CEDARVILLE UNIVERSITY

Cedarville University
DigitalCommons@Cedarville

Pamphlet Collection

1844

Speech of Mr. Stiles, of Georgia, on the Right of Petition

William H. Stiles

Follow this and additional works at: https://digitalcommons.cedarville.edu/pamphlet_collection

Part of the Political Science Commons

Recommended Citation

Stiles, William H., "Speech of Mr. Stiles, of Georgia, on the Right of Petition" (1844). *Pamphlet Collection*. 59.
https://digitalcommons.cedarville.edu/pamphlet_collection/59

This Speech is brought to you for free and open access by DigitalCommons@Cedarville, a service of the Centennial Library. It has been accepted for inclusion in Pamphlet Collection by an authorized administrator of DigitalCommons@Cedarville. For more information, please contact digitalcommons@cedarville.edu.

CENTENNIAL LIBRARY
CEDARVILLE UNIVERSITY

A
973.58
S856S

SPEECH

OF

MR. STILES, OF GEORGIA,

ON

THE RIGHT OF PETITION.

In the House of Representatives, January 28 *and* 30, 1844—On the motion of Mr. Black, of Georgia, to amend the motion of Mr. Dromgoole, of Virginia, to recommit the report of the Select Committee on the Rules, by instructing them to report to the House the following rule, (the 25th) viz:

"No petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any State or Territory, or the slave trade between the States or Territories of the United States in which it now exists, shall be received by the House, or entertained in any way whatever.

January 28.

Mr. STILES having obtained the floor, spoke as follows:

Mr. Speaker: Of all the evils which beset our government, of all the dangers which threaten our Union, not one can be found, more speedy in its operation, sure in its consequences, or fatal in its results, than foreign interference with the domestic institutions of the South. Other divisions between the citizens of this wide-spread republic, which constitute the groundwork of opposing parties, and whose violence at times seems almost to hazard the existence of the country, are but honest differences of construction as to to the powers of the government. This variety of opinion is but consistent with the variety of interest, education, and habit, by which we are distinguished. It is wholesome, because it is a difference based in reason, having for its common object the support of the constitution; for its end, the preservation of the liberties of the country. But far different are such divisions, from that which separates the true lover of his country from that band of deluded fanatics, whose only reason is that "the end will justify the means," and which end is the desolation of the fairest regions of the earth, the destruction of the most perfect system of social and political happiness which has ever existed.

The danger is not only great, but it is increasing. The spirit of abolition has advanced, and is advancing. It increases by opposition; it triumphs by defeat. Scarcely ten years ago, and the few obscure enthusiasts of the North, who advocated the abolition of slavery at the South, excited but the derision and contempt of the whole country. Abolition was deemed by the enlightened and reflecting citizen but an insignificant and sickly flame; that, if it sprung from our own soil, it was but the "*ignis fatuus*" which would expire when the gas which gave it origin had been consumed; or, if dropped by some foreign hand, either by accident or design, that there was no combustible matter within its reach, and that it must be exitinguished by the first breath which swept over it. But time has proven the fallacy of these calculations. The spark which dropped fell amidst inflammable materials; and the breath which it was supposed would extinguish, only enkindled the flame. It has shot with terrific rapidity through the land. Stopped neither by patriotism, principle, or party, it is now causing the very elements of our constitution to "melt with fervent heat;" and will, if not arrested by us in this hall, prove to our country its "last great conflagration."

The question now before the House, which involves this important subject, is, in substance, the retention or rejection of the 25th rule, providing for the exclusion of abolition petitions. Being in favor of retaining the rule, I shall consider, with the limited opportunity that the hour rule allows, the objections to such a course. Those objections consist, as the opponents of the rule contend, in its being a violation of the constitution, and an abridgment of the right of petition. What part of the constitution does it violate, and upon what part do the opponents of the rule rest? I am answered, the first amendment. And what does the first amendment prescribe? That "Congress shall make no law abridging the right of the people peaceably to assemble, and to petition the government for a redress of grievances." To analyze the clause: first, Congress shall make no law. Congress has made no law; this is but one branch of the government, and it can make no law. Congress does not propose to make a law. But it has been said that the rule accomplishes the same object—it abridges the right of petition; it violates the spirt and intent of the constitution. The letter of the constitution, it cannot be denied, is not violated by the rule; and before it can be violated, some law, some legislative enactment to that effect must be passed by Congress. But the spirit and intent of of the constitution: let us look to that. To discover this, we must refer to its history. What is the history of the first amendment, and from whence was it derived? This point having been fully discussed, and the acts relative to the subject read by

76-70998

the gentleman from South Carolina, [Mr. Rhett,] and subsequently by the member from Alabama, [Mr. Belser,] I may here be permitted to be brief, and to content myself with stating simply the conclusions to which history irresistibly leads. Not to go father back in point of time, it is sufficient to state that in the thirteenth year of the reign of Charles II, an act of Parliament was passed abridging the right of the people peaceably to assemble and petition for a redress of grievances. This act created great and universal dissatisfaction among the people, in prohibiting them from assembling, preventing their petitioning, and punishing with incarceration all who attempted its infringement. The oppressive operation of the riot acts being sensibly felt in this country about the time of the formation of the constitution, and the obnoxious statute of Charles II being still of force here, led to the adoption of the first amendment of the constitution.

