UNION AND FREEDOM, WITHOUT COMPROMISE

___S A L M O N P. C H A S E___

SPEECH TO THE U.S. SENATE, March 26-7, 1850

[EXCERPTS]

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I rise, Mr. President [of the Senate], with unaffected diffidence, to offer to the Senate my views of the important questions presented by the resolutions of the honorable Senator from Kentucky.

Coming from the private walks of life, without the advantage of previous public position, and without experience in legislative debate, I speak from no eminence which will entitle me to command attention. I claim for what I say that consideration only which is due to sincerity of belief, to directness of purpose, and to whatever force of argument I may be able to bring to the support of my positions.

It has been said, Mr. President, and said in a tone of complaint, by southern gentlemen; that this Government is rapidly becoming a mere government of the majority — becoming a great consolidated democracy. Now, sir, if it be meant by this that this Government of ours has become, or is to become, a Government of the American people, administered in conformity with a will of the majority of the people — if it be meant that the democratic principle be carried, or is likely to be carried, into practical application into its administration and legislation, I see in the fact, if fact it be, no ground of complaint, but rather ground of congratulation and satisfaction. Why, sir, what is this democratic principle? Equality of natural rights, guarantied and secured to all, by the laws of a just popular Government. For one, I desire to see that principle applied to every subject of legislation, no matter what that subject may be — to the great question involved in the resolutions now before the Senate, and to every other question.

But, our responsibilities are limited by our powers; and however clear it may be that we are bound by allegiance to democratic principle to condemn, to mitigate, to abolish slavery wherever we can constitutionally do so, it is equally clear that we are not bound, and that we have no right to interfere with slavery by legislation beyond the sphere of our constitutional powers.

We have no power to legislate on the subject of slavery in the States. We have power to prevent its extension, and to prohibit its existence within the sphere of the exclusive jurisdiction of the General Government. Our duty, therefore, is to abstain from interference with it in the States. It is also our duty to prohibit its extension into national territories, and its continuance where we are constitutionally responsible for its existence. . . .

It was said yesterday by the honorable Senator from Virginia [Mr. HUNTER] that the South had no cause of complaint against the North in regard to slavery until the year 1820, the date of the Missouri compromise. However that may be, we must go further back in time, if we wish to trace the controversy between slavery and freedom in this country to its source. We must go two hundred years further back. It was in 1620 that a Dutch ship ascended the James river, bringing the first slaves into Virginia. In that same year the Mayflower brought the Pilgrim founders of New England to Plymouth Rock. Slavery was introduced into Virginia. Freedom was planted in New England. The contest between the despotic principle — the element and guaranty of slavery — and the democratic principle — the element and guaranty of liberty — commenced.

But slavery was not established in Virginia without remonstrance and resistance. The colonists complained vehemently of the introduction of slaves, and resorted to various expedients of prevention. But the desire of the mother country to benefit the navigator, and to stimulate production, led the British Government to disregard every complaint, and to negative all colonial legislation against the slave trade. Slaves continued to be imported. The traffic extended to other colonies, until at length slavery obtained a foothold in every one of them. At the breaking out of the Revolution, slaves were held in every colony, from Massachusetts to Georgia.

Well, sir, how was slavery regarded at that period? In September, 1774, the first Congress of the colonies met in Philadelphia. Had the opposition to slavery, which had been previously manifested, and the desire for its extinction which had been so generally cherished, now become extinct? A decisive answer to this inquiry may be found in an extract from singularly able exposition of the Rights of British America, prepared by Mr. Jefferson, and laid before the Convention of Virginia, which assembled in August, 1774, for the purpose of appointing delegates to the proposed Congress. I will read this extract:

> "*The abolition of domestic slavery* is the GREATEST OBJECT of design in these colonies, where it was unhappily introduced in their infant state. But, previous to the enfranchisement of the slaves, it is necessary to exclude further importations from Africa. Yet our repeated attempts to effect this by prohibitions, and by imposing duties which

> might amount to prohibitions, have been hitherto defeated by his Majesty's negative; thus preferring the immediate advantage of a few African corsairs to the lasting interests of the American States, and the rights of human nature, deeply wounded by the infamous practice." — *Am. Archives*, 4th series, vol. I, p. 696.

