

PROCEEDINGS
OF THE
CIVIL RIGHTS MASS-MEETING

HELD AT

Lincoln Hall, October 22, 1883.

SPEECHES OF

HON. FREDERICK DOUGLASS,

AND

ROBERT G. INGERSOLL.

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CORRECTION.

On page 31, third line from bottom, for "contract" read "counteract."

On page 34, line 19 from top, for "has nothing" read "have nothing."

PROCEEDINGS
OF THE
CIVIL RIGHTS MASS MEETING.

On the 22d of October, 1883, a vast number of citizens met at Lincoln Hall, Washington, D. C., to give expression to their views concerning the recent decision of the Supreme Court of the United States, in which it is held that the Civil Rights Act is unconstitutional.

Officers were elected as follows :

President—Prof. James M. Gregory.

Secretary—E. M. Hewlett, LL. B.

Vice-Presidents—George F. T. Cook, George W. Williams, Sidney McFarland, Walter Middleton, H. P. Montgomery, Rev. W. B. Jefferson, Rev. William S. Robinson, Rev. S. Alexander, Frederick Douglass, Jr., Dr. A. T. Augusta, Rev. William H. Scott, Arthur Goins, William Hunter, Solomon G. Brown, Henry Johnson, H. C. Bruce, John W. Freeman, Charles F. Mosley, James L. Turner, W. C. Chase, Randall Bowie, Charles R. Douglass, Joseph Becket, Charles H. Marshall, Rev. William Gibbons, Rev. Robert Johnson, Dr. J. R. Francis, Ralph Wormley, Lewis H. Cornish, Dr. S. L. Cook, Rev. John Mulligan.

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Committee on Resolutions—L. H. Douglass, J. A. Johnson, S. St. A. Smith, Prof. Wiley Lane, Rev. William Brown, Capt. C. A. Fleetwood, Rev. Alexander Dennis.

Committee on Speakers—Col. M. M. Holland, Prof. Geo. W. Cook, Geo. H. Richardson.

Sergeant-at-arms—Col. P. H. Carson. *Assistant sergeants-at-arms*—R. D. Ruffin, C. H. Ball, Edward Stewart, Solomon Phillips, John H. Smith, W. A. Lavalette, Capt. Kelley, Geo. Boston, C. A. Lemar, Henry Piper, Albert McIntosh, Marcellus West, Wm. K. Brown, Capt. Gray, Maj. Fisher.

The President was introduced by Col. Milton M. Holland.

On taking the chair, Professor GREGORY said :

LADIES AND GENTLEMEN: I thank you for the honor which you have conferred upon me in calling me to preside at this

meeting, which promises to be a most memorable one. In the presence of the distinguished gentlemen who are to address you on this occasion, it would be inappropriate for me to trespass on your time and patience with any lengthened remarks. The call published in the daily papers, and printed on the slips which you hold in your hands, sufficiently explains the object of the meeting. If we judge correctly, we have reached a point when, as a part of the American people proscribed by the practices and laws of the land, it behooves us to consider the duties of the hour—when we must counsel with the wisest and best of our fellow citizens, and be willing to be advised by them what course to pursue in view of the probable effect of the unexpected decision of the Supreme Court, taking from us the protection of National authority and handing us over to the unjust local prejudices and customs of the States. For this purpose we are met to-night.

Mr. LEWIS H. DOUGLASS will now read the resolutions prepared by the committee.

Mr. DOUGLASS, chairman of the committee, reported the following resolutions, which were unanimously adopted :

THE RESOLUTIONS.

Whereas, The Supreme Court of the United States has solemnly declared its opinion that the Congressional Enactment known as the Civil Rights Law, of February 27, 1875, is not in accordance with the United States Constitution, and is consequently, inoperative as a measure for the protection of the negro in his manhood rights; and whereas, the customs and traditions of many of the States in the Union are inimical to the negro as a man and a citizen, and he finds neither in the common law nor in the sentiments of his white fellow citizen that full protection which he has earned by his loyalty and devotion to the Nation in its hour of extreme peril; and whereas, it is our duty as good, law abiding citizens, to respect the decisions of the Courts as to the validity of the laws upon which they are called to pass judgment; therefore, be it

Resolved, That words of indignation or disrespect aimed at the Supreme Court of the United States would not only be useless as a means for securing our main object—namely, the protection due to our manhood and citizenship—but, on the contrary, would tend to alienate our friends and all who have faith in the honesty and integrity of that august and learned tribunal.

Resolved, That it is the primal duty of all lovers of their country, all friends of justice, without respect to party lines, to see to it that the full and equal protection of the laws are afforded every citizen, without respect to race, color, or previous condition of servitude.

Resolved, That we hold the Republican party to the enforcement of this demand: "That complete liberty and exact equality in the enjoyment of all civil, political, and public rights should be established and effectually maintained throughout the Union by efficient and appropriate State and Federal legislation, and that neither the law nor its administration should admit any discrimination in respect to citizens by reason of race, creed, color or previous condition of servitude."

Resolved, That we would remind the Democratic party of its declarations in the National Convention of 1872, "that we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political."

Resolved, That it is the paramount duty of the colored voter to give his aid and support to that party or coalition of parties that will give force and meaning to the utterances, pledges, and demands of the Republican and of the Democratic parties in their respective platforms of 1872 in respect to the protection of colored citizens in their manhood rights.

Resolved, That no more conclusive evidence of the sincerity of the utterances of the two great political parties of the land can be afforded than the adoption in the several States under their control of a measure guaranteeing that protection sought to be established by the Civil Rights Act of 1875.

Resolved, That the progress of the colored American citizen in morals, education, frugality, industry, and general usefulness, as a man and as a citizen, makes it the part of sound policy and wisdom to maintain and protect him in the enjoyment of the fullest and most complete rights of citizenship.

Resolved, That we invite the co-operation of all good men and women in securing such legislation as may be necessary to complete our freedom, and that we advise the immediate organization of civil rights associations throughout the country, through which proper agitation and earnest work for our cause may be inaugurated and carried out.

The President, introducing Hon. FREDERICK DOUGLASS, said :

It is our good fortune to have with us one who needs no extended introduction to an American audience ; a man whose fame, not confined to the borders of his own country, has gone throughout the civilized world, and whose utterances at the late Louisville convention, fresh in the minds of all, were compared by the press of the country with the great speeches of England's statesmen, John Bright and William Gladstone. This eminent man, whom it is my privilege to introduce, is the acknowledged leader of the Negro race in America, and that people look to him more than to any other for advice and guidance at this particular crisis in their history. The Hon. FREDERICK DOUGLASS will now address you.

Mr. DOUGLASS being introduced came forward amid deafening applause, and spoke as follows :

SPEECH
OF
HON. FREDERICK DOUGLASS,
At Lincoln Hall, October 22, 1883.

"You take my house when you do take the prop
That doth sustain my house; you take my life,
When you do take the means whereby I live."

FRIENDS AND FELLOW-CITIZENS:

I have only a very few words to say to you this evening, and in order that those few words shall be well-chosen, and not liable to be misunderstood, distorted, or misrepresented, I have been at the pains of writing them out in full. It may be, after all, that the hour calls more loudly for silence than for speech. Later on in this discussion, when we shall have the full text of the recent decision of the Supreme Court before us, and the dissenting opinion of Judge Harlan, who must have weighty reasons for separating from all his associates, and incurring thereby, as he must, an amount of criticism from which even the bravest man might shrink, we may be in better frame of mind, better supplied with facts, and better prepared to speak calmly, correctly, and wisely, than now. The temptation at this time is, of course, to speak more from feeling than reason, more from impulse than reflection.

We have been, as a class, grievously wounded, wounded in the house of our friends, and this wound is too deep and too painful for ordinary and measured speech.

"When a deed is done for Freedom,
Through the broad earth's aching breast
Runs a thrill of joy prophetic,
Trembling on from east to west."

But when a deed is done for slavery, caste and oppression, and a blow is struck at human progress, whether so intended or not, the heart of humanity sickens in sorrow and writhes in pain. It makes us feel as if some one were stamping upon the graves of our mothers, or desecrating our sacred temples of worship. Only base men and oppressors can rejoice in a triumph of injustice over the weak and defenceless, for weakness ought itself to protect from assaults of pride, prejudice and power.

The cause which has brought us here to-night is neither common nor trivial. Few events in our national history have sur-

passed it in magnitude, importance and significance. It has swept over the land like a moral cyclone, leaving moral desolation in its track.

We feel it, as we felt the furious attempt, years ago, to force the accursed system of slavery upon the soil of Kansas, the enactment of the Fugitive Slave Bill, the repeal of the Missouri Compromise, the Dred Scott decision. I look upon it as one more shocking development of that moral weakness in high places which has attended the conflict between the spirit of liberty and the spirit of slavery from the beginning, and I venture to predict that it will be so regarded by after-coming generations.

Far down the ages, when men shall wish to inform themselves as to the real state of liberty, law, religion and civilization in the United States at this juncture of our history, they will overhaul the proceedings of the Supreme Court, and read the decision declaring the Civil Rights Bill unconstitutional and void.

From this they will learn more than from many volumes, how far we have advanced, in this year of grace, from barbarism toward civilization.

Fellow-citizens: Among the great evils which now stalk abroad in our land, the one, I think, which most threatens to undermine and destroy the foundations of our free institutions, is the great and apparently increasing want of respect entertained for those to whom are committed the responsibility and the duty of administering our government. On this point, I think all good men must agree, and against this evil I trust you feel, and we all feel, the deepest repugnance, and that we will, neither here nor elsewhere, give it the least breath of sympathy or encouragement. We should never forget, that, whatever may be the incidental mistakes or misconduct of rulers, government is better than anarchy, and patient reform is better than violent revolution.

But while I would increase this feeling, and give it the emphasis of a voice from heaven, it must not be allowed to interfere with free speech, honest expression, and fair criticism. To give up this would be to give up liberty, to give up progress, and to consign the nation to moral stagnation, putrefaction, and death.

In the matter of respect for dignitaries, it should never be forgotten, however, that duties are reciprocal, and while the people should frown down every manifestation of levity and contempt for those in power, it is the duty of the possessors of power so to use it as to deserve and to insure respect and reverence.

To come a little nearer to the case now before us. The Supreme Court of the United States, in the exercise of its high and

vast constitutional power, has suddenly and unexpectedly decided that the law intended to secure to colored people the civil rights guaranteed to them by the following provision of the Constitution of the United States, is unconstitutional and void. Here it is:

"No State," says the 14th Amendment, "shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

Now, when a bill has been discussed for weeks and months, and even years, in the press and on the platform, in Congress and out of Congress; when it has been calmly debated by the clearest heads, and the most skillful and learned lawyers in the land; when every argument against it has been over and over again carefully considered and fairly answered; when its constitutionality has been especially discussed, pro and con; when it has passed the United States House of Representatives, and has been solemnly enacted by the United States Senate, perhaps the most imposing legislative body in the world; when such a bill has been submitted to the Cabinet of the Nation, composed of the ablest men in the land; when it has passed under the scrutinizing eye of the Attorney-General of the United States; when the Executive of the Nation has given to it his name and formal approval; when it has taken its place upon the statute-book, and has remained there for nearly a decade, and the country has largely assented to it, you will agree with me that the reasons for declaring such a law unconstitutional and void, should be strong, irresistible and absolutely conclusive.

Inasmuch as the law in question is a law in favor of liberty and justice, it ought to have had the benefit of any doubt which could arise as to its strict constitutionality. This, I believe, will be the view taken of it, not only by laymen like myself, but by eminent lawyers as well.

All men who have given any thought to the machinery, the structure, and practical operation of our Government, must have recognized the importance of absolute harmony between its various departments of powers and duties. They must have seen clearly the mischievous tendency and danger to the body politic of any antagonisms between its various branches. To feel the force of this thought, we have only to remember the administration of President Johnson, and the conflict which then took place between the National Executive and the National Congress, when the will of the people was again and again met by the Executive veto, and when the country seemed upon the

verge of another revolution. No patriot, however bold, can wish for his country a repetition of those gloomy days.

Now let me say here, before I go on a step further in this discussion, if any man has come here to-night with his breast heaving with passion, his heart flooded with acrimony, wishing and expecting to hear violent denunciation of the Supreme Court, on account of this decision, he has mistaken the object of this meeting, and the character of the men by whom it is called.