"*It was the right of the people to assemble and petition*" which they held most sacred, and to the invasion of which they seemed most strongly opposed. It was this subject, and not the reception of petitions, that elicited the thrilling eloquence of Fox to which the gentleman from North Carolina alluded. It was his opposition to "the proclamations of 1795" against seditious meetings. It was because the liberty to assemble was considered the more important right, that Fox contended for it, instead of for the reception of petitions; and not for the reason stated, that the "proposition to receive petitions was never at that time disputed." Let me tell that honorable gentleman, and also the member from New York, [Mr. Beardsley,] who stated that Parliament never rejected petitions, that the "proposition was at that time never disputed" that Parliament was possessed of, and exercised fully the right of receiving or rejecting petitions at pleasure.

But the gentleman from Massachusetts, [Mr. Winthrop,] not content with mere assertion, has endeavored to sustain the position by reference to authority.

But although assertion, in matters of law or precedent, is the feeblest and most unsatisfactory aid which can be invoked, yet, from the result of his effort, it is but too perceptible that those who preceded him, and who relied upon assertion alone, pursued at least the more politic and prudent course.

After a laborious search (I have no doubt) through Hatsell's work upon parliamentary precedents, he has succeeded in discovering a single sentence which seemed to sustain his point; and it is not surprising that he should have grasped at it with the avidity which he manifested, and to have desired for it the enviable distinction of a golden inscription upon upon the pillars of this hall. This sentence, the mere dictum of the author, is in opposition to the practice of Parliament, as manifested in almost every page of the work, and contradicted even by the sentences which immediately precede and immediately follow it. (Mr. S. here read the passage relied on by the gentleman from Massachusetts, and the ones immediately before and after it.)

By the preceding sentence, then, the "practice of refusing petitions" is clearly acknowledged; whilst, by the subsequent one, the "declining to receive a petition" is "not considered as a hardship.

From a hasty examination of the work introduced by the gentleman from Massachusetts himself, (and as to the merits of which I will not dissent from the high eulogium he has pronounced upon it,) I find a **continued practice of rejecting petitions not confined** to the period referred to by that gentleman—1668; but extending from that time down to 1795, commencing Hatsell, p. 166, as follows:

"9th April, 1894, petition against duties on tonnage rejected.

"28th April, 1698, petition against duties on pit coal rejected.

"29th and 30th June, 1698, petition against duties on Scotch linens and whale fins rejected.

"5th January, 1703, petition against duties on malt liquor rejected.

"21st December, 1706, *Resolved*, That the house will receive no petition for any sum relating to the public service but what is recommended by the crown.

"11th June, 1713, this is declared to be a standing order of the house.

"23d April, 1713, *Resolved*, That the house will receive no petition for compounding debts, &c.

"25th March, 1715, this is declared the standing order of the house.

"8th March, 1732, a petition being offered against a bill depending for securing the trade of the sugar colonies, it was refused to be brought up. A motion was then made that a committee be appointed to search precedents in relation to the receiving, or not receiving, petitions against the imposing of duties; and the question being put, it passed in the negative.

"28th January, 1760, a petition against duties on malt liquor being offered, on motion 'that it be brought up,' it passed in the negative, *nem. con.*

"15th February, 1765, a petition from Virginia, Connecticut, and Carolina, against the bill imposing a stamp duty in America being offered, upon question of its 'being brought up,' it passed in the negative.

"On the 1st July, 1789, a petition of newsmen against a bill for granting additional stamp duties on newspapers, being offered, it was passed in the negative.

"On the 4th of March, 1789, a petition of certain importers and dealers in foreign wines, praying against an augmentation of duties, on motion 'that the petition be brought up,' it passed in the negative, *nem. con.*"

I am authorized, then, in stating, that Parliament was not only in the practice of rejecting petitions, but, by resolution, of excluding whole classes of them; and that, too, upon the matter of taxation—of all others the most important to the subject, and one upon which the right of petition should be held most sacred.

The course proposed to be pursued by the opponents of the rule, viz: that of receiving all petitions, is not sustained by parliamentary practice; but as we are referred by the gentleman from New York, [Mr. B.] "for instruction to England"—(instruction in humanity and liberty, I suppose,)—let us look beyond the acts to the motives of Parliament. Let us see how the reasoning of the opponents of this rule corresponds with that of Parliament in the rejection of petitions.