The Congress, which soon after assembled, shared these sentiments. Among its first acts was the framing of the celebrated Articles of Association, which composed the Non-Importation, Non-Exportation, and Non-Consumption Agreement. [Chase reads two of the articles.]

Well, sir, this solemn covenant, thus pledging every colony and every citizen to an entire abandonment and suppression of the slave trade, was signed by every delegate in Congress, southern and northern. Public sentiment on this subject was then unanimous, or next to unanimous, throughout the country. Among these signers we find the names of Rodney, McKean, and Read, of Delaware; Chase and Pace, of Maryland; Richard Henry Lee, of Virginia; Hooper and Hewes, of North Carolina; and Middleton, Rutledge, and Lynch, of South Carolina; all of whom subsequently subscribed the Declaration of Independence. We also find the names of George Washington and Patrick Henry.

Now, Mr. President, let it be remembered that these Articles of Association, entered into as a measure for obtaining a redress of grievances from the People and Government of Great Britain, and to the faithful observance of which, in all their stipulations, the delegates of the colonies pledged themselves and their constituencies, "under the sacred ties of virtue, honor, and love of country;" let it be remembered, I say, that these Articles constituted the first bond of American Union. The Union thus constituted was, to be sure, imperfect, partial, incomplete; but it was still a Union, a Union of the Colonies and of the People, for the great objects set forth in the Articles. And let it be remembered, also, that prominent in the list of measures agreed on in these Articles, was the discontinuance of the slave trade, with a view to the ultimate extinction of slavery itself. . . .

On the 1st of March, 1784, Virginia ceded to the United States all her claim to the territory northwest of the Ohio. Much praise has been awarded to Virginia for this cession. I desire to detract nothing from it. Virginia, doubtless, confided fully in the validity of her title to the territory which she ceded. It is true that, acting under her authority, and in anticipation of an expedition ordered by Congress, the gallant George Rogers Clarke, at the head of a handful of brave Kentuckians, dispossessed the British authorities of that portion of the territory which they had occupied on the Wabash and Mississippi. But it is right to say, and I am bound to say, that the validity of the Virginia title was never recognized, was always contested, by Congress. Other States claimed interests in the same territory. New York claimed

the whole; Connecticut claimed a part, and Massachusetts also advanced a claim. Against all these demands, Congress asserted a right, in behalf of the United States, to the entire trans-Alleghanian region, as crown lands, acquired from Great Britain by the common blood and treasure of all the States, and appealed to the claimant States to relinquish their pretensions. New York was the first to respond to this appeal, and her cession was accepted by Congress in 1782. Virginia had previously proposed to cede all her claim northwest of the Ohio on certain conditions; but the conditions not being admitted, the cession was not accepted. Subsequently the contest was terminated by a satisfactory cession, made by Virginia, and accepted by Congress. It was an arrangement, in fact, which involved concessions on both sides. Virginia yielded to the United States all her claims to territory northwest of the Ohio, and the United States tacitly surrendered to Virginia all claim to the territory southeast of that river, alleged to be within her chartered limits. I have thought it my duty to make these observations, as a Senator of a State whose rights and interests, as well as the rights and interests of her sister States of Pennsylvania, Indiana, and Illinois, are affected to some extent, by the claim of exclusive title to the western country which has been advanced in behalf of Virginia.

Whatever the title of Virginia may have been, however, it is certain that upon her cession, made as I have said, on the 1st of March, 1784, the United States came into the undisputed ownership and sovereignty of the vast region northwest of the Ohio. To dispose of the soil and to determine the political institutions of the territory, now became the duty of Congress; and the duty was promptly performed. On the very day of the cession, before the sun went down, Thomas Jefferson, in behalf of a committee, consisting of himself, Mr. Howell of Rhode Island, and Mr. Chase of Maryland, reported a plan for the government of the Western Territory — not that lying north of the Ohio merely, but of all, from the north line of Florida to the north line of the United States. . . .