We neither come to bury Cæsar, nor to praise him. The Supreme Court is the autocratic point in our National Government. No monarch in Europe has a power more absolute over the laws, lives and liberties of his people, than that Court has over our laws, lives, and liberties. Its Judges live, and ought to live, an eagle's flight beyond the reach of fear or favor, praise or blame, profit or loss. No vulgar prejudice should touch the members of that Court, anywhere. Their decisions should come down to us like the calm, clear light of Infinite justice. We should be able to think of them and to speak of them with profoundest respect for their wisdom, and deepest reverence for their virtue; for what His Holiness, the Pope, is to the Roman Catholic church, the Supreme Court is to the American State. Its members are men, to be sure, and may not claim infallibility, like the Pope, but they are the Supreme power of the Nation, and their decisions are law.

What will be said here to-night, will be spoken, I trust, more in sorrow than in anger, more in a tone of regret than of bitterness.

We cannot, however, overlook the fact that though not so intended, this decision has inflicted a heavy calamity upon seven millions of the people of this country, and left them naked and defenceless against the action of a malignant, vulgar, and pitiless prejudice.

It presents the United States before the world as a Nation utterly destitute of power to protect the rights of its own citizens upon its own soil.

It can claim service and allegiance, loyalty and life, of them, but it cannot protect them against the most palpable violation of the rights of human nature, rights to secure which, governments are established. It can tax their bread and tax their blood, but has no protecting power for their persons. Its National power extends only to the District of Columbia, and the Territories—where the people have no votes—and where the land has no people. All else is subject to the States. In the name of common sense, I ask, what right have we to call ourselves a Nation, in view of this decision, and this utter destitution of power?

In humiliating the colored people of this country, this decision has humbled the Nation. It gives to a South Carolina, or a Mississippi, Rail-Road Conductor, more power than it gives to the National Government. He may order the wife of the Chief Justice of the United States into a smoking-car, full of hirsute men and compel her to go and listen to the coarse jests of a vulgar crowd. It gives to a hotel-keeper who may, from a prejudice born of the rebellion, wish to turn her out at midnight into the darkness and the storm, power to compel her to go. In such a case, according to this decision of the Supreme Court, the National Government has no right to interfere. She must take her claim for protection and redress, not to the Nation, but to the State, and when the State, as I understand it, declares there is upon its Statute book, no law for her protection, the function and power of the National Government is exhausted, and she is utterly without redress.

Bad, therefore, as our case is under this decision, the evil principle affirmed by the court is not wholly confined to or spent upon persons of color. The wife of Chief Justice Waite—I speak it respectfully—is protected to-day, not by law, but solely by the accident of her color. So far as the law of the land is concerned, she is in the same condition as that of the humblest colored woman in the Republic. The difference between colored and white, here, is, that the one, by reason of color, needs legal protection, and the other, by reason of color, does not need protection. It is nevertheless true, that manhood is insulted, in both cases. No man can put a chain about the ankle of his fellow man, without at last finding the other end of it fastened about his own neck.

The lesson of all the ages on this point is, that a wrong done to one man, is a wrong done to all men. It may not be felt at the moment, and the evil day may be long delayed, but so sure as there is a moral government of the universe, so sure will the harvest of evil come.

Color prejudice is not the only prejudice against which a Republic like ours should guard. The spirit of caste is dangerous everywhere. There is the prejudice of the rich against the poor, the pride and prejudice of the idle dandy against the hard handed working man. There is, worst of all, religious prejudice; a prejudice which has stained a whole continent with blood. It is, in fact, a spirit infernal, against which every enlightened man should wage perpetual war. Perhaps no class of our fellow citizens has carried this prejudice against color to a point more extreme and dangerous than have our Catholic Irish fellow citizens, and yet no people on the face of the earth have been more relentlessly persecuted and oppressed on account of race and religion, than the Irish people.

But in Ireland, persecution has at last reached a point where it reacts terribly upon her persecutors. England to-day is reaping the bitter consequences of her injustice and oppression. Ask any man of intelligence to-day, "What is the chief source of England's weakness?" "What has reduced her to the rank of a second-class power?" and the answer will be "*Ireland!*" Poor, ragged, hungry, starving and oppressed as she is, she is strong enough to be a standing menace to the power and glory of England.

Fellow-citizens! We want no black Ireland in America. We want no aggrieved class in America. Strong as we are without the negro, we are stronger with him than without him. The power and friendship of seven millions of people scattered all over the country, however humble, are not to be despised.

To-day, our Republic sits as a Queen among the nations of the earth. Peace is within her walls and plenteousness within her palaces, but he is a bolder and a far more hopeful man than I am, who will affirm that this peace and prosperity will always last. History repeats itself. What has happened once may happen again.

The negro, in the Revolution, fought for us and with us. In the war of 1812 Gen. Jackson, at New Orleans, found it necessary to call upon the colored people to assist in its defence against England. Abraham Lincoln found it necessary to call upon the negro to defend the Union against rebellion, and the negro responded gallantly in all cases.

Our legislators, our Presidents, and our judges should have a care, lest, by forcing these people, outside of law, they destroy that love of country which is needful to the Nation's defence in the day of trouble.

I am not here, in this presence, to discuss the constitutionality or unconstitutionality of this decision of the Supreme Court. The decision may or may not be constitutional. That is a question for lawyers, and not for laymen, and there are lawyers on this platform as learned, able, and eloquent as any who have appeared in this case before the Supreme Court, or as any in the land. To these I leave the exposition of the Constitution; but I claim the right to remark upon a strange and glaring inconsistency with former decisions, in the action of the court on this Civil Rights Bill. It is a new departure, entirely out of the line of the precedents and decisions of the Supreme Court at other times and in other directions where the rights of colored men were concerned. It has utterly ignored and rejected the force and application of object and intention as a rule of interpretation. It has construed the Constitution in defiant disregard

of what was the object and intention of the adoption of the Fourteenth Amendment. It has made no account whatever of the intention and purpose of Congress and the President in putting the Civil Rights Bill upon the Statute Book of the Nation. It has seen fit in this case, affecting a weak and much-persecuted people, to be guided by the narrowest and most restricted rules of legal interpretation. It has viewed both the Constitution and the law with a strict regard to their letter, but without any generous recognition of their broad and liberal spirit. Upon those narrow principles the decision is logical and legal, of course. But what I complain of, and what every lover of liberty in the United States has a right to complain of, is this sudden and causeless reversal of all the great rules of legal interpretation by which this Court was governed in other days, in the construction of the Constitution and of laws respecting colored people.

In the dark days of slavery, this Court, on all occasions, gave the greatest importance to *intention* as a guide to interpretation. The object and *intention* of the law, it was said, must prevail. Everything in favor of slavery and against the negro was settled by this object and *intention*. The Constitution was construed according to its *intention*. We were over and over again referred to what the framers *meant*, and plain language was sacrificed that the so affirmed *intention* of these framers might be positively asserted. When we said in behalf of the negro that the Constitution of the United States was intended to establish justice and to secure the blessings of liberty to ourselves and our posterity, we were told that the words said so, but that that was obviously not its *intention*; that it was intended to apply only to white people, and that the *intention* must govern.

When we came to that clause of the Constitution which declares that the immigration or importation of such persons as any of the States may see fit to admit shall not be prohibited, and the friends of liberty declared that that provision of the Constitution did not describe the slave-trade, they were told that while its language applied not to slaves, but to persons, still the object and *intention* of that clause of the Constitution was plainly to protect the slave-trade, and that that *intention* was the law. When we came to that clause of the Constitution which declares that "No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due," we insisted that it neither described nor applied to slaves; that it applied

only to persons owing service and labor; that slaves did not and could not owe service and labor; that this clause of the Constitution said nothing of slaves or the masters of slaves; that it was silent as to slave States or free States; that it was simply a provision to enforce a contract; to discharge an obligation between two persons capable of making a contract, and not to force any man into slavery, for the slave could not owe service or make a contract.

We affirmed that it gave no warrant for what was called the "Fugitive Slave Bill," and we contended that that bill was therefore unconstitutional; but our arguments were laughed to scorn by that Court. We were told that the *intention* of the Constitution was to enable masters to recapture their slaves, and that the law of Ninety-three and the Fugitive Slave Law of 1850 were constitutional.

Fellow-citizens! while slavery was the base line of American society, while it ruled the church and the state, while it was the interpreter of our law and the exponent of our religion, it admitted no quibbling, no narrow rules of legal or scriptural interpretations of Bible or Constitution. It sternly demanded its pound of flesh, no matter how much blood was shed in the taking of it. It was enough for it to be able to show the *intention* to get all it asked in the Courts or out of the Courts. But now slavery is abolished. Its reign was long, dark and bloody. Liberty *now*, is the base line of the Republic. Liberty has supplanted slavery, but I fear it has not supplanted the spirit or power of slavery. Where slavery was strong, liberty is now weak.

O for a Supreme Court of the United States which shall be as true to the claims of humanity, as the Supreme Court formerly was to the demands of slavery! When that day comes, as come it will, a Civil Rights Bill will not be declared unconstitutional and void, in utter and flagrant disregard of the objects and *intentions* of the National legislature by which it was enacted, and of the rights plainly secured by the Constitution.

This decision of the Supreme Court admits that the Fourteenth Amendment is a prohibition on the States. It admits that a State shall not abridge the privileges or immunities of citizens of the United States, but commits the seeming absurdity of allowing the people of a State to do what it prohibits the State itself from doing.

It used to be thought that the whole was more than a part; that the greater included the less, and that what was unconstitutional for a State to do was equally unconstitutional for an individual member of a State to do. What is a State, in the absence of the people who compose it? Land, air and water.

That is all. As individuals, the people of the State of South Carolina may stamp out the rights of the negro wherever they please, so long as they do not do so as a State. All the parts can violate the Constitution, but the whole cannot. It is not the act itself, according to this decision, that is unconstitutional. The unconstitutionality of the case depends wholly upon the party committing the act. If the State commits it, it is wrong, if the citizen of the State commits it, it is right.

O consistency, thou art indeed a jewel! What does it matter to a colored citizen that a State may not insult and outrage him, if a citizen of a State may? The effect upon him is the same, and it was just this effect that the framers of the Fourteenth Amendment plainly intended by that article to prevent.

It was the act, not the instrument, which was prohibited. It meant to protect the newly enfranchised citizen from injustice and wrong, not merely from a State, but from the individual members of a State. It meant to give him the protection to which his citizenship, his loyalty, his allegiance, and his services entitled him; and this meaning, and this purpose, and this intention, is now declared unconstitutional and void, by the Supreme Court of the United States.

I say again, fellow-citizens, O for a Supreme Court which shall be as true, as vigilant, as active, and exacting in maintaining laws enacted for the protection of human rights, as in other days was that Court for the destruction of human rights!

It is said that this decision will make no difference in the treatment of colored people; that the Civil Rights Bill was a dead letter, and could not be enforced. There is some truth in all this, but it is not the whole truth. That bill, like all advance legislation, was a banner on the outer wall of American liberty, a noble moral standard, uplifted for the education of the American people. There are tongues in trees, books, in the running brooks,—sermons in stones. This law, though dead, did speak. It expressed the sentiment of justice and fair play, common to every honest heart. Its voice was against popular prejudice and meanness. It appealed to all the noble and patriotic instincts of the American people. It told the American people that they were all equal before the law; that they belonged to a common country and were equal citizens. The Supreme Court has hauled down this flag of liberty in open day, and before all the people, and has thereby given joy to the heart of every man in the land who wishes to deny to others what he claims for himself. It is a concession to race pride, selfishness and meanness, and will be received with joy by every upholder of caste in the land, and for this I deplore and denounce that decision.

It is a frequent and favorite device of an indefensible cause to misstate and pervert the views of those who advocate a good cause, and I have never seen this device more generally resorted to than in the case of the late decision on the Civil Rights Bill. When we dissent from the opinion of the Supreme Court, and give the reasons why we think that opinion unsound, we are straightway charged in the papers with denouncing the Court itself, and thus put in the attitude of bad citizens. Now, I utterly deny that there has ever been any denunciation of the Supreme Court on this platform, and I defy any man to point out one sentence or one syllable of any speech of mine in denunciation of that Court.

Another illustration of this tendency to put opponents in a false position, is seen in the persistent effort to stigmatize the "Civil Rights Bill" as a "Social Rights Bill." Now, nowhere under the whole heavens, outside of the United States, could any such perversion of truth have any chance of success. No man in Europe would ever dream that because he has a right to ride on a railway, or stop at a hotel, he therefore has the right to enter into social relations with anybody. No one has a right to speak to another without that other's permission. Social equality and civil equality rest upon an entirely different basis, and well enough the American people know it; yet to inflame a popular prejudice, respectable papers like the New York Times and the Chicago Tribune, persist in describing the Civil Rights Bill as a Social Rights Bill.

When a colored man is in the same room or in the same carriage with white people, as a servant, there is no talk of social equality, but if he is there as a man and a gentleman, he is an offence. What makes the difference? It is not color, for his color is unchanged. The whole essence of the thing is a studied purpose to degrade and stamp out the liberties of a race. It is the old spirit of slavery, and nothing else. To say that because a man rides in the same car with another, he is therefore socially equal, is one of the wildest absurdities.