Hatsell, page 206, after laying down the rule by which petitions were rejected, states: "The principle upon which this rule was adopted appears to be this: that a tax extending, in its effect, over every part of the kingdom, and more or less affecting every individual, and in its nature necessarily and intentionally imposing a burden upon the people, it can answer no end or purpose whatever, for any set of petitioners to state these consequences as a grievance to the House." **Now, how do the opponents**

of this rule reason? An institution (slavery) "extending in its effect" not beyond the slaveholding States, "affecting" no one out of those limits, and in its nature "imposing" *no* "burdens upon the people," yet it MAY "answer" an "end" and a "purpose" for "a set of petitioners to state" the institution "as a grievance to the House." Again, in the next sentence, "the House of Commons, before they come to a resolution which imposes a tax, cannot but know that it may sensibly affect the commerce or manufacture on which the duty is laid; but they cannot permit the inconvenience that may possibly be brought upon a particular branch of trade, to weigh with them when put in the balance with those advantages which are intended to result to the whole, and which the public necessities of the state demand from them." How, in this regard, do the advocates of reception reason here? That Congress cannot but know that slavery, which does *not* "sensibly affect commerce or manufactures," nor impair *any* "particular branch of trade," yet WILL permit the fanaticism which alone opposes it "to weigh with them, when put in the balance with those *advantages which are intended to result to the whole, and which the public necessities of the state demand of them.*"

In other words, the opponents of this rule reason that, in England, although the petitioners are burdened with taxation even to poverty and want, *their petitions* must be *rejected*; while in America, where petitioners are burdened with nothing but their own sickly sensibilities, their *petitions* must be *received*, notwithstanding they pray for the destruction of a constitution from which they derive unparalleled liberty and happiness. And what is still more strange, the rejection of the former (according to the position of the gentleman from Massachusetts) is no infringement of the right of petition, while a rejection of the latter is a total annihilation of this great "inherent and inalienable right."

The most objectionable feature of this "odious rule," (as he is pleased to term it,) the gentleman from Massachusetts thinks, is that which undertakes "to prescribe the subjects upon which the people may or may not petition." This feature he denounces as being "at war with the constitution, and in opposition to all parliamentary rule."

The rule contended for only prescribes that petitions aimed against the constitution shall not be received. That such a feature is not at war with the constitution, I will soon attempt to show; but at present, while upon parliamentary practice, I would inquire whether such a feature, even to the extent for which the gentleman contends, is "in opposition to all parliamentary rule." Not to proceed farther, the very parliamentary rule to which I have had occasion to refer provides that *petitions against duties shall not be received.* Now, I ask the gentleman from Massachusetts whether that is not an undertaking, on the part of Parliament, "to prescribe the subject upon which the people may or may not petition."

[Here the Speaker announced that the morning hour had expired.]

JANUARY 30.

The report of the Select Committee on the Rules again coming up—

Mr. STILES resumed and concluded his remarks, as follows:

When I last addressed the House, before concluding, I had shown, by reference to Hatsell's parliamentary Precedents that petitions against taxes were rejected by Parliament. Now, sir, as we are referred to England for the rule of our conduct, upon what principle was it that petitions against taxes were always rejected in England? It was that taxes were necessary for the support of government. But I ask, sir, if nothing besides taxes are necessary for the support of government? Are not national faith and national honor necessary for the support of government? Can any government in the world last a moment without them? Can dollars and cents be placed in the scale against faith and honor? Are not the faith and honor of the nation pledged upon the subject of slavery? Would the slaveholding States ever have entered the Union—would our southern fathers ever have signed the constitution, unless their rights had been secured by that instrument? Will not that Union be dissolved, whenever the government shall, instead of protecting, plunder them of their property? Yes, sir, slavery and the constitution have flourished together; their existence is the same, and inseparable; and if folly and madness shall destroy the one, the other will follow it to the tomb. But to return to the argument from which I have deviated, to reply to the gentleman from Massachusetts. Parliament, I have shown, were in the constant practice of rejecting petitions. The intelligent framers of the constitution were familiar with this fact; and in guarding our country against the evils of such legislation as the riot acts, in protecting the great right of petition, their omission to provide that petitions should be received, is evidence irresistible and conclusive, that the reception of petitions was never intended to be embraced in the amendment, or comprehended under the right of petition. According to the letter of the constitution, this rule is not a violation of that instrument, because no law is passed or contemplated. According to its spirit, it is not violated, because the object of the amendment was simply to prevent the passage of such acts as those of George 1st, and Charles 2d; and because the practice of rejecting petitions was common in England, familiar to the authors of the amendment, and not provided against by them. It is not a violation of the constitution, then. Is it a violation of the right of petition? But, instead of searching the constitution, in order to ascertain what are the rights of petition, strange to tell, we must, as the gentleman from New York says, throw the constitution aside, and go back to England, to the British Parliament, to the bill of rights, which grew out of the revolution of 1688. A citizen of America, the freest country in the world, (as the gentleman from North Carolina observed;) run away from his own country, and flee to England for his freedom! I leave the gentleman from New York to reconcile himself with the gentleman from North Carolina, his associate in feeling on this subject. I leave him to explain to that member how it is that a citizen of the freest country in the world can throw aside the constitution of his country, and seek a cover for his rights, a shelter for his liberties, behind the acts of a British Parliament.

But why should we go back for instruction to England? as the gentleman from New York said. Is there any analogy between either the government or the people of England and our own? In England all power is in the government. Here it is in the people. There the Parliament, humanly speaking, is omnipotent. Here, our Congress is limited in its powers to a few specified subjects, marked out and

defined by a written constitution. In Great Britain, the sovereign holds his office independent of the people; and so do the members of the House of Lords. If arbitrary and unjust laws are instituted by the government, the people, however unanimous against them, have no remedy but in an humble petition for their abolition. Here the members of the government are directly responsible to the people, hold their officers subject to the popular will, and, if unfaithful to their trusts, they are turned out, and more faithful servants chosen in their places. It results, therefore, that whilst, in monarchical governments, the right to petition the rulers is the highest, or ultimate right of the subject in securing him from molestation at the hands of his government, here the right dwindles into comparative insignificance; being only a right to petition our own servants to do that which we may command them to do, or discharge them for not doing. In short, in England the people are *listened to only* when they speak in the humble tone of *petition*. In America they *will be heard*, through the authoritative voice of *instruction*.

