignty over the territory, and her alliance is the Government of the United States. The Government of the United States, then, possesses all power which Mexico possessed over the ceded Territories, and the Government of the United States can do, in reference to them—within, I admit, certain limits of the Constitution—whatever Mexico could have done. These are prohibitions upon the power of Congress, within the Constitution, which prohibitions, I admit, must apply to Cogress whenever she legislates, whether for the old States or for new Territories; but, within those prohibitions, the powers of the United States over the ceded territories are coextensive and equal to the powers of Mexico in the ceded territories prior to the cession.

Sir, in regard to this treaty making power, all who have any occasion to examine into its character, and the possible extent to which it may be carried, know that it is a power unlimited in its nature, except in so far as any limitation may be found in the Constitution of the United States; and upon this subject there is no limitation which prescribes the extent to which the powers should be exercised. I know, sir, it is argued that there is no grant of power in the Constitution in specific terms over the subject of slavery anywhere; and there is no grant in the Constitution to Congress, specifically, over the subject of a vast variety of matters upon which the powers of Congress may unquestionably operate. The major included the minor. The general grant of power comprehends all the particulars and elements of which that power consists. The power of acquisition by treaty draws after it the power of government of the country acquired. If there be a power to acquire, there must be, to use the lan- [illegible]

[illegible]

(To be Continued.)

The Senate resumed the consideration of Mr. Clay's resolutions on the subject of the territories, slavery, &c. Mr. Berrien had the floor and addressed the Senate at length.

Mr. Berrien's Remarks.

Mr. Berrien said he regretted, from the importance of the various questions involved in this subject, to detain the Senate a short while. He wished to utter no word of menace; he could not do so, without violating his own self-respect, and without wounding the feelings of his associates. But the feeling now aroused in the South, of opposition to any further aggressions on their rights and institutions, was an universal feeling. He did not judge this by the declamations of public men, by the tone of the press, or the speeches and resolutions of the legislative assemblies, but from the saddened feeling of danger and alarm which pervaded the social circle and the domestic fireside. It was a feeling felt by every one, and by all with the same sorrow and determination. At first, he had regarded the attacks upon the south, coming as they did from a small party of agitators, as too trifling to merit even resistence, but the events of the last two years had shown that they were to be disregarded no longer. At first, the two parties, feeling the importance of the support of this body of Abolitionists had sought their aid, until at last a very large portion of one of these parties seceded from their old associates and raised a new standard—Free Soilism; and this was followed by a general movement at the North, not only by the remainder of this divided party, but by the whole of their opponents, all trying to show their greater zeal in the general crusade against the South. He had, in common with some friends from the free States, opposed this crusade, but unfortunately those friends from the free States have been obliged to bend to the storm which rages at their homes, and are now unable to aid him. He was willing to do anything to settle the difficulties of the day. He was willing to sacrifice all his hopes of popularity, of station and of place, and come forward to meet upon any proposition that was fair and consistent with the constitutional rights of the South.

The view of the future was a dark and gloomy one, and he at times feared that all that had been predicted of ruin and disorder would come to pass. But the country had on several occasions been in a condition of danger and alarm; had several times been on the edge of the precipice, one step beyond the border of which would plunge all into the fathomless abyss of anarchy and its consequent horrors. And each time it had so happened that in the darkest hours of danger, the light of truth had penetrated the gloom, and presented our glorious charter still unscathed and uninjured by all the strife and war with which it had been attacked. He accorded to the Senator from Kentucky all the highest motives of patriotism and honesty in the introduction of his resolutions. The Senator had, in the spirit, if not in the words of the Roman poet, presented his plan and called upon others to submit a better, and if they could not do this to accept his. This was fair, honorable, and manly.

The condition of things in the country, so far as this subject was concerned, was simply this: At the South there existed an institution, a peculiar, a domestic institution; an institution around which all the conditions of their lives, social and political, are entwined.—They are naturally and truly attached to it, and look with alarm upon every movement calculated to interfere with it. This institution is recognized and sanctioned by the laws of their respective States and by the Constitution of the country. The people there hold a certain species of property, and that property is secured to them by the laws of their States and the Constitution of the country. It is proposed in Congress to exclude them and their property, because they are slaveholders, and their property slaves, from an equal participation in your territories, acquired by the common blood and treasure of the Union. They ask you to pause. That territory is, and ought to be, as much open to them and their property as it is to you.