This, sir, was the plan and *proviso* of Jefferson. It met the approbation of the American People. It proved that the declaration of 1776 was not an empty profession, but a true faith. It proved that the spirit of the covenant of 1774 yet animated the heart of the nation. According to this grand and comprehensive scheme, the commencement of the nineteenth century was to witness the inauguration of freedom, as the fundamental and perpetual law of the transmontane half of the American Republic.

Had this plan and proviso been adopted, we should not now be discussing the questions which embarrass us. The extension of slavery would have been limited by the Alleghanies. No slave could ever have trodden a foot of the soil beyond. Unhappily, however, the proviso was not adopted; and, as I have

already said that it met the approval of the people, I ask attention to the proceedings which resulted in its rejection. On the 19th of April, Mr. Spaight, of North Carolina, moved that the proviso be stricken out. Under the Articles of Confederation, which governed the proceedings of Congress, a majority of the thirteen States was necessary to an affirmative decision of any question; and the vote of no State could be counted, unless represented by at least two delegates. . . .

I think, Mr. President, that two facts may now be regarded as established: *First*, that in 1787 the national policy in respect to slavery was one of restriction, limitation, and discouragement. *Secondly*, that it was generally expected that under the action of the State governments slavery would gradually disappear from the States.

Such was the state of the country when the Convention met to frame the Constitution of the United States. That Convention was sitting Philadelphia while Congress was framing the Ordinance in New York.

It has been said, in the course of this debate, that there was some understanding between Congress and the Convention in regard to the question of slavery. That may be so. There is, however, nothing in history which proves it, though circumstances do certainly seem to warrant such a conjecture. But, if there was an understanding, to what did it relate? Not, certainly to the whole subject of slavery; for, up to the time of the promulgation of the ordinance, no discussion had taken place in the Convention on that subject, except in respect to the question of representation and taxation. That question had been discussed with considerable heat; so much, indeed, that some members declare themselves ready to break up the Convention rather than consent to the representation of slaves. The exclusion of slavery from the territories by the ordinance may have had, and may have been intended to have, some influence upon this discussion. It may be that members from the free States, seeing slavery excluded from national territory, and supposing its extension to be thereby forever interdicted, were the more willing to consent to a representation of slaves as a temporary arrangement, which would cease of itself when slavery itself should cease or run out, at some period "not remote." But there is not a particle of foundation for any supposition that there was any understanding between Congress and the Convention, based upon the idea that slavery and freedom were entitled to equal regard in the action of the Government. Far from it. Whatever understanding there was, if there was any, must have been based upon the idea of slavery restriction; upon the fact that its extension was prohibited, and that its final disappearance was expected.

The framers of the Constitution acted under the influence of the general sentiment of the country. Some of them had contributed in no small measure to form that sentiment. Let us examine the instruction in its light, and ascertain the original import of its language.

What, then, shall we find in it? The guarantees so much talked of? Recognition of property in men? Stipulated protection for that property in national territories and by national law? No, sir; nothing like it.

We find, on the contrary, extreme care to exclude these ideas from the Constitution. Neither the word "slave" nor "slavery" is to be found in any provision. There is not a single expression which charges the National Government with any responsibility in regard to slavery. No power is conferred on Congress either to establish or sustain it. The framers of the Constitution left it where they found it, exclusively within and under the jurisdiction of the States. Wherever slaves are referred to at all in the Constitution, whether in the clause providing for the apportionment of representation and direct taxation, or in that stipulating for the extradition of fugitives from service, or in that restricting Congress to the prohibition of importation or migration, they are spoken of, not as persons held as property, but as persons held to service or having their condition determined, under State law. We learn, indeed, from the debates in the Constitutional Convention, that the idea of property in men was excluded with special solicitude. . . .