What does this right of petition embrace? What would they have? The right peaceably to assemble. Do we propose to disturb that right? No. The right to prepare a petition. Do we propose to prevent them? No. The right to present that petition to this body. Do we oppose that right? No, sir, the question has not been fairly met. Gentlemen argue as though we denied the right of petition. We make no such denial. We are as warm advocates of the right of petition as any persons on this floor. We know the importance of that right, and would not touch it. We are willing that gentlemen shall exercise the right to as full an extent, at least, as it is enjoyed in England, (for that seems to be the summit of their ambition;) but we come to issue with them as to the limits and extent of that right. What are the limits and extent of that right? There must be some point at which the right of petition ends, and that of legislating by this body commences. Where does the right of petition end? Just where that of legislation commences. Legislation cannot go back and interfere with petition; nor can petition extend forward and interfere with legislation. The right of legislation commences the moment the House is informed of the petition. If they have a right to go one step farther, and say we shall receive; they have just as much right to say we shall refer, and we shall grant. The action of the House —the right of legislation—commences with the presentation of the petition; and the refusal to accept is no interference with that right. We do not propose to interfere with their assembling; we do not dictate the manner in which they shall prepare a petition, or how they should present it to this body. But, when they have assembled; when they have prepared the petition; when they have presented it to this House, when, in short, their right has been fully exercised and completely exhausted,—then it is that our right commences: and, as we have not interfered with them, we should not permit them to interfere with us, to usurp the legislative powers of the country, and dictate to us the mode and manner in which our duties shall be performed.

But, (says the gentleman from North Carolina,) the petition should be received, "in order to know what it is the petitioners want." We undertake, (says the member from Maine,) by the refusal of the petition, "to prejudge the case," and "condemn them unheard."

Here is another step where gentlemen reason unfairly. They assume, as a starting point upon which to found an argument, that we have never seen, read, or heard the petition. Now, sir, if this be reasoning, gentlemen have forgotten the very first rule in logic. They have failed to prove their premises. Is it true, in point of fact, that we are unacquainted with the objects of the petition? Is there a member here who can rise in his place and say that he does "not know what the petitioners want?" Have they not been presented beyond number for years past? Has not Congress heard, considered, discussed, and determined, that they cannot entertain jurisdiction of the subject? And yet it impairs the great right of petition, it treats the applicant disrespectfully, for Congress, by this rule, to assert that they have heard and determined that they have no jurisdiction over the subject. Will gentlemen inform me upon what principles such an answer— the judgment of the House as to its jurisdiction (for that is the whole sum and substance of the rule)— can be construed into disrespect towards the petitioners?

Let gentlemen consider such conduct, if it had occurred in private instead of public life. An individual presents you with a petition to-day, and you inform him that you have no power to grant his prayer; to-morrow he renews his application, and receives the same answer; but, not satisfied with refusal after refusal, he continues to harass you with his applications, until, at length, worn out by his importunities, you adopt a rule that you will not, in future, receive his applications; will any one, the most fastidious, say that the adoption of such a rule is treating the petitioner with disrespect? But step above the walks of private life, and enter the places of power: and is the principle of action changed? Visit your courts of law: you find a plaintiff has brought an action for an amount, or of a nature, beyond or out of the jurisdiction of the court. A plea is filed: what is the reply of the judge? The court has no jurisdiction of the case. Has such an answer ever been considered as disrespectful? Go still higher: enter the courts of chancery. A complainant has filed a bill which, taking every word of it to be true, presents no case for relief; a demurrer is offered by the defendant, which, admitting all that the bill alleges, denies his right to come into court; and the chancellor sustaining the demurrer, dismisses the complainant without proof or inquiry. Has such a course ever been deemed as wanting in respect? and is the legislative power of the country to be stripped of a like authority? This rule is in the nature of a simple plea to the jurisdiction or demurrer in chancery; and can no more be coupled with disrespect than either of those modes of judicial proceeding.

But "we prejudge the case." "We condemn them unheard." What do gentlemen mean? Am I to understand that the petitions have never been read? They have been read over and over again, whilst before the question of reception is put, the petition can always be read upon the call of any member of the House. Is it meant, by not being heard, that these petitions have never been discussed? They have been discussed in this hall to the fullest extent for weeks, and even months, whilst the question of reception not only admit discussion, but admits it in the most ample manner.