When I was in England, some years ago, I rode upon highways, byways, steamboats, stage coaches, omnibusses; I was in the House of Commons, in the House of Lords, in the British Museum, in the Coliseum, in the National Gallery, everywhere; sleeping sometimes in rooms where lords and dukes had slept; sitting at tables where lords and dukes were sitting; but I never thought that those circumstances made me socially the equal of lords and dukes. I hardly think that some of our Democratic friends would be regarded among those lords as their equals. If riding in the same car makes one equal, I think that the little poodle I saw sitting in the lap of a lady was

made equal by riding in the same car. Equality, social equality, is a matter between individuals. It is a reciprocal understanding. I don't think when I ride with an educated polished rascal, that he is thereby made my equal, or when I ride with a numbskull that it makes me his equal, or makes him my equal. Social equality does not necessarily follow from civil equality, and yet for the purpose of a hell black and damning prejudice, our papers still insist that the Civil Rights Bill is a Bill to establish social equality.

If it is a Bill for social equality, so is the Declaration of Independence, which declares that all men have equal rights; so is the Sermon on the Mount, so is the Golden Rule, that commands us to do to others as we would that others should do to us; so is the Apostolic teaching, that of one blood God has made all nations to dwell on all the face of the earth; so is the Constitution of the United States, and so are the laws and customs of every civilized country in the world; for no where, outside of the United States, is any man denied civil rights on account of his color.

S P E E C H
OF
ROBERT G. INGERSOLL.

The Hon. FREDERICK DOUGLASS introduced the speaker as follows :

“Abou Ben Adhem—may his tribe increase!
Awoke one night from a deep dream of peace,
And saw, within the moonlight in his room,
Making it rich, like a lily in bloom,
An angel, writing in a book of gold:
Exceeding peace had made Ben Adhem bold;
And to the presence in the room he said,
“What writest thou?” The vision raised its head,
And with a look made all of sweet accord,
Answered, “The names of those who love the Lord.”
“And is mine one?” said Abou. “Nay, not so;”
Replied the angel. Abou spoke more low,
But cheerly still, and said: “I pray thee, then,
Write me as one who loves his fellow-men.”
The angel wrote and vanished. The next night
It came again, with a great wakening light,
And showed the names whom love of God had blest;
And lo! Ben Adhem’s name led all the rest.”

I have the honor to introduce ROBERT G. INGERSOLL.

MR. INGERSOLL'S SPEECH.

LADIES AND GENTLEMEN :

We have met for the purpose of saying a few words about the recent decision of the Supreme Court, in which that tribunal has held the first and second sections of the Civil Rights Act to be unconstitutional; and so held in spite of the fact that for years the people of the North and South have, with singular unanimity, supposed the Act to be constitutional—supposed that it was upheld by the 13th and 14th Amendments,—and so supposed because they knew with certainty the intention of the framers of the amendments. They knew this intention, because they knew what the enemies of the amendments and the enemies of the Civil Rights Act claimed was the intention. And they also knew what the friends of the amendment and the law admitted the intention to be. The prejudices born of ignorance and of slavery had died or fallen asleep, and even the enemies of the amendments and the law had accepted the situation.

But I shall speak of the decision as I feel, and in the same manner as I should speak even in the presence of the Court. You must remember that I am not attacking persons, but opinions—not motives, but reasons—not judges, but decisions.

The Supreme Court has decided:

1. That the first and second sections of the Civil Rights Act of March 1, 1875, are unconstitutional, as applied to the States—not being authorized by the 13th and 14th Amendments.
2. That the 14th Amendment is prohibitory upon the States only, and the legislation forbidden to be adopted by Congress for enforcing it, is not "direct" legislation, but "corrective,"—such as may be necessary or proper for counteracting and restraining the effect of laws or acts passed or done by the several States.
3. That the 13th Amendment relates only to slavery and involuntary servitude, which it abolishes.
4. That the 13th Amendment establishes universal freedom in the United States.
5. That Congress may probably pass laws directly enforcing its provisions.
6. That such legislative power in Congress extends only to the subject of slavery, and its incidents.
7. That the denial of equal accommodations in inns, public conveyances and places of public amusement, imposes no badge of slavery or involuntary servitude upon the party, but at most infringes rights which are protected from State aggression by the 14th Amendment.
8. The Court is uncertain whether the accommodations and privileges sought to be protected by the first and second sections of the Civil Rights Act are or are not rights constitutionally demandable,—and if they are, in what form they are to be protected.
9. Neither does the Court decide whether the law, as it stands, is operative in the Territories and the District of Columbia.
10. Neither does the Court decide whether Congress, under the commercial power, may or may not pass a law securing to all persons equal accommodations on lines of public conveyance between two or more States.
11. The court also holds, in the present case, that until some State law has been passed, or some State action through its officers or agents has been taken adverse to the rights of citizens sought to be protected by the 14th Amendment, no legislation of the United States under said amendment, nor any proceeding under

such legislation, can be called into activity, for the reason that the prohibitions of the amendment are against State laws and acts done under State authority. The essence of said decision being, that the managers and owners of inns, railways, and all public conveyances, of theatres and all places of public amusement, may discriminate on account of race, color, or previous condition of servitude, and that the citizen so discriminated against, is without redress.

This decision takes from seven millions of people the shield of the Constitution. It leaves the best of the colored race at the mercy of the meanest of the white. It feeds fat the ancient grudge that vicious ignorance bears towards race and color. It will be approved and quoted by hundreds of thousands of unjust men. The masked wretches who, in the darkness of night, drag the poor negro from his cabin, and lacerate with whip and thong his quivering flesh, will, with bloody hands, applaud the Supreme Court. The men who, by mob violence, prevent the negro from depositing his ballot—who with gun and revolver drive him from the polls, and those who insult with vile and vulgar words the inoffensive colored girl, will welcome this decision with hyena joy. The basest will rejoice—the noblest will mourn.

But even in the presence of this decision, we must remember that it is one of the necessities of government that there should be a court of last resort; and while all courts will more or less fail to do justice, still, the wit of man has, as yet, devised no better way. Even after reading this decision, we must take it for granted that the judges of the Supreme Court arrived at their conclusions honestly and in accordance with the best light they had. While they had the right to render the decision, every citizen has the right to give his opinion as to whether that decision is good or bad. Knowing that they are liable to be mistaken, and honestly mistaken, we should always be charitable enough to admit that others may be mistaken; and we may also take another step, and admit that we may be mistaken about their being mistaken. We must remember, too, that we have to make judges out of men, and that by being made judges their prejudices are not diminished and their intelligence is not increased. No matter whether a man wears a crown or a robe or a rag. Under the emblem of power and the emblem of poverty, the man alike resides. The real thing is the man—the distinction often exists only in the clothes. Take away the crown—there is only a man. Remove the robe—there remains a man. Take away the rag, and we find at least a man.

There was a time in this country when all bowed to a decision of the Supreme Court. It was unquestioned. It was re-

garded as "a voice from on high." The people heard and they obeyed. The Dred Scott decision destroyed that illusion forever. From that day to this the people have claimed the privilege of putting the decisions of the Supreme Court in the crucible of reason. These decisions are no longer exempt from honest criticism. While the decision remains, it is the law. No matter how absurd, no matter how erroneous, no matter how contrary to reason and justice, it remains the law. It must be overturned either by the Court itself, (and the Court has overturned hundreds of its own decisions), or by legislative action, or by an amendment to the Constitution. We do not appeal to armed revolution. Our Government is so framed that it provides for what may be called perpetual peaceful revolution. For the redress of any grievance, for the purpose of righting any wrong, there is the perpetual remedy of an appeal to the people.

We must remember, too, that judges keep their backs to the dawn. They find what has been, what is, but not what ought to be. They are tied and shackled by precedent, fettered by old decisions, and by the desire to be consistent, even in mistakes. They pass upon the acts and words of others, and like other people, they are liable to make mistakes. In the olden time, we took what the doctors gave us, we believed what the preachers said, and accepted, without question, the judgments of the highest Court. Now, it is different. We ask the doctor what the medicine is, and what effect he expects it to produce. We cross-examine the minister, and we criticise the decision of the Chief-Justice. We do this, because we have found that some doctors do not kill, that some ministers are quite reasonable, and that some judges know something about law. In this country, the people are the sovereigns. All officers—including judges—are simply their servants, and the sovereign has always the right to give his opinion as to the action of his agent. The sovereignty of the people is the rock, upon which rests the right of speech and the freedom of the press.

Unfortunately for us, our fathers adopted the Common law of England—a law poisoned by kingly prerogative—by every form of oppression, by the spirit of caste, and permeated, saturated, with the political heresy that the people received their rights, privileges and immunities from the crown. The thirteen original colonies received their laws, their forms, their ideas of justice, from the old world. All the judicial, legislative, and executive springs and sources had been touched and tainted.

In the struggle with England, our fathers justified their rebellion by declaring that Nature had clothed all men with the right to life, liberty, and the pursuit of happiness. The moment suc-

cess crowned their efforts, they changed their noble declaration of equal rights for all, and basely interpolated the word "white." They adopted a Constitution that denied the Declaration of Independence—a Constitution that recognized and upheld slavery, protected the slave-trade, legalized piracy upon the high seas—that demoralized, degraded, and debauched the Nation, and that at last reddened with brave blood the fields of the Republic.

Our fathers planted the seeds of injustice, and we gathered the harvest. In the blood and flame of civil war, we retraced our fathers' steps. In the stress of war, we implored the aid of Liberty, and asked once more for the protection of Justice. We civilized the Constitution of our fathers. We adopted three Amendments—the 13th, 14th and 15th—the Trinity of Liberty.

Let us examine these amendments :

The 13th Amendment.

"Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"Congress shall have power to enforce this article by appropriate legislation."

Before the adoption of this amendment, the Constitution had always been construed to be the perfect shield of slavery. In order that slavery might be protected, the slave States were considered as sovereign. Freedom was regarded as a local prejudice, Slavery as the ward of the Nation, the jewel of the Constitution. For three-quarters of a century, the Supreme Court of the United States exhausted judicial ingenuity in guarding, protecting and fostering that infamous institution. For the purpose of preserving that infinite outrage, words and phrases were warped, and stretched, and tortured, and thumb-screwed, and racked. Slavery was the one sacred thing, and the Supreme Court was its constitutional guardian.

To show the faithfulness of that tribunal, I call your attention to the 3d clause of the 2d section of the 4th article of the Constitution:

"No person held to service or labor in any State under the laws thereof, escaping to another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due."

The framers of the Constitution were ashamed to use the word "slave," and thereupon they said "person." They were ashamed to use the word "slavery," and they evaded it by saying, "held

to service or labor." They were ashamed to put in the word "master," so they called him "the party to whom service or labor may be due."

How can a slave owe service? How can a slave owe labor? How could a slave make a contract? How could the master have a legal claim against a slave? And yet, the Supreme Court of the United States found no difficulty in upholding the Fugitive Slave Law by virtue of that clause. There were hundreds of decisions declaring that Congress had power to pass laws to carry that clause into effect, and it was carried into effect.

You will observe the wording of this clause: "No person held to service or labor in any State under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due."

To whom was this clause directed? To individuals or to States? It expressly provides that the "person" held to service or labor shall not be discharged from such service or labor in consequence of any law or regulation in the "State" to which he has fled. Did that law apply to States, or to individuals?

The Supreme Court held that it applied to individuals as well as to States. Any "person," in any State, interfering with the master who was endeavoring to steal the person he called his slave, was liable to indictment, and hundreds and thousands were indicted, and hundreds languished in prisons because they were noble enough to hold in infinite contempt such infamous laws and such infamous decisions. The best men in the United States—the noblest spirits under the flag—were imprisoned because they were charitable, because they were just, because they showed the hunted slave the path to freedom, and taught him where to find amid the glittering host of heaven the blessed Northern Star.

Every fugitive slave carried that clause with him when he entered a free State; carried it into every hiding place; and every Northern man was bound, by virtue of that clause, to act as the spy and hound of slavery. The Supreme Court, with infinite ease, made a club of that clause with which to strike down the liberty of the fugitive and the manhood of the North.

In the Dred Scott decision it was solemnly decided that a man of African descent, whether a slave or not, was not, and could not be, a citizen of a State or of the United States. The Supreme Court held on the even tenor of its way, and in the rebellion that tribunal was about the last fort to surrender.

The moment the 13th Amendment was adopted, the slaves became freemen. The distinction between "white" and "col-

ored" vanished. The negroes became as though they had never been slaves—as though they had always been free—as though they had been white. They became citizens—they became a part of "the people," and "the people" constituted the State, and it was the State, thus constituted, that was entitled to the constitutional guarantee of a republican government.