In my judgment, sir, if this amendment had never been made,[1] Congress would have had no power to institute slavery; that is to say, to enforce, by its laws, the subjection of one man to the absolute control and disposal of another man; for no such power in conferred by the Constitution, and the action of Congress must be restrained within its delegated powers. But the amendment is an express guarantee of personal liberty. It is an express prohibition against its invasion. So long as it remains a part of the Constitution, and is obeyed, slavery cannot be constitutionally introduced anywhere or maintained anywhere by the legislation of Congress. It must depend, and depend wholly, upon State law, both for existence and support. Beyond State limits, within the boundaries of the United States, there can be constitutionally no slave. . . .

Animated by this spirit and guided by this principle, the Association bound all its members to discontinue the slave trade. If any of them continued it — and some of them did — the guilt was on their own heads only, for the Association had no power to enforce the covenant. When the American Congress

[1] 5th Amendment: "No person . . . shall be deprived of life, liberty, or property, without due process of law." [Footnote added by NHC]

resolved on independence, they solemnly announced the great doctrine of inalienable rights as the basis of the national political faith and the foundation of all just government. When the war of the Revolution was over, they renewed the declaration, that the contest which they had waged was in defence of the rights of human nature. When the acquisition of the Northwestern Territory presented an opportunity of carrying into practical application their exalted principles, they did not hesitate, but established them forever as the basis of all laws, constitutions, and governments, within its limits. When the Confederation proved inadequate to the exigencies of the Republic, and the people undertook the work of reforming their political system, they constituted the new Government and established the new Constitution upon principles which made the enslavement of men by the Government under the Constitution a legal impossibility. Let those who are inclined to murmur because no more was done, ask themselves by what people, in what age besides, has so much been done for the cause of freedom and right? Up to the time of the adoption of the Constitution, there was not a single slave in America, made such or held such, under any law of the United States. Had the policy of the founders of the Republic been pursued, and had the principles which they established been faithfully carried out in legislation and administration, there would have been now no slave anywhere under exclusive national jurisdiction — probably no slave within the boundaries of the Republic.

Unhappily, however, the original policy of the Government and the original principles of the Government in respect to slavery did not permanently control its action. A change occurred — almost imperceptible at first, but becoming more and more marked and decided, until nearly total. The honorable Senator from Massachusetts in the course of his late speech noticed this change, and ascribed it to the rapid increase in the production of cotton. Doubtless, sir, that was a leading cause. The production of cotton, in consequence of the invention of the cotton gin, increased from 487,600 pounds in 1793, to 6,276,300 pounds in 1796, and continued to increase very rapidly afterwards. Of course the market value of slaves advanced, and masters were less inclined to emancipation.

[interchange with Senator Borland of Arkansas]

Why, sir, is it not quite obvious that in a district where the number of slaves is considerable, even if suffrage be universal, the number of votes must be proportionably reduced? And, inasmuch as slaveholders are usually the chief landholders and property holders, and have a common interest, is it not quite obvious that they will generally be able to wield political power of the district? Destroy the slave representation, and their power is gone. Enfranchise the slaves, and there are no slaveholders, and of

course no slave power. Enfranchisement will, doubtless, increase the political power of the State, but it will annihilate the slave power. I repeat, Mr. President, and they who think me wrong may refute what I say, if they can, that there must have been some adequate cause or causes for the remarkable change of feeling and action in regard to slavery which began to manifest itself about this time, and that these causes, in my judgment, were — *first*, the political power derived by slaveholders, from the representation of three-fifths of their slaves; and *secondl*y, the augmented value of slaves arising from the sudden increase of the cotton culture. The last of these causes requires no further consideration; but I wish to direct attention somewhat more to the first.