Gentlemen argue as though we had no right, for any cause, or under any circumstances, to reject a petition. Is the right illimitable? Are there no

bounds to its exercise? If so, we might as well stop business. If the undefinable grievances of every man, woman, and child—white, black, or parti-colored, throughout our widely extended country, whose digestive organs may have become impaired, and who has therefore "the thousand ills that flesh is heir to," to complain of; if the conceits of every fanatic or fool, when embodied in the form of a petition, are entitled, on that account alone, to consid-sideration and respect—we might devote our whole time of legislation to petitions alone; we might remain here from one year's end to another; we might sit from morn to night, and night to morn, and. our labors would never know an end. The right illimitable? Is every petition, however disrespectful to this body, to be received? Is there any one who, in his zeal for the freedom of petition, goes that far? I presume not. There is, then, some limit to that right. We have the power to reject; the right to refuse is conceded. And is not this rejection an abridgment of the great right of petition? Oh no! And why? Because it would be an interference with the dignity of our honorable selves, and be perhaps an interruption of the business of this House. This great inherent and inalienable right cannot stand, then, when brought into contact with our dignity or our business. These are to be rejected; but all others are to be received. These petitions may be as disrespectful as their authors please, to our constituents or our States; but so as they do not touch our noble selves, they are to be received. They may treat with contempt the constitution of the country, and trample on its chartered rights; but so as they do not impede our business here, they are to be received. From whence did we obtain our dignity? Are we in a monarchical government, and was it born with us? No, sir. It was derived from the people; yet we would reject a petition here, disrespectful to ourselves, who are the *servants;* but receive one insulting to, and defamatory of, the people, who are the *masters.* Whence do we derive our powers of legislation? From the constitution; and we would reject a petition impeding our legislation, and yet receive one violative of the constitution, from whence all our powers of legislation are derived, and upon which the welfare of the country depends. The right illimitable? Then where the necessity of that rule of this House which makes it incumbent on the introducer to give a statement of the contents of the petition? Where the necessity of a statement, unless its object be to determine whether or not Congress has jurisdiction over the subject. If there be no discretion, where the necessity of that other rule which requires the question of reception to be put. Where the necessity of a question at all, if we are prohibited from voting, or answering in the negative?

The right of petition involves two considerations: 1st. The right of the citizen aggrieved to petition: 2d. The power of the government over the subject of the petition.

1. Then the citizen must be *aggrieved*, before he can petition.

The only petitions excluded by this rule are those upon the subject of slavery. Is a majority of this House prepared to pronounce slavery a grievance? Can an institution recognised and secured by the constitution be a grievance? Are they prepared to pronounce the constitution (for it is the constitution) a grievance? Was it the intention of the constitution to entail grievances on the people? The same constitution which guaranties the right of petition guaranties the existence of slavery. Both rights are equally secured by the same high authority. Can one portion of the constitution be used to destroy another? Could the framers of the constitution have been guilty of such an absurdity as to have given the people a right to petition against the instrument which they had formed for their welfare and happiness? Can they be chargeable with the folly of creating and sanctioning a grievance, when they have conferred the right of petitioning against such evils? In short, can anything in the constitution be considered such a grievance as the people are allowed to petition against? No, sir: by no sane and unprejudiced man can the existence of slavery be considered a grievance in the contemplation of the constitution.

But again. *Whose* grievances does the constitution contemplate should be the subject of petition? Certainly those of the petitioners—the grievances of the petitioners *themselves*, and not those of any other body or person. Will any gentleman on this floor attempt to show how slavery at the South is a grievance to the people of the North. How can hey ask us to consider as a grievance that which those who are alone concerned neither know nor acknowledge? There are those, doubtless, at the North, if not in this hall, who look upon slavery in the abstract as an evil; but is it therefore a grievance? I call upon any constitutional lawyer on this floor, and more especially the strict constructionist, to say that it is such a grievance as was contemplated by the authors of the 1st amendment of the constitution,

2. The power of the government over the subject of the petition.

What is the object which petitioners profess to have in view in the presentation of petitions? What is the *end* to be attained, and upon which Congress can alone recognise their right of application? *It is redress.* And a grievance which Congress has no right to redress, they have no right to petition against; because grievances which Congress *can* redress are the grievances, and the only grievances, contemplated in the amendment.

Now, if there is a single constitutional principle which, more than any other, may be considered as settled beyond the possibilty of dispute, it is that the institution of slavery is municipal, not national. It belongs exclusively to the States, and can only be effected by State legislation.

This domestic institution of the South is her own. It was brought into the Union with her; secured by the compact which makes us one people; and he who looks upon it as a grievance is an enemy to the constitution, and opposed to the peace and prosperity of our common country.

I have thus attempted to show that slavery is not a grievance. If it were a grievance at all, it is not one affecting the people of the North; and that, if it were a grievance affecting the people of the North, it is not one which can be redressed by the government; and therefore no one has a constitutional right to petition for its abolition. A petition to any person or authority presupposes the power of relief. A right of petition cannot exist where there is no duty to hear the complaint; and the duty to hear cannot exist without a commensurate power to redress. There is, then, no duty to receive a petition upon which Congress has indisputably no power to act; and the refusal to receive such petition cannot be tortured into a violation of the right to send it, which never existed.

Many points have been made on this question which I could have desired an opportunity to have met, but which, under the operation of the hour rule, I am reluctantly constrained to omit. Were it not for this abridgment of my great inherent and inalienable right, "freedom of speech" and of debate, I should have made it my duty to have replied to every suggestion which has been advanced; for there is not one, which I have heard, which could not, in my opinion, have been easily and triumphantly answered. But although deprived of this great right, I shall not, like some gentlemen on this floor, flee to England for my right; or, like others, speak of dissolving the Union. I will not even waste my important time in the indulgence of complaint, but with all possible despatch proceed to answer such as I conceive the most important suggestions.