These freed men became citizens—became a part of the State in which they lived.

The highest and noblest definition of a State, in our Reports, was given by Justice Wilson, in the case of *Chisholm, &c., vs. Georgia*:

"By a State, I mean a complete body of free persons united for their common benefit, to enjoy peaceably what is their own, and to do justice to others."

Chief Justice Chase declared, that:

"The people, in whatever territory dwelling, whether temporarily or permanently, or whether organized under regular government, or united by less definite relations, constitute the State."

Now, if the people, the moment the 13th amendment was adopted were all free, and if these people constituted the State; if, under the Constitution of the United States, every State is guaranteed a republican government, then it is the duty of the general government to see to it that every State has such a government. If distinctions are made between free men on account of race or color, the government is not republican. The manner in which this guarantee of a republican form of government is to be enforced, or made good, must be left to the wisdom and discretion of Congress.

The 13th Amendment not only destroyed, but it built. It destroyed the slave-pen, and on its site erected the temple of Liberty. It did not simply free slaves—it made citizens. It repealed every statute that upheld slavery. It erased from every Report every decision against freedom. It took the word "white" from every law, and blotted from the Constitution all clauses acknowledging property in man.

If, then, all the people in each State were, by virtue of the 13th Amendment, free, what right had a majority to enslave a minority? What right had a majority to make any distinctions between free men? What right had a majority to take from a minority any privilege, or any immunity, to which they were entitled as free men? What right had the majority to make that unequal which the Constitution made equal?

Not satisfied with saying that slavery should not exist, we find in the Amendment the words "nor involuntary servitude."

This was intended to destroy every mark and badge of legal inferiority.

Justice Field, upon this very question, says:

"It is, however, clear that the words 'involuntary servitude' include something more than slavery, in the strict sense of the term. They include also serfage, vassalage, villainage, peonage, and all other forms of compulsory service for the mere benefit or pleasure of others. Nor is this the full import of the term. The abolition of slavery and involuntary servitude was intended to make every one born in this country a free man, and as such to give him the right to pursue the ordinary avocations of life without other restraint than such as affects all others, and to enjoy equally with them the fruits of his labor. A person allowed to pursue only one trade or calling, and only in one locality of the country, would not be, in the strict sense of the term, in a condition of slavery, but probably no one would deny that he would be in a condition of servitude. He certainly would not possess the liberties, nor enjoy the privileges, of a freeman."

Justice Field also quotes with approval the language of the counsel for the plaintiffs in the case:

"Wherever a law of a State, or a law of the United States, makes a discrimination between classes of persons which deprives the one class of their freedom or their property, or which makes a caste of them, to subserve the power, pride, avarice, vanity or vengeance of others—there involuntary servitude exists within the meaning of the 13th Amendment."

To show that the framers of the 13th Amendment intended to blot out every form of slavery and servitude, I call attention to the Civil Rights Act, approved April 9, 1866, which provided, among other things, that:

"All persons born in the United States, and not subject to any foreign power—excluding Indians not taxed—are citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, are entitled to the full and equal benefit of all laws and proceedings for the security of person and property enjoyed by white citizens, and shall be subject to like punishments, pains and penalties—and to none other—any law, statute, ordinance, regulation or custom to the contrary notwithstanding; and they shall have the same rights in every State and Territory of the United States as white persons."

The Supreme Court, in *The Slaughter-House Cases*, (16 Wal-

lace, 69) has said that the word *servitude* has a larger meaning than the word *slavery*. "The word '*servitude*' implies subjection to the will of another contrary to the common right." A man is in a state of involuntary *servitude* when he is forced to do, or prevented from doing, a thing, not by the law of the State, but by the simple will of another. He who enjoys less than the common rights of a citizen, he who can be forced from the public highway at the will of another, who can be denied entrance to the cars of a common carrier, is in a state of *servitude*.

The 13th Amendment did away with slavery not only, and with involuntary *servitude*, but with every badge and brand and stain and mark of slavery. It abolished forever distinctions on account of race and color.

In the language of the Supreme Court: "It was the obvious purpose of the 13th Amendment to forbid all shades and conditions of African slavery." And to that I add, it was the obvious purpose of that amendment to forbid all shades and conditions of slavery, no matter of what sort or kind—all marks of legal inferiority. Each citizen was to be absolutely free. All his rights complete, whole, unmaimed and unabridged.

From the moment of the adoption of that amendment, the law became color-blind. All distinctions on account of complexion vanished. It took the whip from the hand of the white man, and put the Nation's flag above the negro's hut. It gave horizon, scope and dome to the lowliest life. It stretched a sky studded with the stars of hope above the humblest head.

The Supreme Court has admitted, in the very case we are now discussing, that:

"Under the 13th Amendment the legislation" — meaning the legislation of Congress — "so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary *servitude*, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not."

Here we have the authority for dealing with individuals.

The only question then remaining is, whether an individual, being the keeper of a public inn, or the agent of a railway corporation, created by a State, can be held responsible in a Federal Court for discriminating against a citizen of the United States on account of race, color, or previous condition of *servitude*? If such discrimination is a badge of slavery, or places the party discriminated against in a condition of involuntary *servitude*, then the Civil Rights Act may be upheld by the 13th Amendment.

In *The United States v. Harris*, 106 U. S., 640, the Supreme Court says:

"It is clear that the 13th Amendment, besides abolishing forever slavery and involuntary servitude within the United States, gives power to Congress to protect all citizens from being in any way subjected to slavery or involuntary servitude, except for the punishment of crime, *and in the enjoyment of that freedom which it was the object of the amendment to secure.*"

This declaration covers the entire case.

I agree with Justice Field:

"The 13th Amendment is not confined to African slavery. It is general and universal in its application—prohibiting the slavery of white men as well as black men, and not prohibiting mere slavery in the strict sense of the term, but involuntary servitude in every form." 16 Wallace, 90.

The 13th Amendment declares that neither slavery nor involuntary servitude shall exist. Who must see to it that this declaration is carried out? There can be but one answer. It is the duty of Congress.

At last the question narrows itself to this: Is a citizen of the United States, when denied admission to public inns, railway cars and theatres, on account of his race or color, in a condition of involuntary servitude? If he is, then he is under the immediate protection of the general government, by virtue of the 13th Amendment; and the Civil Rights Act is clearly constitutional.

If excluded from one inn, he may be from all; if from one car, why not from all? The man who depends for the preservation of his privileges upon a conductor, instead of the Constitution, is in a condition of involuntary servitude. He who depends for his rights—not upon the laws of the land, but upon a landlord, is in a condition of involuntary servitude.

The framers of the 13th Amendment knew that the negro would be persecuted on account of his race and color—knew that many of the States could not be trusted to protect the rights of the colored man; and for that reason, the general government was clothed with power to protect the colored people from all forms of slavery and involuntary servitude.

Of what use are the declarations in the constitution that slavery and involuntary servitude shall not exist, and that all persons born or naturalized in the United States shall be citizens—not only of the United States, but of the States in which they reside—if, behind these declarations, there is no power to act—no duty for the general government to discharge?

The 14th Amendment.

Notwithstanding the 13th Amendment had been adopted—notwithstanding slavery and involuntary servitude had been legally destroyed—it was found that the negro was still the helpless victim of the white man. Another amendment was needed; and all the Justices of the Supreme Court have told us why the 14th Amendment was adopted.

Justice Miller, speaking for the entire court, tells us that:

“In the struggle of the civil war, slavery perished, and perished as a necessity of the bitterness and force of the conflict.” That: “When the armies of freedom found themselves on the soil of slavery, they could do nothing else than free the victims whose enforced servitude was the foundation of the war.”

He also admits that: “When hard pressed in the contest, the colored men (for they proved themselves *men* in that terrible crisis) offered their services, and were accepted, by thousands, to aid in suppressing the unlawful rebellion.”

He also informs us that: “Notwithstanding the fact that the Southern States had formally recognized the abolition of slavery, the condition of the slave, without further protection of the Federal Government, was almost as bad as it had been before.”

And he declares that: “The Southern States imposed upon the colored race onerous disabilities and burdens—curtailed their rights in the pursuit of liberty and property, to such an extent that their freedom was of little value, while the colored people had lost the protection which they had received from their former owners from motives of interest.”

And that: “The colored people in some States were forbidden to appear in the towns in any other character than that of menial servants—that they were required to reside on the soil without the right to purchase or own it—that they were excluded from many occupations of gain and profit—that they were not permitted to give testimony in the courts where white men were on trial—and it was said that their lives were at the mercy of bad men, either because laws for their protection were insufficient, or were not enforced.”

We are informed by the Supreme Court that, “under these circumstances,” the proposition for the 14th Amendment was passed through Congress, and that Congress declined to treat as restored to full participation in the Government of the Union, the States which had been in insurrection, until they ratified that article by a formal vote of their legislative bodies.

Thus it will be seen that the rebel States were restored to the Union by adopting the 14th Amendment. In order to become equal members of the Federal Union, these States solemnly agreed to carry out the provisions of that amendment.

The 14th Amendment provides, that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State where-in they reside."

That is affirmative in its character. That affirmation imposes the obligation upon the General Government to protect its citizens everywhere. That affirmation clothes the Federal Government with power to protect its citizens. Under that clause, the Federal arm can reach to the boundary of the Republic, for the purpose of protecting the weakest citizen from the tyranny of citizens or States. That clause is a contract between the government and every man—a contract wherein the citizen promises allegiance, and the nation promises protection.

By this clause, the Federal Government adopted all the citizens of all the States and Territories, including the District of Columbia, and placed them under the shield of the Constitution—made each one a ward of the Republic.

Under this contract, the Government is under direct obligation to the citizen. The Government cannot shirk its responsibility by leaving a citizen to be protected in his rights, as a citizen of the United States, by a State. The obligation of protection is direct. The obligation on the part of the citizen to the Government is direct. The citizen cannot be untrue to the Government because his State is. The action of the State under the 14th Amendment is no excuse for the citizen. He must be true to the Government. In war, the Government has a right to his service. In peace, he has the right to be protected.

If the citizen must depend upon the State, then he owes the first allegiance to that government or power that is under obligation to protect him. Then, if a State secedes from the Union, the citizen should go with the State—should go with the power that protects.

That is not my doctrine. My doctrine is this: The first duty of the General Government is to protect each citizen. The first duty of each citizen is to be true—not to his State, but to the Republic.

This clause of the 14th Amendment made us all citizens of the United States—all children of the Republic. Under this decision, the Republic refuses to acknowledge her children. Under this decision of the Supreme Court, they are left upon the doorsteps of the States. Citizens are changed to foundlings.

If the 14th Amendment created citizens of the United States, the power that created must define the rights of the citizens thus created, and must provide a remedy where such rights are infringed. The Federal Government speaks through its representatives—through Congress; and Congress, by the Civil Rights Act, defined some of the rights, privileges and immunities

of a citizen of the United States—and Congress provided a remedy when such rights and privileges were invaded, and gave jurisdiction to the Federal courts.

No State, nor the department of any State, can authoritatively define the rights, privileges and immunities of a citizen of the United States. These rights and immunities must be defined by the United States, and when so defined, they cannot be abridged by State authority.

In the case of *Bartemeyer vs. Iowa*, 18 Wall., p. 140, Justice Field, in a concurring opinion, speaking of the 14th Amendment, says: "It grew out of the feeling that a Nation which had been maintained by such costly sacrifices was, after all, worthless, if a citizen could not be protected in all his fundamental rights, everywhere—North and South, East and West—throughout the limits of the Republic. The amendment was not, as held in the opinion of the majority, primarily intended to confer citizenship on the negro race. It had a much broader purpose. It was intended to justify legislation extending the protection of the National government over the common rights of all citizens of the United States, and thus obviate objection to the legislation adopted for the protection of the emancipated race. It was intended to make it possible for all persons—which necessarily included those of every race and color—to live in peace and security wherever the jurisdiction of the Nation reached. It therefore recognized, if it did not create, a national citizenship. This national citizenship is primary and not secondary."

I cannot refrain from calling attention to the splendor and nobility of the truths expressed by Justice Field in this opinion.

So, Justice Field, in his dissenting opinion in what are known as *The Slaughter-House Cases*, found in 16 Wallace, p. 95, still speaking of the 14th Amendment, says:

"It recognizes in express terms—if it does not create—citizens of the United States, and it makes their citizenship dependent upon the place of their birth or the fact of their adoption, and not upon the constitution or laws of any State, or the condition of their ancestry. A citizen of a State is now only a citizen of the United States residing in that State. The fundamental rights, privileges and immunities which belong to him as a free man and a free citizen of the United States, are not dependent upon the citizenship of any State. *

* * * They do not derive their existence from its legislation, and cannot be destroyed by its power."