The first apportionment was made by the Constitution Convention. Regard was had, doubtless, to the three-fifths rule in determining the number of Representatives assigned to each State; but we cannot now ascertain how many were allowed for the slaves. The census supplies the means of ascertaining the precise quantum of slave representation in each decennial period since the first apportionment. I now propose to submit to the Senate a table, which exhibits at one view each decennial period since the adoption of the Constitution; the number of inhabitants required for one Representative; the number of slaves reckoned at three-fifths of their actual number; and the number of Representatives for slaves for each period.[2]

Decennial period.	Representative number.	Three-fifths of slaves.	Representatives for slaves.
1790 – 1800	30,000	408,737	13
1800 – 1810	33,600	535,894	16
1810 – 1820	35,000	714,816	20
1820 – 1830	40,600	929,839	23
1830 – 1840	40,700	1,205,418	25
1840 – 1850	70,620	1,493,013	21

From this table it appears that in the very first Congress, if the Convention based their original apportionment upon anything like a correct estimate of the population, there must have been at least ten representatives of slaves, and that in the second Congress there were thirteen. It was impossible that the influence of this representation should not be felt. It was natural, though it does seem to have been

[2] Numbers in the table are not clear on the page image of the *Congressional Globe* on the Library of Congress website. Digits in the units through hundredths places may have been incorrectly reproduced here. [NHC]

anticipated, that the unity of the slave interest, strengthened by this accession of political power, should gradually weaken the public sentiment and modify the national policy against slavery.

Well, sir, occasion was not long wanting to test the dispositions of Congress in this respect. At an early period of the second session of the first Congress, petitions were presented from the Society of Friends in Philadelphia and New York, and from the Pennsylvania Abolition Society, of which Benjamin Franklin was the President, praying Congress to take such measures as the Constitution would permit to discountenance and discourage slavery and the slave trade. A similar address had been made by a deputation of Friends to the Congress of the Confederation, in 1783, who were received and heard with great respect, though Congress, having no power over the subject, was obliged to decline taking such action as was desired. The petitions now presented were not treated with similar consideration. They were, however, received and referred, and in due time a report was made. In this report, the limits of the powers of Congress over the subjects of slavery and the slave trade were carefully defined. In any regard to slavery in the States, it expressed the fullest "confidence in the wisdom and humanity of the legislatures, that they would revise their laws from time to time, when necessary, and *promote the objects mentioned in the memorials,* and every other measure that may tend to the happiness of slaves;" and, in regard to slavery within the sphere of the legitimate action of Congress it concluded with the following expression:

> "That the memorialists be informed that, in all cases to which the authority of Congress extends, they will exercise it for the humane objects of the memorialists, so far as they can be promoted on the principles of justice, humanity, and good policy."—2 *Deb. Cong., Old Ser*., 1485.

This report was assailed with great vehemence, especially by the members from South Carolina and Georgia, who denounced the petitioners and their objects, not sparing even the venerable Franklin, very much in the style of later days. The African slave trade itself came in for a share of approval and vindication.

It was apparent that there was a large majority in favor of the report; but a desire to satisfy even unreasonable objectors, induced the concession of one point after another, until the report was reduced to three propositions: *First,* that migration or importation could not be prohibited prior to 1808. *Second,* that Congress has not power to interfere in the emancipation or treatment of slaves in the States. *Third,* that Congress could prohibit the slave trade by the citizens of the United States for the supply of foreigners, and provide for humane treatment, on their passage, of those imported into the States. The last resolution

of the original report, which pledged the Government, in conformity with its past policy and professed principles, to promote the objects of the memorialists, was stricken out altogether.

This was the first fruit of intimidation on the one side, and concession and compromise on the other. The majority of the House forbore to express their own settled convictions; forbore to pledge themselves to that course of disfavor to slavery and the slave trade, which consistency, honor, and humanity, required of them; yielded everything of substance, and retained little else than form. Could they have seen that this was but the first step in a long line of concessions, perhaps not yet ended, surely the patriotic men who composed that Congress would never have taken that first step.

What followed, sir? In that same year, North Carolina tendered to the United States a cession of the territory lying between the mountains which form her present western boundary and the Mississippi, and now constituting the State of Tennessee, upon condition "that the inhabitants should have all the privileges, benefits, and advantages, of the ordinance of 1787, provided, always, that no regulations made or to be made by Congress should tend to emancipate slaves." Congress accepted this cession, and provided for the government of the ceded country as a slaveholding territory.