It is said on this floor, "let the petitions be received, and they will vote with us for their rejection immediately after reception." To such I say, there is one point in which we agree; and that the most important of the whole matter. It is in the refusal or denial of the prayer of the petition. Reception is all that divides us. But I ask, does not reception carry with it jurisdiction over the subject-matter of the petition? Does not reception carry the implication, inevitably, that the petition may or may not be granted? Reception either carries the implication, or it does not. The proposition must be answered affirmatively or negatively. If it be answered affirmatively, if the reception carries jurisdiction over the subject of slavery, if it carries the implication that the prayer for its abolition may or may not be granted, are they willing to stand forth as the advocates of reception? Clearly not; because, in the outset, they agree that the prayer could not be granted, because, if Congress *would*, she *has not* the power to grant it. If, then, reception carries jurisdiction, they are opposed to it. If, on the other hand, the proposition be answered negatively, if reception does not carry jurisdiction and the implication that the prayer may or may not be granted, where is the use of it? Where the difference between reception, and instant rejection after it is received? What is to be gained by reception? Is it any advantage to the petitioner that his prayer is rejected immediately *after*, instead of immediately *before*, reception. How does the simple, naked vote of reception benefit him? The prayer of a petition is its vital part; take away the prayer, and you deprive it of all vitality—make it a dead letter. If, therefore, we reject the prayer, do we not reject the petition? The distinction is too refined and abstract for a question of such universal and vital importance. It is but a dispute about terms, and wholly overlooks the substance. It is at first and at last a rejection of the prayer of the petition; but a refusal of the petition is a rejection in a mode to save time and money, put an end to such applications, and prevent discussions dangerous to the Union.

The gentleman from New York has admitted that when petitions asked Congress to interfere between master and slave in the States, they stood on ground prohibited by the constitution; but went on to argue that petitions should be received when they asked an abolition of slavery in the District, because "Congress had full power to abolish slavery in the District of Columbia." "They may pay the master or not, but they can take the slave compulsorily from him." I have not the time, if I possessed the inclination, to argue this point. It does not necessarily arise in meeting the question upon which gentlemen have laid most stress in the debate—viz: an abridgment of the petition: but, as the opinion is asserted with so much confidence, and in such wild terms, I will throw out a few difficulties in the way, which have occurred to my mind, and which I think are calculated to stagger any reflecting man. "Congress may pay the master or not, but it can take compulsorily the slave from him;" and the only authority for this sweeping and despotic declaration is simply that clause which gives to Congress "*exclusive* legislation" over the District. Sir, did the cessions by Virginia and Maryland of portions of their respective territory to Congress to constitute the District, remove the inhabitants of those portions beyond the guaranties of the constitution? Clearly not. How, then, does the gentleman propose to get rid of that portion of the 5th amendment of the constitution, which provides that "no person shall be deprived of life, liberty, or *property*, without due process of *law;* and that private property shall not be taken for *public use without due compensation?*" That the legislation of this hall is not a "process of law" will not be disputed, and it is equally clear that slaves are "property;" they are recognised as property by the constitution, claimed as property by our treaties with foreign powers, and considered as property by our acts of legislation. Again "private property shall not be taken (except) for public use." It would be somewhat difficult, I apprehend, to establish that the emancipation of the slaves of this District would be for the "public use," and benefit; and should they be so considered, could they be taken "compulsorily" from the master "with or without paying" him, as the gentleman from New York says? No, sir, not "without due compensation." And when the member has disposed of these difficulties, under what clause of the constitution will he derive funds to be appropriated to such an object? We are told that "Congress has exclusive legislation over" the "District;" but does "*exclusive*" mean unlimited—"*absolute?*" as the gentleman from Massachusetts, [Mr. Hudson] says? From what dictionary or other source did he learn that "*exclusive*" meant "*absolute?*" And yet it must not only signify absolute, but also despotic power, or the position of the gentleman from New York falls to the ground. But how will any reasonable man (not to take a constitutional lawyer) construe that clause? It means, and can be made to signify nothing more than a grant of legislative power over the District to the exclusion, "in all cases whatsoever," of any concurrent jurisdiction. If this most palpable construction needed support, the history of the clause would amply furnish it. That clause of the 8th section of the 1st article was not comprised in the original draft of the constitution, but it was afterwards supplied, when its necessity became apparent, from the circumstances which occurred during the latter part of the revolutionary war, when the proceedings of Congress were disturbed by a turbulent mob, which the police of Philadelphia being unable to subdue, compelled that body to remove its sittings to Trenton, New Jersey. That power was conferred for the single purpose of enabling Congress to protect its members from insult and violence, and to conduct, without interruption, the deliberations of this country. From whence did Congress derive its powers of legislation over this District? From the constitution, together with the "cessions of particular States." Could the cessions of territory by particular States have enlarged the powers of Con-