What are "the fundamental rights, privileges and immunities" which belong to a free man? Certainly the rights of all citizens

of the United States are equal. Their immunities and privileges must be the same. He who makes a discrimination between citizens on account of color, violates the Constitution of the United States.

Have all citizens the same right to travel on the highways of the country? Have they all the same right to ride upon the railways created by State authority? A railway is an improved highway. It was only by holding that it was an improved highway that counties and States aided in their construction. It has been decided, over and over again, that a railway is an improved highway. A railway corporation is the creation of a State—an agent of the State. It is under the control of the State—and upon what principle can a citizen be prevented from using the highways of a State on an equality with all other citizens?

These are all rights and immunities guaranteed by the Constitution of the United States.

Now the question is—and it is the only question—can these rights and immunities, thus guaranteed and thus confirmed, be protected by the general Government?

In the case of *The U. S. vs. Reese, et al.*, 92 U. S., p. 207, the Supreme Court decided, the opinion having been delivered by Chief-Justice Waite, as follows:

“Rights and immunities created by, and dependent upon, the Constitution of the United States can be protected by Congress. The form and the manner of the protection may be such as Congress in the legitimate exercise of its legislative discretion shall provide. This may be varied to meet the necessities of the particular right to be protected.”

This decision was acquiesced in by Justices Strong, Bradley, Swayne, Davis, Miller and Field. Dissenting opinions were filed by Justices Clifford and Hunt, but neither dissented from the proposition that “rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress,” and that “the form and manner of the protection may be such as Congress in the exercise of its legitimate discretion shall provide.”

So, in the same case, I find this language:

“It follows that the Amendment”—meaning the 15th—“has invested the citizens of the United States with a new constitutional right, which is within the protecting power of Congress. This, under the express provisions of the second section of the Amendment, Congress may enforce by appropriate legislation.”

If the 15th Amendment invested the citizens of the United States with a new constitutional right—that is the right to vote—and if for that reason that right is within the protecting power

of Congress, then I ask, if the 14th Amendment made certain persons citizens of the United States, did such citizenship become a constitutional right? And is such citizenship within the protecting power of Congress? Does citizenship mean anything except certain "rights, privileges and immunities?"

Is it not an invasion of citizenship to invade the immunities or privileges or rights belonging to a citizen? Are not, then, all the immunities and privileges and rights under the protecting power of Congress?

The 13th Amendment found the negro a slave, and made him a free man. That gave to him a new constitutional right, and according to the Supreme Court, that right is within the protecting power of Congress.

What rights are within the protecting power of Congress? All the rights belonging to a free man.

The 14th Amendment made the negro a citizen. What then is under the protecting power of Congress? All the rights, privileges and immunities belonging to him as a citizen.

So, in the case of *Tennessee vs. Davis*, 100 U. S., 263, the Supreme Court held, that: "The United States is a government whose authority extends over the whole territory of the Union, acting upon all the States, and upon all the people of all the States.

"No State can exclude the Federal Government from the exercise of any authority conferred upon it by the Constitution, or withhold from it for a moment the cognizance of any subject which the Constitution has committed to it."

This opinion was given by Justice Strong, and acquiesced in by Chief-Justice Waite, Justices Miller, Swayne, Bradley and Harlan.

So in the case of *Pensacola Tel. Co. vs. Western Union Tel. Co.*, 96 U. S., p. 10, the opinion having been delivered by Chief-Justice Waite, I find this: "The Government of the United States, within the scope of its power, operates upon every foot of territory under its jurisdiction. It legislates for the whole Nation, and is not embarrassed by State lines."

This was acquiesced in by Justices Clifford, Strong, Bradley, Swayne and Miller.

So we are told by the entire Supreme Court, in the case of *Tiernan vs. Rynker*, 102 U. S., 126, that: "When the subject to which the power applies is national in its character, or of such a nature as to admit of uniformity of regulation, the power is exclusive of State authority."

Surely, the question of citizenship is "national in its character." Surely, the question as to what are the rights, privileges

and immunities of a citizen of the United States is "national in its character."

Unless the declarations and definitions, the patriotic paragraphs, and the legal principles made, given, uttered and defined by the Supreme Court are but a judicial jugglery of words, the Civil Rights Act is upheld by the intent, spirit and language of the 14th Amendment.

It was found that the 13th Amendment did not protect the negro. Then the 14th was adopted. Still the colored citizen was trodden under foot. Then the 15th was adopted. The 13th made him free, and, in my judgment, made him a citizen, and clothed him with all the rights of a citizen. That was denied, and then the 14th declared that he was a citizen. In my judgment, that gave him the right to vote. But that was denied—then the 15th was adopted, declaring that his right to vote should never be denied.

The 13th Amendment made all free. It broke the chains, pulled up the whipping-posts, overturned the auction-blocks, gave the colored mother her child, put the shield of the Constitution over the cradle, destroyed all forms of involuntary servitude, and in the azure heaven of our flag it put the Northern Star.

The 14th Amendment made us all citizens. It is a contract between the Republic and each individual—a contract by which the Nation agrees to protect the citizen, and the citizen agrees to defend the Nation. This amendment placed the crown of sovereignty on every brow.

The 15th Amendment secured the citizen in his right to vote, in his right to make and execute the laws, and put these rights above the power of any State. This amendment placed the ballot—the sceptre of authority—in every sovereign's hand.

The Difference Between the 13th and 14th Amendments.

We are told by the Supreme Court, in the case under discussion, that:

"We must not forget that the province and scope of the 13th and 14th Amendments are different;" that the 13th Amendment "simply abolished slavery," and that the 14th Amendment "prohibited the States from abridging the privileges and immunities of citizens of the United States; from depriving them of life, liberty or property, without due process of law; and from denying to any the equal protection of the laws."

We are told that:

"The amendments are different, and the powers of Congress under them are different. What Congress has power to do under one it may not have power to do under the other." That "under the 13th Amendment it has only to do with slavery and its incidents;" but that "under the 14th Amendment it has power to counteract and render nugatory all State laws or proceedings which have the effect to abridge any of the privileges or immunities of the citizens of the United States, or to deprive them of life, liberty or property, without due process of law, or to deny to any of them the equal protection of the laws."

Did not Congress have that power under the 13th Amendment? Could the States, in spite of the 13th Amendment, deprive free men of life or property without due process of law? Does the Supreme Court wish to be understood, that until the 14th Amendment was adopted the States had the right to rob and kill free men? Yet, in its effort to narrow and belittle the 13th Amendment, it has been driven to this absurdity. Did not Congress, under the 13th Amendment, have power to destroy slavery and involuntary servitude? Did not Congress, under that amendment, have the power to protect the lives, liberty and property of free men? And did not Congress have the power "to render nugatory all State laws and proceedings under which free men were to be deprived of life, liberty or property, without due process of law?"

If Congress was not clothed with such power by the 13th Amendment, what was the object of that amendment? Was that amendment a mere opinion, or a prophecy, or the expression of a hope?

Corrective Legislation.

The 14th Amendment provides that: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of its laws."

We are told by the Supreme Court that Congress has no right to enforce the 14th Amendment by direct legislation, but that the legislation under that amendment can only be of a "corrective" character—such as may be necessary or proper for counteracting and redressing the effect of unconstitutional laws passed by the States. In other words, that Congress has no duty to perform, except to contract the effect of unconstitutional laws by corrective legislation.

The Supreme Court has also decided, in the present case, that

Congress has no right to legislate for the purpose of enforcing these clauses until the States shall have taken action. What action can the State take? If a State passes laws contrary to these provisions or clauses, they are void. If a State passes laws in conformity to these provisions, certainly Congress is not called on to legislate. Under what circumstances, then, can Congress be called upon to act by way of "corrective" legislation, as to these particular clauses? What can Congress do? Suppose the State passes no law upon the subject, but allows citizens of the State—managers of railways, and keepers of public inns, to discriminate between their passengers and guests on account of race or color—what then?

Again, what is the difference between a State that has no law on the subject, and a State that has passed an unconstitutional law. In other words, what is the difference between no law and a void law? If the "corrective" legislation of Congress is not needed where the State has passed an unconstitutional law, is it needed where the State has passed no law? What is there in either case to correct? Surely, it requires no particular legislation on the part of Congress to kill a law that never had life.

The States are prohibited by the Constitution from making any regulations of foreign commerce. Consequently, all regulations made by the States are null and void, no matter what the motive of the States may have been, and it requires no law of Congress to annul such laws or regulations. This was decided by the Supreme Court of the United States, long ago, in what are known as *The License Cases*. The opinion may be found in the 5th of Howard, 583.

"The nullity of any act inconsistent with the Constitution, is produced by the declaration that the Constitution is supreme." This was decided by the Supreme Court, the opinion having been delivered by Chief Justice Marshall, in the case of *Gibbons vs. Ogden*, 9 Wheat. 210.

The same doctrine was held in the case of *Henderson, et al., vs. Mayor of New York, et al.*, 92 U. S. 272—the opinion of the Court being delivered by Justice Miller.

So it was held in the case of *The Board of Liquidation vs. McComb*—2 Otto, 541—"That an unconstitutional law will be treated by the courts as null and void"—citing *Osborn vs. The Bank of the United States*, 9 Wheaton, 859, and *Davis vs. Gray*, 16 Wallace, 220.

Now, if the legislation of Congress must be "corrective," then I ask, corrective of what? Certainly not of unconstitutional and void laws. That which is void, cannot be corrected. That which is unconstitutional is not the subject of correction. Con-

gress either has the right to legislate directly, or not at all; because indirect or corrective legislation can apply only, according to the Supreme Court, to unconstitutional and void laws that have been passed by a State; and as such laws cannot be "corrected," the doctrine of "corrective legislation" dies an extremely natural death.

A State can do one of three things: 1. It can pass an unconstitutional law; 2. It can pass a constitutional law; 3. It can fail to pass any law. The unconstitutional law, being void, cannot be corrected. The constitutional law does not need correction. And where no law has been passed, correction is impossible.

A Social Question.

The Supreme Court insists that Congress can not take action until the State does. A State that fails to pass any law on the subject, has not taken action. This leaves the person whose immunities and privileges have been invaded, with no redress except such as he may find in the State Courts in a suit at law; and if the State Court takes the same view that is apparently taken by the Supreme Court in this case,—namely, that it is a "social question," one not to be regulated by law, and not covered in any way by the Constitution—then, discrimination can be made against citizens by landlords and railway conductors, and they are left absolutely without remedy.

The Supreme Court asks, in this decision, "Can the act of a mere individual—the owner of the inn, or public conveyance, or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury properly cognizable by the laws of the State, and presumably subject to redress by those laws, until the contrary appears?" How is "the contrary to appear?" Suppose a person denied equal privileges upon the railway on account of race and color, brings suit and is defeated? And suppose the highest tribunal of the State holds that the question is of a "social" character—what then? If, to use the language of the Supreme Court, it is "an ordinary civil injury, imposing no badge of slavery or servitude," then, no Federal question is involved.

Why did not the Supreme Court tell us what may be done when "the contrary appears?" Nothing is clearer than the intention of the Supreme Court in this case—and that is, to decide that denying to a man equal accommodations at public inns on account of race or color, is not an abridgement of a privilege or immunity of a citizen of the United States, and that such per-

son, so denied, is not in a condition of involuntary servitude, nor denied the equal protection of the laws. In other words—that it is “a social question.”

I have been told by one who heard the decision when it was read from the bench, that the following phrase was in the opinion: “There are certain physiological differences of race that cannot be ignored.” That phrase is a lamp, in the light of which the whole decision should be read.

Suppose that in one of the Southern States, the negroes being in a decided majority and having entire control, had drawn the color line, had insisted that “there were certain physiological differences between the races that could not be ignored,” and had refused to allow white people to enter their hotels, to ride in the best cars, or to occupy the aristocratic portion of a theatre; and suppose that a white man, thrust from the hotels, denied the entrance to cars, had brought his suit in the Federal Court. Does any one believe that the Supreme Court would have intimated to that man that “there is only a social question involved,—a question with which the Constitution and laws has nothing to do, and that he must depend for his remedy upon the authors of the injury?” Would a white man, under such circumstances, feel that he was in a condition of involuntary servitude? Would he feel that he was treated like an underling, like a menial, like a serf? Would he feel that he was under the protection of the laws, shielded like other men by the Constitution? Of course, the argument of color is just as strong on one side as on the other. The white man says to the black, “You are not my equal because you are black;” and the black man can with the same propriety, reply, “You are not my equal because you are white.” The difference is just as great in the one case as in the other. The pretext that this question involves, in the remotest degree, a social question, is cruel, shallow, and absurd.