They ask you to pass no laws to exclude them from what they have an equal right with you to enjoy. They ask you to let those territories remain open as well to the slaveholder as to the nonslaveholder, and submit their rights to hold their property there to the arbitrament of the constitutional arbiter. They ask that you do not legislate on the subject at all.

He was told that if Congress did not legislate on the subject, and the Supreme Court decided that such legislation was unconstitutional that it was [illegible]

[illegible] ... Was this fair, was it in good faith ... the North by their ... to exclude the whole South from the Territories? The Union was not formed together by the parchment on which the Constitution was written, but by the hearts of the people, and their devotion and love for that Constitution.

Was it not, then, endangering the Union thus to abuse your power to the injury of their constitutional rights.

The Constitution asserts that equal rights shall be secured to all the people of the Union. The States are recognised as sovereign powers, and as such are all on an equality. And the provisions of that Constitution are to be exercised with equal benefit and protection to the people of all the States. This latter was an elementary principle.

It is said that where the power to prohibit exists, the power to exclude is also, that they are correlative powers. This is based on the assumption that Congress has one or the other of the powers; but it also assumes for Congress that which, if admitted, is an unlimited power. The powers of Congress were limited. Congress were limited. Congress has no power to establish a religion, to suppress the freedom of the press, nor to establish in the Territories the system of personage which exists in Mexico.

The South maintains that Congress has no right to legislate at all. You give up that Congress has the power to establish slavery, as well as prohibit. The South asks you to protect her interests, the North that slavery may be prohibited. Here, then, was the equivalent which the Senator from Kentucky is in search of for his compromise.

The South demands and asserts her right of constitutional protection for the citizens and their property—the North refuses to grant it. The North asks for legislation for the exclusion of slavery from the Territories, and, consequently, of slaveholders. Here, then, is the ground for a true compromise. Let the North withdraw her demand for legislation excluding the South, and the South withdraw her demand for protection. Let the Territories stand untoched by the legislative action, and leave the question of slavery or no slavery then to the final arbitrament of the constitutional expounders. A great error in this whole proceeding was this opposition to *the extension of slavery*—that by allowing slaveholders to carry their property to the Territories, slavery was extended. It was not a proposition to put one man in bondage who was not already a slave. It was not to increase the number of slaves in any way. It was under some such mistaken impression, that it was remarked by a Senator that no human power could force him to vote to carry slavery into a Territory now free. That remark would seem to imply that slavery was a pollution to the land where it existed.

But this was not the question. It was not whether slavery shall be extended to territory now free; but whether the rights of American citizens shall be recognised by Congress—whether an American citizen and a slaveholder, and because he is a slaveholder, shall be allowed the exercise of a right, guaranteed by the Constitution, to remove with his property from one State to the Territories belonging to the whole Union.

Mr. Berrien then yielded the floor without concluding.

And the Senate, after spending a short time in executive session adjourned.

The Southern Convention—Tennessee against it.

The movers in this scheme, abroad, will not fail to mark the fact, that the Legislature which recently adjourned, refused to countenance the proposed Convention here in June—refused to appoint delegates to it—on the contrary, condemned its purposes as set forth by some of its advocates, in the most decided manner. As the strong indignation of the feelings which prevailed in that body, the Lower House just before the adjournment, passed by an almost unanimous vote, the following resolutions, which were introduced by Mr. Allen:

Resolved by the General Assembly of the State of Tennessee, That the chief source of happiness and prosperity of the people of the United States, both as individuals and as a nation, has been conferred by and through the Union of the States, and the adoption of our sacred Constitution—the adoption of which was effected by the compromises and concessions of our patriotic sires, both of the North and the South. And

Resolved further, That the continuation of that happiness and prosperity, and even liberty itself depends upon the perpetuity of the Union, "one and indivisible." That the destruction of the cause of liberty in our own beloved land will not confine its effects to the borders of the home of Washington, but would sound the death-knell of liberal [illegible]

Resolved further, That the patriotic people of [illegible] ...