gress under the constitution? Surely not. How then can she now presume to abolish slavery? The power of Congress over the subject of slavery is fixed by the constitution. It has no power whatever over the subject, and cannot touch it, whether the slave be found upon the soil of a State, or that of the District of Columbia. From what States was the "ten miles square," which now constitutes the "seat of government," derived? Virginia and Maryland. It is a self-evident proposition, as well as an established principle of law, that a grantee can acquire no more power than a grantor could convey. The States of Virginia and Maryland themselves, it cannot be disputed, could not have liberated, without the consent of their owners, the slaves of this District, when the territory was parts of their respective States. And how then can Congress, deriving her power from them, claim or exercise more power than the States which ceded the territory ever possessed? But those States, unwilling to rely upon the general principle just alluded to, and apprehending the very danger which now threatens the rights of the inhabitants of this District, prudently inserted in their acts of cession the following limit to the exercise of power by Congress over the District:

"*Provided*, That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States."

But there are other principles which should govern legislators in this matter—principles of higher authority and obligation than even those of the law and constitution. I mean the great principles of justice and moral right.

Would the States of Virginia and Maryland ever have consented to relinquish portions of their territory for such purposes as those for which gentlemen now contend? Would the independent citizens of "free and independent States" ever have agreed to have exchanged a legislation over their personal rights, by representatives chosen by, and responsible to them, for the exclusive legislation of a Congress irresponsible to them, if they had supposed that such jurisdiction was to be unlimited, "*absolute*," and liable to be directed by the petitions of others, who had neither a common residence nor a common interest with them? Does any one believe that, if the federal government had intimated an intention to abolish slavery in the District, the States of Virginia and Maryland would ever have ceded their territory? And is not such an attempt now in bad faith, against the spirit of the compact, and a gross violation of the understanding which must have subsisted between the parties to the cession? But, if I were disposed to argue this point, I should need nothing more than the admission of the gentleman from New York, that "Congress cannot interfere with slavery in the States." Will not the abolition of slavery in this District be an interference with slavery in the States? Not to take into consideration the real object which the abolitionists have in view, in their designs upon this District, as but an entering-wedge for the abolition of slavery throughout the States, as but the commencement of an enterprise which will terminate only with entire emancipation,—not, I say, to consider these objects, will it not "interfere with slavery in the States" to abolish here? Will it not inevitably produce discontent and rebellion among the blacks of the neighboring States, and make this District a den of fugitive slaves? Yes, sir, the truth cannot be suppressed, that if slavery is touched here, a blow will be struck which will be felt throughout the length and breadth of the slave-holding States.

These suggestions, thrown out for the consideration of others, are but some of the difficulties which have presented themselves to my mind, in the way of any exercise of power over the subject of slavery in this District; and I humbly ask that, if they are not of sufficient weight to convince us of our want of power over the subject, whether they are not calculated at least to create doubts as to its possession? And what, under such circumstances, has been held the safe and unerring guide for the conduct of the legislator? It is, that if there be doubt as to the power, it should not be exercised. *Quod dubitas ne feceris.* What you doubt, that you may not do. The possession of power should be untrammelled by a single doubt, or you should not attempt its exercise.

But (says the member from Maine, and it is reiterated by the gentleman from New York and others) separate the right of petition from abolition, and "see how we will come up to the mark; how we will sustain our obligations to the Union." Sir, the right of petition and abolition ought never to have been blended. To connect them is a mere trick—an artful scheme to excite the sympathies and delude the judgments of this legislative body. And who, pray, are the authors of this base trick? Who the projectors of this artful scheme. Who connected the right of petition with abolition? Are we at the South, the slaveholding community, subject to the charge? It will not be pretended. It will not be presumed for a moment that we would throw any obstacles in the way, and create interference with the maintenance of our just and constitutional rights. Are our friends of the North, the anti-abolitionists, chargeable? Surely not. They deprecate the difficulty; they pray deliverance from the embarrassment; and we have no reason to question their sincerity. If neither the South nor those opposed to abolition in the North, are the authors of this scheme, who are? There is but one other party in the country upon this subject, and it results inevitably that they are its authors—viz: the abolitionists themselves. I appeal to our intelligent and reflecting friends from the North—I put it to them, whether they will suffer themselves to be thus entrapped; caught in the snare set for them by these fanatics; deluded by this miserable subterfuge, the pitiful cry of the violation of the right of petition. But it has already been hinted, and I may be answered, that though this may be but a trick, yet the abolitionists have so fully succeeded in poisoning the minds of our constituents, so thoroughly and extensively have they persuaded them that the non-reception of their petitions is a violation of their unalienable rights, that unless we carry out their views, the relation between us, of representative and constituents, will be dissolved. Sir, such a suggestion scarcely deserves a passing notice. Any man who legislates here with a view to get back into this hall, will of course not be guided by reason. Such a member is unworthy of his station, because he legislates for himself, and not for his country. Their constituents think the right of petition abridged, when we are daily receiving petitions without objection, over which Congress has jurisdiction, and reject only those over which Congress has no control. Cannot they understand the diffe

rence between the abuse and use of an important right? The same amendment which guaranties the right of petition, guaranties also freedom of speech and of the press; and because those rights are secured, is there therefore no such thing as slander or libel? If their constituents cannot now be brought to understand the difference between a proper and an improper petition, upon a subject of which Congress has cognizance, and one where it has no jurisdiction, how is it proposed to make them understand the difference between the rejection of a petition and the rejection of the prayer of a petition? How can they be made to comprehend how it is that a petition is of so much consequence as to be received, and is yet, at the same time, of so little consequence as to be rejected? I trust that our friends of the North will not suffer themselves to be alarmed by the delusive cry of a "false issue" being made, or be deterred from pursuing their true course for fear of consequences which do not and ought not legitimately to follow.