Holding States Responsible for the Acts of Agents.

The Supreme Court, some time ago, held that the 4th Section of the Civil Rights Act was constitutional. That section declares that: “no citizen possessing all other qualifications which are or may be prescribed by law, shall be disqualified for service as grand or petit juror in any Court of the United States or of any State, on account of color or previous condition of servitude.” It also provides that: “If any officer or other person charged with any duty in the selection or summoning of jurors, shall exclude, or fail to summon, any citizen in the case aforesaid, he shall, on conviction be guilty of misdemeanor and be fined not more than \$500.”

In the case known as *Ex-parte vs. Virginia*—found in 100 U. S. 339—it was held that an indictment against a State officer, under this section, for excluding persons of color from the jury, could be sustained. Now, let it be remembered, there was no law of the State of Virginia, by virtue of which a man was disqualified from sitting on the jury by reason of race or color. The officer did exclude, and did fail to summon, a citizen on account of race or color or previous condition of servitude. And the Supreme Court held: "that whether the Statute-book of the State actually laid down any such rule of disqualification or not, the State, through its officer, enforced such rule; and that it was against such State action, through its officers and agents, that the last clause of the section was directed."

The Court further held, that: "This aspect of the law was deemed sufficient to divest it of any unconstitutional character." In other words, the Supreme Court held that the officer was an agent of the State, although acting contrary to the statute of the State; and that, consequently, such officer, acting outside of law, was amenable to the Civil Rights Act, under the 14th Amendment, that referred only to States. The question arises: Is a State responsible for the action of its agent when acting contrary to law? In other words: Is the principal bound by the acts of his agent, that act not being within the scope of his authority? Is a State liable—or is the Government liable—for the act of any officer, that act not being authorized by law?

It has been decided a thousand times, that a State is not liable for the torts and trespasses of its officers. How then can the agent, acting outside of his authority, be prosecuted under a law deriving its entire validity from a Constitutional amendment applying only to States? Does an officer, by acting contrary to State law, become so like a State that the word State, used in the Constitution, includes him?

So it was held in the case of *Neal vs. Delaware*,—103 U. S., 307,—that an officer acting contrary to the laws of the State—in defiance of those laws—would be amenable to the Civil Rights Act, passed under an amendment to the Constitution now held applicable only to States.

It is admitted, and expressly decided in the case of *The U. S. vs. Reese et al.*, (already quoted) that when the wrongful refusal at an election is because of race, color, or previous condition of servitude, Congress can interfere and provide for the punishment of any individual guilty of such refusal—no matter whether such individual acted under or against the authority of the State.

With this statement I most heartily agree. I agree that: "When the wrongful refusal is because of race, color, or pre-

vious condition of servitude, Congress can interfere and provide for the punishment of any individual guilty of such refusal." That is the key that unlocks the whole question. Congress has power—full, complete, and ample,—to protect all citizens from unjust discrimination, and from being deprived of equal privileges on account of race, color, or previous condition of servitude. And this language is just as applicable to the 13th and 14th, as to the 15th, Amendment. If a citizen is denied the accommodations of a public inn, or a seat in a railway car, on account of race, or color, or deprived of liberty on account of race or color, the Constitution has been violated, and the citizen thus discriminated against or thus deprived of liberty, is entitled to redress in a Federal Court.

Does the word "State" Include the People ?

It is held by the Supreme Court that the word "State" does not apply to the "people" of the State—that it applies only to the agents of the people of the State. And yet, the word "State," as used in the Constitution, has been held to include not only the persons in office, but the people who elected them—not only the agents, but the principals. In the Constitution it is provided, that "no State shall coin money; and no State shall emit bills of credit." According to this decision, any person in any State, unless prevented by State authority, has the right to coin money and to emit bills of credit, and Congress has no power to legislate upon the subject—provided he does not counterfeit any of the coins or current money of the United States. Congress would have to deal—not with the individuals, but with the State; and unless the State had passed some act allowing persons to coin money, or emit bills of credit, Congress could do nothing. Yet, long ago Congress passed a statute preventing any person in any State from coining money. No matter if a citizen should coin it of pure gold, of the requisite fineness and weight, and not in the likeness of United States coins, he would be a criminal. We have a silver dollar, coined by the government, worth 85 cents; and yet, if any person, in any State, should coin what he called a dollar, not like our money, but with a dollar's worth of silver in it, he would be guilty of a crime.

It may be said that the Constitution provides that Congress shall have power to coin money, and provide for the punishment of counterfeiting the securities and current coin of the United States; in other words, that the Constitution gives power to Congress to coin money and denies it to the States, not only, but gives Congress the power to legislate against counterfeiting. So,

in the 13th, 14th, and 15th Amendments, power is given to Congress, and power is denied to the States, not only, but Congress is expressly authorized to enforce the amendments by appropriate legislation. Certainly, the power is as broad in the one case as in the other; and in both cases, individuals can be reached as well as States.

So, the Constitution provides that "Congress shall have power to regulate commerce among the several States." Under this clause Congress deals directly with individuals. The States are not engaged in commerce, but the people are; and Congress makes rules and regulations for the government of the people so engaged.

The Constitution also provides that "Congress shall have power to regulate commerce with the Indian tribes." It was held in the case of *The United States vs. Holliday*, 3 Wall., 407, that "Commerce with the Indian tribes means commerce with the individuals composing those tribes." And under this clause it has been further decided that Congress has the power to regulate commerce not only between white people and Indian tribes, but between Indian tribes; and not only that, but between individual Indians. *Worcester vs. The State*, 6 Pet., 575; *The United States vs. 43 Gallons*, 93 U. S., 188; *The United States vs. Shawmox*, 2 Saw., 304.

Now, if the word "tribe" includes individual Indians, may not the word "State" include citizens?

General Power of Congress.

In this decision it is admitted by the Supreme Court that where a subject is submitted to the general legislative power of Congress, then Congress has plenary powers of legislation over the whole subject. Let us apply these words to the 13th Amendment. In this very decision I find that the 13th Amendment, "by its own unaided force and effect, abolished slavery and established universal freedom." The court admits that "legislation may be necessary and proper to meet all the various cases and circumstances to be affected by it, and to prescribe proper modes of redress for its violation in letter or spirit." The court further admits: "And such legislation may be primary and direct in its character." And then gives the reason: "For the amendment is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States."

I now ask, has that subject—that is to say, Liberty,—been submitted to the general legislative power of Congress? The

13th Amendment provides that Congress shall have power to enforce that amendment by appropriate legislation.

In construing the 13th and 14th Amendments and the Civil Rights Act, it seems to me that the Supreme Court has forgotten the principle of construction that has been laid down so often by courts, and that is this: that in construing statutes, courts may look to the history and condition of the country as circumstances from which to gather the intention of the legislature. So it seems to me that the Court failed to remember the rule laid down by Story in the case of *Prigg vs. The Commonwealth of Pennsylvania*, 16 Pet., 611, a rule laid down in the interest of slavery—laid down for the purpose of depriving human beings of their liberty: "Perhaps the safest rule of interpretation, after all, will be found to be to look to the nature and objects of the particular powers, duties and rights with all the lights and aids of contemporary history, and to give to the words of each just such operation and force, consistent with their legitimate meaning, as may fairly secure and attain the ends proposed."

It must be admitted that certain rights were conferred by the 13th Amendment. Surely certain rights were conferred by the 14th Amendment; and these rights should be protected and upheld by the Federal Government. And it was held in the case last cited, that: "If by one mode of interpretation the right must become shadowy and unsubstantial, and without any remedial power adequate to the end, and by another mode it will attain its just end and secure its manifest purpose—it would seem, upon principles of reasoning, absolutely irresistible that the latter ought to prevail. No court of justice can be authorized so to construe any clause of the Constitution as to defeat its obvious ends, when another construction, equally accordant with the words and sense thereof, will enforce and protect them."

The State Must First Act.

In the present case, the Supreme Court holds, that Congress can not legislate upon this subject until the State has passed some law contrary to the Constitution.

I call attention, in reply to this, to the case of *Hall vs. De Cuir*, 95 U. S., 486. The State of Louisiana, in 1869, acting in the spirit of these Amendments to the Constitution, passed a law requiring that all persons engaged within that State in the business of common carriers of passengers, should make no discrimination on account of race, color, or previous condition of servitude. Under this law, Mrs. De Cuir, a colored woman, took passage on a steamer, buying a ticket from New Orleans to Her-

mitage—the entire trip being within the limits of the State. The captain of the boat refused to give her equal accommodations with other passengers—the refusal being on the ground of her color. She commenced suit against the captain in the State Court of Louisiana, and recovered judgment for \$1,000. The defendant appealed to the Supreme Court of that State, and the judgment of the lower court was sustained. Thereupon, the captain died, and the case was taken to the Supreme Court of the United States by his administrator, on the ground that a Federal question was involved.

You will see that this was a case where the State had acted, and had acted exactly in accordance with the Constitutional Amendments, and had by law provided that the privileges and immunities of the citizen of the United States—residing in the State of Louisiana—should not be abridged, and that no distinction should be made on account of race or color. But in that case the Supreme Court of the United States solemnly decided that the legislation of the State was void—that the State of Louisiana had no right to interfere—no right, by law, to protect a citizen of the United States from being discriminated against under such circumstances.

You will remember that the plaintiff, Mrs. De Cuir, was to be carried from New Orleans to Hermitage, and that both places were within the State of Louisiana. Notwithstanding this, the Supreme Court held: "That if the public good required such legislation, it must come from Congress, and not from the State." What reason do you suppose was given? It was this. The Constitution gives to Congress power to regulate commerce between the States; and it appeared from the evidence given in that case, that the boat plied between the ports of New Orleans and Vicksburg. Consequently, it was engaged in inter-state commerce. Therefore, it was under the protection of Congress; and being under the protection of Congress, the State had no authority to protect its citizens by a law in perfect harmony with the Constitution of the United States, while such citizens were within the limits of Louisiana. The Supreme Court scorns the protection of a State!

In the case recently decided, and about which we are talking to-night, the Supreme Court decides exactly the other way. It decides that if the public good requires such legislation, it must come from the States, and not from Congress; that Congress cannot act until the State has acted, and until the State has acted wrong, and that Congress can then only act for the purpose of "correcting" such State action. The decision in *Hall vs. De Cuir* was rendered in 1877. The Civil Rights Act was then in force, and applied to all persons within the jurisdiction of the

United States, and provided expressly that: "All persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, privileges, and facilities of inns, public conveyances on land or water, theatres and other places of public amusement, without regard to race or color." And yet, the Supreme Court said: "No carrier of passengers can conduct his business with satisfaction to himself, or comfort to those employing him, if on one side of a State line his passengers, both white and colored, must be permitted to occupy the same cabin, and on the other to be kept separate." What right had the other State to pass a law that passengers should be kept separate, on account of race or color? How could such a law have been constitutional? The Civil Rights Act applied to all States, and to both sides of the lines between all States, and produced absolute uniformity—and did not put the captain to the trouble of dividing his passengers. The court further said: "Uniformity in the regulations by which the carrier is to be governed from one end to the other of his route, is a necessity in his business." The uniformity had been guaranteed by the Civil Rights Act, and the statute of the State of Louisiana was in exact conformity with the 14th Amendment, and the Civil Rights Act. The Court also said: "And to secure uniformity, Congress, which is untrammelled by State lines, has been invested with the exclusive power of determining what such regulations shall be."

Yes. Congress has been invested with such power, and Congress has used it in passing the Civil Rights Act—and yet, under these circumstances, the court proceeds to imagine the difficulty that a captain would have in dividing his passengers as he crosses a State line, keeping them apart until he reaches the line of another State, and then bringing them together, and so going on through the process of dispersing and huddling, to the end of his unfortunate route!

It is held by the Supreme Court, that uniformity of duties is essential to the carrier, and so essential, that Congress has control of the whole matter. If uniformity is so desirable for the carrier that Congress takes control, then uniformity as to the rights of passengers is equally desirable—and under the 13th and 14th Amendments, Congress has the exclusive power to state what the rights, privileges and immunities of passengers shall be. So that, in 1877, the Supreme Court decided that the *States could not* legislate—and in 1883, that *Congress could not*, unless the State had! If Congress controls inter-state commerce upon the navigable waters, it also controls inter-state commerce upon the railways. And if Congress has exclusive jurisdiction in the one case, it has in the other. And if it has exclusive ju-

isdiction, it does not have to wait until States take action. If it does not have to wait until States take action, then the Civil Rights Act, in so far as it refers to the rights of passengers going from one State to another, must be constitutional.

Appropriate Legislation.

It must be remembered, in this discussion, that the 8th Section of the Constitution conferred upon Congress the power: "To make all laws that may be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States."