We are glad that, so far, Tennessee has no part or lot in this matter.—She has been saved by her Legislature to repudiate it, and wisely too, and it is for her people here to frown upon it as it deserves. In the purpose avowed by its projectors, she can have no participation. Her State capitol, it is true, may be desecrated by men who under the influence of mistaken zeal, or worse, parricidal wishes to blot out the National existence, may come here, but she, we cannot doubt, will in all possible ways enter her solemn protest against the whole movement, and we envy not the future of those, who, forgetting the devotion of the great men whose last resting place is beneath her sod, shall be found consorting with those who would rend in pieces the glorious flag under which her patriotic dead gained the laurels which now cluster about their tombs.

In the glowing language of the resolution unanimously passed by the Legislature of Kentucky—"Under the auspices of heaven and the precepts of Washington," Tennessee "will be the last to give up the Union."—*Nashville Whig.*

Supreme Court.

The following additional Decisions have been delivered:

By Ruffin, C. J.—In State v. Creasman, from Buncombe, directing the judgment to be affirmed. Also, in McRae v. Kellar, from New Hanover, affirming the judgment. Also, in Den ex dem. Battle v. Speight, from Edgecomb, affirming the judgment. Also, in Harper v. Lassiter, from Greene, declaring the order dismissing the certiorari to be erroneous. Also, in Britt v. Patterson, from Greene, orders affirmed. Also, in Cannaday v. Roberts, in Equity from Granville, dismissing the bill with costs.

By Nash, J.—In Pass v. Lea, from Caswell, affirming the judgment. Also, in Yeal v. Flake, from Anson, affirming the judgment. Also, in Swain v. Capehart, in Equity from Bertie, declaring the Trustee bound to convey to the infant Plaintiffs and dismissing the bill as to Mrs. Allen. Also, in Toole v. Darden, in Equity from Edgecomb; bill dismissed at Plaintiffs costs, but without prejudice. Also, in Royster v. Chandler, in equity from Granville, dismissing the bill with costs.

By Pearson, J.—In Herring v. Wilmington Rail Road Co., from Sampson, affirming the judgment. Also, in Hassell v. Mizell, in Equity from Washington, affirming the decree. Also, in Alston v. Batchellor, in Equity from Halifax, dismissing the bill with costs. Also, in Clark v. Parham, in Equity from Granville, dismissing the bill with costs. Also, in Mooney v. Evans, in Equity from Cumberland, directing a reference to the Master. Also, in Raiford v. Raiford, in Equity from Johnston, directing a reference to the Master.

Destructive Fire at Macon.

SAVANNAH, Feb 19.

A fire broke out at Macon Ga., a little after mid-night this A. M., which destroyed about twenty buildings mostly on Cotton avenue. The loss in buildings and goods is estimated at $190,000. The following is a list of the principal sufferers:

Taylor's Cabinet Warehouse, Little & Clark's Drug store, Barnes & Richard's Book store, Jone's Crockery store, Bray's hardware store, Flitch's & English's Clothing store, Mrs. Sullivan's Fruit store, Dempsey Grocery store, Robert's, Freeman's & Babcock's Carriage ware house, Shelton's & Newton's Tailor shop, Logan's and Atkinson's Dry-Good store, Morris, and Men's Harness store, D. R. Nothingham's Office, Gresham's & Jones' law office, Auction store; loss in this building estimated at two thousand dollars; Jewelry Lodge, Sons of Temperance, Masonic Loge. No Cotton destroyed.

Charleston Mercury.

Gen. Taylor and Henry Clay now seem in excellent health—the latter never apparently better. His brilliant intellect is, if possible, more brilliant than ever. He has lost the elasticity of step he once had, and there is a light stoop in his towering figure; but his mind is unclouded, and his genius never more magnificent than at this moment.

Gen. Taylor is not only seen in perfect health in the White House, but he is often seen, toward evening on the Avenue, and elsewhere, walking briskly and spiritedly with his cane, in full vigor and the picture of health. Long may these two great men, whose reputation has been won in fields so far apart, yet work together.—*N. Y. Express correspondence.*

Our friend Schultz has lost his case. Chief Justice McLean has delivered an opinion adverse to the claim.

Jackson, the Democratic candidate for Congress, has been elected by a small majority, to represent the 4th Congressional district, of the State of Georgia, in the place of the Hon. T. Butler King, resigned.