The gentleman from North Carolina has attempted to illustrate this matter of "false position," by a "simile of a battle." Let me tell the gentleman that he has himself assumed, in the outset, "false positions;" and, in some cases, false characters for his parties in that battle. He represents a general to have taken a position with his own troops behind a secure breastwork; but has stationed his allies on exposed ground, where they are rapidly falling by the enemy's fire. The secure breastwork is the constitution, I suppose. But where, I ask, are the allies—where the exposed ground? Who are the contending parties in this engagement? The enemies and the friends of the constitution? The gentleman can make no other answer. Who are the enemies? Of course the abolitionists. Who are the friends of the constitution? The anti-abolitionists. Where, then, are the allies? Are the anti-abolitionists of the North any less the enlisted soldiers and interested defenders of the constitution, than we at the South? Surely not. Where he exposed ground? We are behind the breastwork, (as the gentleman considers the constitution.) Have we pushed our friends of the North beyond that constitution? or are they beyond, and in any exposed situation? No, sir; we both stand together upon the same ground—the battlements of the constitution. The enemy—the abolitionists—are alone without; they are striving to enter the citadel, slavery is the weak point in the fortress. It is there they design a breach. We have there constructed a barrier: that barrier is the rule. Whilst that remains, the fortress stands. When it is gone, the fortress falls. That barrier can be removed only by some one within. The fortress can be taken, the citadel lost, only by treachery in the camp. I will pursue the simile no farther. But let me tell the member from North Carolina, that if this rule is lost, from the relation in which he stands to, and the part which he has borne in this transaction, he may go home to his constituents, and to his grave, covered with the unenviable immortality of having berayed the interest of the South, in having surrendered the constitution of his country.

I hoped to have had time to have commented upon the motives of these abolitionists. But whatever they are—whether to destroy the institution of slavery, or, by their petitions, only to annoy and insult the South—will not the rejection of this rule by the House be to them a triumph? No one can dispute the point. Are not the abolitionists the enemies of the country? No one will deny the assertion. Are our friends in the North willing to contribute to accomplish the triumph of the enemies of the country; and especially when their victory would be over the constitution of the land, the liberties of the people? Sir, let me tell gentlemen of the North that on this subject there is no neutral ground. There are but two parties in this contest—the friends and the foes of the constitution. They must take sides with one or the other; and wherever their influence settles, victory must perch upon that banner. The whole responsibility is with the North. Let them not shrink from their high destiny; let them glory in the occasion; let them meet it like men; let them do their duty, and leave consequences to take care of themselves.

Sir, will gentlemen hesitate? Is this a time for hesitation, when the government is agitated to its very centre? Is this a time to cavil about terms, when the foundations of the nation are shaken? Is this a time to make hair-breadth distinctions about the extent of rights, when our very days seem numbered? I tell gentlemen of the North, the South is in danger; and will they hesitate? Was such the conduct of the South when the North was in danger—not from a feeble band of fanatics, but from the most powerful nation of the world? Sixty-eight years ago, when the report of the musketry at Lexington gave token of the danger of our brethren of the North, a cargo of powder was captured off Savannah, by Georgia enterprise and Georgia valor. Was that ammunition, at the time so scarce in the country, retained at home to await the arrival of the enemy on our own shores, and to defend our own firesides? No sir; I am proud to say, that with that disinterested patriotism which has ever characterized the South, it was immediately shipped to Boston, and it arrived in time to thunder from the heights of Bunker's hill defiance to oppression.

And in our late war, waged for "free trade and sailors' rights," did the South stop to inquire whether the owners of the ships, or the impressed seamen, were natives of a southern latitude? No; it was enough for them to know that the flag which had been dishonored, was the American flag; that the seaman who had been oppressed was an American citizen; and they were at their posts, and ready to lose their last life drop for the protection of the one and the defence of the other.

Sir, the people of the South love the Union. They venerate the constitution as the bond of that Union, and will be the last to engage in its infractions. But they love the constitution as *it is*; as it was construed by those who made it; as it has been approved by near half a century's successive legislation—sufficient for all the purposes of our government, and all the glory of our country. But now, if the North, regardless of the claims of the South, will suffer that instrument violated—if the constitution, like the right of petition, is of so much consequence as to be preserved when for their gratification, and, at the same time, of so little consequence as to be violated when for our destruction,—if the constitution is to be thus mutilated, depend upon it the South will not respect its mere fragments, scattered in the struggle of other States to overthrow her institutions. If that hour should come, (which God in his mercy avert!) she will hesitate not to appeal from the cancelled obligations of a once-venerated constitution, to her own "inherent and inalienable" right of self-protection.

76-70998