So, the 2d Section of the 13th Article provides: "Congress shall have power to enforce this article by appropriate legislation." The same language is used in the 14th and 15th Amendments.

"This clause does not limit—it enlarges—the powers vested in the General Government. It is an additional power—not a restriction on those already granted. It does not impair the right of the legislature to exercise its best judgment in the selection of measures to carry into execution the constitutional powers of the government. A sound construction of the Constitution must allow to the National Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate—let it be within the scope of the Constitution, and all means which are appropriate—which are plainly adapted to that end—are constitutional." This is the language of Chief Justice Marshall, in the case of *M'Cauley vs. The State*, 4 Wheaton, 316.

"Congress must possess the choice of means, and must be empowered to use any means which are in fact conducive to the exercise of a power granted by the Constitution." *U. S. vs. Fisher*, 2 Cranch, 358.

Again: "The power of Congress to pass laws to enforce rights conferred by the Constitution is not limited to the express powers of legislation enumerated in the Constitution. The powers which are necessary and proper as means to carry into effect rights expressly given and duties expressly enjoined, are always implied. The end being given, the means to accomplish it are given also." *Prigg vs. The Commonwealth*, 16 Peters, 539.

This decision was delivered by Justice Story, and is the same one already referred to, in which liberty was taken from a human being by judicial construction. It was held in that case that the 2nd section of the 4th Article of the Constitution, to which I have already called attention, contained "a positive and unqualified recognition of the right" of the owner in a slave, unaffected by any State law or regulation. If this is so, then I assert that the 13th Amendment "contains a positive and unqualified recognition of the right" of every human being to liberty; that the 14th Amendment "contains a positive and unqualified recognition of the right" to citizenship; and that the 15th Amendment "contains a positive and unqualified recognition of the right" to vote.

Justice Story held in that case, that "under and by virtue of that section of the Constitution the owner of a slave was clothed with entire authority in every State in the nation to seize and recapture his slave." He also held, that "in that sense, and to that extent, that clause of the Constitution might properly be said to execute itself, and to require no aid from legislation—State or National." "But," says Justice Story, "the clause of the Constitution does not stop there, but says that he, the slave, shall be delivered up on claim of the party to whom such service or labor may be due;" and he holds, that "under that clause of the section Congress became clothed with the appropriate authority to legislate for its enforcement."

Now let us look at the 13th and 14th Amendments in the light of that decision.

First. Liberty and citizenship were given the colored people by this amendment. And Justice Story tells us that "the power of Congress to enforce rights conferred by the Constitution is not limited to the express powers of legislation enumerated in the Constitution, but the powers which are necessary to protect such rights are always implied." Language cannot be stronger; words cannot be clearer.

But now this decision has been reversed by the Supreme Court, and Congress is left powerless to protect rights conferred by the Constitution. It has been shorn of implied powers. It has duties to perform, and no power to act. It has rights to protect, but cannot choose the means. It is entangled in its own strength. It is a prisoner in the Bastille of judicial construction.

Let us go further. Justice Story tells us that "the words, 'but shall be given up on the claim of the person to whom such labor or service may be due,' clothes Congress with the appropriate authority to legislate for its enforcement."

In the light of this remark, let us look at the 14th Amend-

ment: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." To which are added these words: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Now if the words: "But shall be delivered up on claim of the party to whom such service or labor may be due," clothes Congress with power to legislate upon the entire subject, then I ask if the words in the 14th Amendment declaring that "no law shall be made by any State, or enforced, which shall abridge the privileges or immunities of citizens of the United States; and that no State shall deprive any person of life, liberty and property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws," does not clothe Congress with the power to legislate upon the entire subject?

In the two cases there is only this difference: The first decision was made in the interest of human slavery—made to protect property in man; and the second decision *ought* to have been made for exactly the opposite purpose. Under the first decision, Congress had the right to select the means—but now, that is denied. And yet it was decided in *M'Cauley vs. The State*, 4 Wheaton, 316, that, "when the government has a right to do an act, and has imposed on it the duty of performing an act, then it must, according to the dictates of reason, be allowed to select the means."

Again: "The Government has the right to employ freely every means not prohibited, for the fulfilment of its acknowledged duties. 12 Wallace, 457—*The Legal Tender Cases*."

It will thus be seen that Congress has the undoubted right to make all laws necessary for the exercise of all the powers vested in it by the Constitution. When the Constitution imposes a duty upon Congress, it grants the necessary means. Congress certainly, then, has the right to pass all necessary laws for the enforcement of the 13th, 14th and 15th Amendments. Any legislation is "appropriate" that is calculated to accomplish the end sought and that is not repugnant to the Constitution. Within these limits Congress has the sovereign power of choice. No better definition of "appropriate legislation" has been given than that by the Supreme Court of California, in the case of *The People vs. Washington*, 38 California, 658: "Legislation which practically tends to facilitate the securing to all, through the aid of the judicial and executive departments of the Government, the full enjoyment of personal freedom, is appropriate."

Where is this to stop?

The Supreme Court despairingly asks: "If this legislation is appropriate for enforcing the prohibitions of the Amendment, it is difficult to see where it is to stop. Why may not Congress, with equal show of authority, enact a code of laws for the enforcement and vindication of all rights of life, liberty and property?"

My answer is: The legislation will stop when and where the discriminations on account of race, color or previous condition of servitude, stop. Whenever an immunity or privilege of a citizen of the United States is trodden down by the State, or by an individual, under the circumstances mentioned in the Civil Rights Act—that is to say, on account of race, color or previous condition of servitude—then the Federal Government must interfere. The Government must defend the immunities and privileges of its citizens, not only from State invasion, but from individual invaders, when that invasion is based upon the distinction of race, color, or previous condition of servitude. The Government has taken upon itself that duty. This duty can be discharged by a law making a uniform rule, obligatory not only upon States, but upon individuals. All this will stop when the discriminations stop!

Propositions.

After such examination of the authorities as I have been able to make, I lay down the following propositions, namely:

1. The sovereignty of a State extends only to that which exists by its own authority.
2. The powers of the General Government were not conferred by the people of a single State; they were given by the people of the United States; and the laws of the United States, in pursuance of the Constitution, are supreme over the entire Republic.
3. The Constitution of the United States is the supreme law of each State.
4. The United States is a government whose authority extends over the whole territory of the Union, acting upon all the States and upon all the people of all the States.
5. No State can exclude the Federal Government from the exercise of any authority conferred upon it by the Constitution, or withhold from it, for a moment, the cognizance of any subject which that instrument has committed to it.
6. It is the duty of Congress to enforce the Constitution, and it has been clothed with power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the General Government.

7. It is the duty of the Government to protect every citizen of the United States in all his rights, everywhere, without regard to race, color, or previous condition of servitude; and this the Government has the right to do by direct legislation.

8. Every citizen, when his privileges and immunities are invaded by the legislature of a State, has the right of appeal from such State to the Supreme Court of the Nation.

9. When a State fails to pass any law protecting a citizen from discrimination on account of race or color; and fails, in fact, to protect such citizen, then such citizen has the right to find redress in the Federal Courts.

10. Whenever, in the Constitution, a *State* is prohibited from doing anything that in the nature of the thing can be done by any *citizen* of that State, then the word "State" embraces and includes all the people of a State.

11. The 13th Amendment declares that neither slavery nor involuntary servitude shall exist within the jurisdiction of the United States.

This is not a mere negation—it is a splendid affirmation. The duty is imposed upon the general government, by that Amendment, to see to it that neither slavery nor involuntary servitude shall exist.

It is a question absolutely within the power of the Federal government, and the Federal government is clothed with power to make all necessary laws to enforce that Amendment against States and persons.

12. The 14th Amendment provides that all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. This is also an affirmation. It is not a prohibition. The moment that amendment was adopted, it became the duty of the United States to protect the citizens recognized or created by that Amendment. We are no longer citizens of the United States because we are citizens of a State, but we are citizens of the United States because we have been born or have been naturalized within the jurisdiction of the United States. It therefore follows, that it is not only the right—but it is the duty, of Congress, to pass all laws necessary for the protection of citizens of the United States.

13. Congress can not shirk this responsibility by leaving citizens of the United States to the care and keeping of the several States.

The recent decision of the Supreme Court cuts, as with a sword, the tie that binds the citizen to the Nation. Under the old Constitution, it was not certainly known who were citizens of the United States. There were citizens of the States, and such

citizens looked to their several States for protection. The Federal government had no citizens. Patriotism did not rest on mutual obligation. Under the 14th Amendment, we are all citizens of a common country; and our first duty, our first obligation, our highest allegiance, is not to the State in which we reside, but to the Federal government. The 14th Amendment tends to destroy State prejudices and lays a foundation for National patriotism.

14. All statutes—all amendments to the Constitution—in derogation of natural rights, should be strictly construed.

15. All statutes and amendments for the preservation of natural rights should be liberally construed. Every Court should, by strict construction, narrow the scope of every law that infringes upon any natural human right; and every Court should, by construction, give the broadest meaning to every statute or constitutional provision passed or adopted for the preservation of freedom.

16. In construing the 13th, 14th, and 15th Amendments, the Supreme Court need not go back to decisions rendered in the days of slavery—when every statute was construed in favor of the sovereignty of the State and the rights of the master. These amendments utterly obliterated such decisions. The Supreme Court should begin with the amendments. It need not look behind them. They are a part of the fundamental organic law of the Nation. They were adopted to destroy the old statutes, to obliterate the infamous clauses in the Constitution, and to lay a new foundation for a new Nation.

17. Congress has the power to eradicate all forms and incidents of slavery and involuntary servitude, by direct and primary legislation binding upon States and individuals alike. And when citizens are denied the exercise of common rights and privileges—when they are refused admittance to public inns and railway cars, on an equality with white persons,—and when such denial and refusal are based upon race and color, such citizens are in a condition of involuntary servitude.

The Supreme Court has failed to take into consideration the intention of the framers of these amendments. It has failed to comprehend the spirit of the age. It has undervalued the accomplishments of the war. It has not grasped in all their height and depth the great amendments to the Constitution and the real object of government. To preserve liberty is the only use for government. There is no other excuse for legislatures, or presidents, or courts, for statutes or decisions. Liberty is not simply a means—it is an end. Take from our history, our literature, our laws, our hearts—that word, and we are nought but moulded clay. Liberty is the one priceless jewel. It includes

and holds and is the weal and wealth of life. Liberty is the soil and light and rain—it is the plant and bud and flower and fruit—and in that sacred word lie all the seeds of progress, love and joy.

This decision, in my judgment, is not worthy of the Court by which it was delivered. It has given new life to the serpent of State sovereignty. It has breathed upon the dying embers of ignorant hate. It has furnished food and drink, breath and blood, to prejudices that were perishing of famine, and in the old case of *Civilization vs. Barbarism* it has given the defendant a new trial.

From this decision, John M. Harlan had the breadth of brain, the goodness of heart, and the loyalty to logic, to dissent. By the fortress of Liberty, one sentinel remains at his post. For moral courage I have supreme respect, and I admire that intellectual strength that breaks the cords and chains of prejudice and damned custom as though they were but threads woven in a spider's loom. This judge has associated his name with freedom and he will be remembered as long as men are free.

“Property Cannot Exist Without Law.”

We are told by the Supreme Court that: “Slavery cannot exist without law any more than property in lands and goods can exist without law.”

I deny that property exists by virtue of law. I take exactly the opposite ground. It was the fact that man had property in lands and goods that produced laws, for the protection of such property. The Supreme Court has mistaken an effect for a cause. Laws passed for the protection of property sprang from the possession and ownership of the thing to be protected. When one man enslaves another, it is a violation of all justice—a subversion of the foundation of all law. Statutes passed for the purpose of enabling man to enslave his fellow man, resulted from a conspiracy entered into by the representatives of brute force. Nothing can be more absurd than to call such a statute, born of such a conspiracy—a *law*! According to the idea of the Supreme Court, man never had property until he had passed a law upon the subject. The first man who gathered leaves upon which to sleep, did not own them, because no *law* had been passed on the leaf subject! The first man who gathered fruit—the first man who fashioned a club with which to defend himself from wild beasts, according to the Supreme Court, had no property in these things, because no *laws* had been passed, and no courts had published their decisions!

So, the defenders of monarchy have taken the ground that

societies were formed by contract—as though at one time men all lived apart, and came together by agreement and formed a government. We might just as well say that the trees got into groves by contract or conspiracy. Man is a social being. By living together there grew out of the relation certain regulations, certain customs. These at last hardened into what we call *law*—into what we call forms of government—and people who wish to defend the idea that we got everything from the King, say that our fathers made a contract! Nothing can be more absurd! Men did not agree upon a form of government and then come together—but being together they made rules for the regulation of conduct. Men did not make some laws and then get some property to fit the laws, but having property they made laws for its protection.