Hitherto Congress had never sanctioned slaveholding. Never hitherto had a single slave been held under any authority emanating from Congress. On the contrary, as we have seen, in all the territory hitherto acquired, slavery had been promptly abolished, and impregnable barriers erected against its renewed introduction. The acceptance of the North Carolina cession reversed the policy of the Government, and was a step in the wrong direction. To preserve the dominion of a few masters over an inconsiderable number of slaves, established policy, settled principle, and safe precedent, were alike disregarded. It was a mischievous — an almost fatal error. . . .

These facts furnish conclusive proof that but for the positive prohibition of slavery by the ordinance of 1787, every foot of land west of the Alleghany mountains would have been at this day slave soil. No law of physical geography or formation of the earth, no want of adaptation of soil or climate, to the great staples of slave labor, no imaginary barrier in degrees of latitude, would have arrested the progress of the fatal blight.

Let us be thankful that the wisdom of the founders of the Republic foresaw, and by positive prohibition prevented this great calamity. Let us be thankful, also, that those who followed them, though they failed to imitate their example, were yet unwilling to undo their work.

Let me now, sir, sum up the results of this policy of adding new slave territories and new slave States to the Union, which was substituted for the original policy of free territories and free States. . . .

[Chase, continuing the next day] If, Mr. President, the views which I submitted to the Senate yesterday are correct, there can be no foundation whatever for the doctrine advanced, and somewhat boldly of late, that an equilibrium between the slaveholding and non-slaveholding sections of our country has been, is, and ought to be, an approved feature of our political system. No such equilibrium, nothing looking towards such an equilibrium, can be found in the Constitution, nor in any early action under it. It was not thought of by anybody. On the contrary, the Constitution was formed for seven free States and six slave States, and with full knowledge, on the part of those who framed and those who adopted it, that provision had been made by the Ordinance for the erection of five additional free States out of the Northwestern Territory. It was equally well known that Vermont must soon come, and that Maine must ultimately come into the Union, and both as free States. Many expected also that Kentucky would come in as a free State. It is matter of history that a strong effort was made in the convention which framed her constitution to provide for the abolition of slavery within her limits, and that this effort came very near success. On the other hand, there is nothing in history, so far as I am aware, which gives the least support to the idea that anybody wished for the extension of slavery beyond the limits of the existing States, or for the creation of any more new slave States within those limits. But, let it be conceded that it was anticipated that all the territory west of the Alleghanies and south of the Ohio would be formed into slave States, just as it has been, and where then would be the equilibrium? Four slave States — Kentucky, Tennessee, Mississippi, and Alabama — added to the six existing slave States, would make but ten; whereas the seven expected free States added to the seven existing free States, would make fourteen; thus giving to the free States, after the division of every inch of territory into States, a majority of eight in this Chamber, as well as a large majority in the other House. The truth is, sir, that this idea of an equilibrium was never started until after we began to create slave States out of territory acquired from foreign powers. It is alien to our original policy, and inconsistent with the interests and the duty of the country.

Now, Mr. President, is there any better foundation for the assertion that slavery and freedom and entitled to equal regard in the administration of this Government. The argument is, that the States are equal; that each State has an equal right with every other State to determine for itself what shall be the character of its domestic institutions; and, therefore, that every right acquired under the laws of any State must be protected and enforced in the national territories as in the States whose laws conferred it. Sir, the

arguments does not warrant the conclusion. It is true that the States are equal, entirely, absolutely equal; it is true that each State, except where restrained by constitutional provisions, may form its domestic institutions according to its own pleasure; but it is not true that every right derived from State law can be carried beyond the State into the territories or elsewhere; it is not true, for example, that, if a State chooses to authorize slaveholding within its limits, Congress is therefore bound to authorize slaveholding in the territories. It is no more true that that a bank, chartered by the laws of a particular State, would have a right under that law to establish branches in the territories, although the National Government might be constitutionally incompetent to legalize banking. Why, sir, slavery depends entirely for its existence and continuance on local law. Beyond the sphere of the operation of such law, no man can be compelled to submit to the condition of a slave, except by mere unauthorized force. [Speech continues.]