Social Equality.

It is hinted by the Supreme Court that this is in some way a question of social equality. It is claimed that social equality cannot be enforced by law. Nobody thinks it can. This is not a question of social equality, but of equal rights. A colored citizen has the same right to ride upon the cars—to be fed and lodged at public inns, and to visit theatres, that I have. Social equality is not involved.

The Federal soldiers who escaped from Libbey and Andersonville, and who in swamps, in storm, and darkness, were rescued and fed by the slave, had no scruples about eating with a negro. They were willing to sit beneath the same tree and eat with him the food he brought. The white soldier was then willing to find rest and slumber beneath the negro's roof. Charity has no color. It is neither white nor black. Justice and Patriotism are the same. Even the Confederate soldier was willing to leave his wife and children under the protection of a man whom he was fighting to enslave.

Danger does not draw these nice distinctions as to race or color. Hunger is not proud. Famine is exceedingly democratic in the matter of food. In the moment of peril, prejudices perish. The man fleeing for his life does not have the same ideas about social questions as he who sits in the Capitol wrapped in official robes. Position is apt to be supercilious. Power is sometimes cruel. Prosperity is often heartless.

This cry about social equality is born of the spirit of caste—the most fiendish of all things. It is worse than slavery. Slavery is at least justified by avarice—by a desire to get something for nothing—by a desire to live in idleness upon the labor of others—but the spirit of caste is the offspring of natural cruelty and meanness.

Social relations depend upon almost an infinite number of influences and considerations. We have our likes and dislikes. We choose our companions. This is a natural right. You cannot force into my house persons whom I do not want. But there is a difference between a public house and a private house. The one is for the public. The private house is for the family and those they may invite. The landlord invites the entire public, and he must serve those who come if they are fit to be received. A railway is public, not private. It derives its powers and its rights from the State. It takes private land for public purposes. It is incorporated for the good of the public, and the public must be served. The railway, the hotel, and the theatre, have a right to make a distinction between people of good and bad manners—between the clean and the unclean. There are white people who have no right to be in any place except a bath-tub, and there are colored people in the same condition. An unclean white man should not be allowed to force himself into a hotel, nor into a railway car—neither should the unclean colored. What I claim is, that in public places, no distinction should be made on account of race or color. The bad black man should be treated like the bad white man, and the good black man like the good white man. Social equality is not contended for—neither between white and white, black and black, nor between white and black.

In all social relations we should have the utmost liberty—but public duties should be discharged and public rights should be recognized, without the slightest discrimination on account of race or color. Riding in the same cars, stopping at the same inns, sitting in the same theatres, no more involve a social question, or social equality, than speaking the same language, reading the same books, hearing the same music, travelling on the same highway, eating the same food, breathing the same air, warming by the same sun, shivering in the same cold, detending the same flag, loving the same country, or living in the same world.

And yet, thousands of people are in deadly fear about social equality. They imagine that riding with colored people, is dangerous—that the chance acquaintance may lead to marriage. They wish to be protected from such consequences by law! They dare not trust themselves. They appeal to the Supreme Court for assistance, and wish to be barricaded by a Constitutional Amendment! They are willing that colored women shall prepare their food—that colored waiters shall bring it to them—willing to ride in the same cars with the porters and to be shown to their seats in theatres by colored ushers—willing to be nursed,

in sickness, by colored servants. They see nothing dangerous—nothing repugnant, in any of these relations,—but the idea of riding in the same car, stopping at the same hotel, fills them with fear—fear for the future of our race! Such people can be described only in the language Walt. Whitman. *They are the immutable, granitic pudding-heads of the world!*

Liberty is not a social question. Civil equality is not social equality. We are equal only in rights. No two persons are of equal weight, or height. There are no two leaves in all the forests of the earth alike—no two blades of grass—no two grains of sand—no two hairs. No two anythings in the physical world are precisely alike. Neither mental nor physical equality can be created by law, but law recognizes the fact that all men have been clothed with equal rights by Nature, the mother of us all.

The man who hates the black man, because he is black, has the same spirit as he who hates the poor man, because he is poor. It is the spirit of caste. The proud useless despises the honest useful. The parasite idleness scorns the great oak of labor on which it feeds and that lifts it to the light.

I am the inferior of any man whose rights I trample under foot. Men are not superior by reason of the accidents of race or color. They are superior who have the best heart—the best brain. Superiority is born of honesty, of virtue, of charity, and above all, of the love of liberty. The superior man is the providence of the inferior. He is eyes for the blind, strength for the weak, and a shield for the defenseless. He stands erect by bending above the fallen. He rises by lifting others.

Means of Redress.

In this country all rights must be preserved, all wrongs redressed, through the ballot. The colored man has in his possession, in his care, a part of the sovereign power of the Republic. At the ballot-box he is the equal of judges and senators and presidents, and his vote, when counted, is the equal of any other. He must use this sovereign power for his own protection, and for the preservation of his children. The ballot is his sword and shield. It is his political providence. It is the rock on which he stands, the column against which he leans. He should vote for no man who does not believe in equal rights for all—in the same privileges and immunities for all citizens, irrespective of race or color.

He should not be misled by party cries, nor by vague promises in political platforms. He should vote for the men, for the party, that will protect him; for Congressmen who believe in liberty, for judges who worship justice—whose brains are not

tangled by technicalities, and whose hearts are not petrified by precedents; and for Presidents who will protect the blackest citizen from the tyranny of the whitest state. As you cannot trust the word of some white people, and as some black people do not always tell the truth, you must compel all candidates to put their principles in black and white.

Of one thing you can rest assured: the best white people are your friends. The humane, the civilized, the just, the most intelligent, the grandest, are on your side. The sympathies of the noblest are with you. Your enemies are also the enemies of liberty, of progress and of justice. The white men who make the white race honorable believe in equal rights for you. The noblest living are, the noblest dead were, your friends. I ask you to stand with your friends.

Do not hold the Republican party responsible for this decision, unless the Republican party endorses it. Had the question been submitted to that party, it would have been decided exactly the other way—at least a hundred to one. That party gave you the 13th, 14th and 15th Amendments. They were given in good faith. These amendments put you on a constitutional and political equality with white men. That they have been narrowed in their application by the Supreme Court, is not the fault of the Republican party. Let us wait and see what the Republican party will do. That party has a strange history, and in that history is a mingling of cowardice and courage. The army of progress always becomes fearful after victory, and courageous after defeat. It has been the custom for principle to apologize to prejudice. The Proclamation of Emancipation gave liberty only to slaves beyond our lines—those beneath our flag were left to wear their chains. We said to the Southern States: "Lay down your arms, and you shall keep your slaves." We tried to buy peace at the expense of the negro. We offered to sacrifice the manhood of the North and the natural rights of the colored man upon the altar of the Union. The rejection of that offer saved us from infamy. At one time we refused to allow the loyal black man to come within our lines. We would meet him at the outposts, receive his information, and drive him back to chain and lash. The Government publicly proclaimed that the war was waged to save the Union, *with* slavery. We were afraid to claim that the negro was a man—afraid to admit that he was property—and so we called him "contraband." We hesitated to allow the negro to fight for his own freedom—hesitated to let him wear the uniform of the Nation while he battled for the supremacy of its flag.

These are some of the inconsistencies of the past. In spite of them we advanced. We were educated by events, and at last

we clearly saw that Slavery was Rebellion; that the "institution" had borne its natural fruit—civil war; that the entire country was responsible for slavery, and that slavery was responsible for rebellion. We declared that slavery should be extirpated from the Republic. The great armies led by the greatest commander of the modern world shattered, crushed and demolished the rebellion. The North grew grand. The people became sublime. The three sacred amendments were adopted. The Republic was free.

Then came a period of hesitation, apology and fear. The colored citizen was left to his fate. For years, the Federal arm, palsied by policy, was powerless to protect; and this period of fear, of hesitation, of apology, of lack of confidence in the right, has borne its natural fruit—this decision of the Supreme Court.

But it is not for me to give you advice. Your conduct has been above all praise. You have been as patient as the earth beneath, as the stars above. You have been law-abiding and industrious. You have not offensively asserted your rights, nor offensively borne your wrongs. You have been modest and forgiving. You have returned good for evil. When I remember that the ancestors of my race were in universities and colleges and common schools while you and your fathers were on the auction-block, in the slave-pen, or in the field beneath the cruel lash, in States where reading and writing were crimes, I am astonished at the progress you have made.

All that I—all that any reasonable man—can ask is, that you continue doing as you have done. Above all things—*educate your children*—strive to make yourselves independent—work for homes—work for yourselves—and wherever it is possible become the masters of yourselves.

Nothing gives me more pleasure than to see your little children with books under their arms, going and coming from school.

Race Hatreds.

It is very easy to see why colored people should hate us, but why we should hate them is beyond my comprehension. They never sold our wives. They never robbed our cradles. They never scarred our backs. They never pursued us with blood-hounds. They never branded our flesh.

It has been said that it is hard to forgive a man to whom we have done a great injury. I can conceive of no other reason why we should hate the colored people. To us they are a standing reproach. Their history is our shame.

Their virtues seem to enrage some white people—their patience

to provoke, and their forgiveness to insult. Turn the tables—change places—and with what fierceness, with what ferocity, with what insane and passionate intensity we would hate them!

The colored people do not ask for revenge—they simply ask for justice. They are willing to forget the past—willing to hide their scars—eager to bury the broken chains, and to forget the miseries and hardships, the tears and agonies, of two hundred years.

The old issues are again upon us. Is this a Nation? Have all citizens of the United States equal rights, without regard to race or color? Is it the duty of the General Government to protect its citizens? Can the Federal arm be palsied by the action or non-action of a State?

Another opportunity is given for the people of this country to take sides. According to my belief, the supreme thing for every man to do is to be absolutely true to himself. All consequences—whether rewards or punishments, whether honor and power, or disgrace and poverty, are as dreams undreamt. I have made my choice. I have taken my stand. Where my brain and heart go, there I will publicly and openly walk. Doing this, is my highest conception of duty. Being allowed to do this, is liberty.

If this is not now a free government; if citizens cannot now be protected, regardless of race or color; if the three sacred amendments have been undermined by the Supreme Court—we must have another; and if that fails, then another; and we must neither stop, nor pause, until the Constitution shall become a perfect shield for every right, of every human being, beneath our flag.

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COL. INGERSOLL'S NOTE TO THE PUBLIC.

WASHINGTON, D. C., July 10, 1880.

I wish to notify the public that all books and pamphlets purporting to contain my lectures, and not containing the imprint of Mr. C. P. FARRELL as publisher, are spurious, grossly inaccurate, filled with mistakes, horribly printed, and outrageously unjust to me. The publishers of all such are simply literary thieves and pirates, and are obtaining money from the public under false pretences. These wretches have published one lecture under four titles, and several others under two or three.

I take this course to warn the public that these publications are fraudulent; the only correct editions being those published by Mr. C. P. Farrell.

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Friends and fellow citizens:

I have only a few few words to say to you ~~on~~ this ^{Evening} ~~occasion~~, and in order that those few words shall be well chosen, and not ^{liable to be} misunderstood, distorted, or misrepresented, I have been at the pains of writing them out in full. It may be after all, that the hour calls more loudly for silence than for speech. Later on in this discussion, when we ^{shall} have the full text of the recent decision of the Supreme Court before us, and the dissenting opinion of Judge Carlon, who must have weighty reasons for ^{separating} ~~himself~~ from ^{all his associates,} ~~the opinion~~ and incurring thereby ^{as he must} an amount of criticism from which, even a brave man ^{than he} might ^{would} shrink, we may be in better frame of mind, better supplied with facts, and better prepared to speak calmly, correctly and wisely than now. The temptation at this time is to speak ^{of course} more from feeling than ^{reason, more from impulse than} reflection. We have been, one day, grievously wounded, wounded in the house of our friends. ~~and~~ ^{his} wound is too fresh, and too painful for ordinary

and measured speech.

"When a deed is done for Freedom,
Through the broad earth's aching breast,
Runs a thrill of joy prophetic,
Trembling on from east to west."

But when a deed is done for slavery, caste
and oppression and a blow is struck at
human progress, ^{whether so intended or not} the heart of humanity
sicken ^{writes with} in sorrow and pain. It makes us
feel as if some one were stamping on the
graves of our mothers, ^{or desecrating our sacred temples of worship,} Only base men
and oppressors can rejoice over a triumph
of injustice, over the weak and defenceless,
for weakness ought itself to protect from
^{assaults of} pride, prejudice and power.

The cause which has brought
us here to night is neither common nor
trivial. Few events in our National his-
tory have surpassed it in magnitude
significance and importance. It has