Neglected Voices

Speeches of African-American Representatives Addressing the Civil Rights Bill of 1875

Representative Robert B. Elliot, engaging on January 6, 1874, in a debate that addressed the constitutionality of the bill, the import of the Slaughter-House Cases, and the risk that the Bill would exacerbate racial hostility:

Mr. ELLIOT. While I am sincerely grateful for this high mark of courtesy that has been accorded to me by this House, it is a matter of regret to me that it is necessary at this day that I should rise in the presence of an American Congress to advocate a bill which simply asserts equal rights and equal public privileges for all classes of American citizens. I regret, sir, that the dark hue of my skin may lend a color to the imputation that I am controlled by motives personal to myself in my advocacy of this great measure of national justice. Sir, the motive that impels me is restricted by no such narrow boundary, but is as broad as your Constitution. I advocate it, sir, because it is right. The bill, however, not only appeals to your justice, but it demands a response from your gratitude.

In the events that led to the achievement of American Independence the negro was not an inactive or unconcerned spectator. He bore his part bravely upon many battle-fields, although uncheered by that certain hope of political elevation which victory would secure to the white man. The tall granite shaft, which a grateful State has reared above its sons who fell in defending Fort Griswold against the attack of Benedict Arnold, bears the name of Jordan, Freeman, and other brave men of the African race who there cemented with their blood the corner-stone of the Republic. In the State which I have the honor in part to represent the rifle of the black man rang out against the troops of the British crown in the darkest days of the American revolution. Said General Greene, who has been justly termed the Washington of the North, in a letter written by him to Alexander Hamilton, on the 10th day of January, 1781, from the vicinity of Camden, South Carolina:

There is no such thing as national character or national sentiment. The inhabitants are numerous, but they would be rather formidable abroad than at home. There is a great spirit of enterprise among the black people, and those that come out as volunteers are not a little formidable to the enemy.

At the battle of New Orleans, under the immortal Jackson, a colored regiment held the extreme right of the American line unflinchingly, and drove back the British column that pressed upon them, at the point of the bayonet. So marked was their valor on that occasion that it evoked from their great commander the warmest encomiums, as will be seen from his dispatch announcing the brilliant victory.

As the gentleman from Kentucky, [Mr. Beck,] who seems to be the leading exponent on this floor of the party that is arrayed against the principle of this bill; has been pleased, in season and out of season, to cast odium upon the negro and to vaunt the chivalry of his state, I may be pardoned for calling attention to another portion of the same dispatch. Referring to the various regiments under his command, and their conduct on that field which terminated the second war of American Independence, General Jackson says:

At the very moment when the entire discomfiture of the enemy was looked for with a confidence amounting to certainty, the Kentucky reenforcements, in whom so much reliance had been placed, ingloriously fled.

In quoting this indisputable piece of history, I do so only by way of admonition and not to question the well-attested gallantry of the true Kentuckian, and to suggest to the gentleman that it would be well that he should not flaunt his heraldry so proudly while he bears this scar--sinister on the military escutcheon of his State--a State which answered the call of the Republic in 1861, when treason thundered at the very gates of the capital by coldly declaring her neutrality in the impending struggle. The negro, true to that patriotism and love of country that have ever characterized and marked his history on this continent, came to the aid of the Government in its efforts to maintain the Constitution. To that Government he now appeals; that Constitution he now invokes for protection against outrage and unjust prejudices founded upon caste.

But, sir, we are told by the distinguished gentleman from Georgia [Mr. Stephens] that Congress has no power under the Constitution to pass such a law, and that the passage of such an act is in direct contravention of the rights of the States. I cannot assent to any such proposition. The constitution of a free government ought always to be construed in favor of human rights. Indeed, the thirteenth, fourteenth, and fifteenth amendments, in positive words, invest Congress with the power to protect the citizen in his civil and political rights. Now, sir, what are civil rights: Rights natural, modified by civil society. Mr. Lieber says:

By civil liberty is meant, not only the absence of individual restraint, but liberty within the social system and political organism--a combination of principles and laws which acknowledge, protect, and favor the dignity of man. * * * Civil liberty is the result of man's two-fold character as an individual and social being, so soon as both are equally respected.-- *Lieber on Civil Liberty*, page 25.

Alexander Hamilton, the right-hand man of Washington in the perilous days of the then infant Republic, the great interpreter and expounder of the Constitution says:

Natural liberty is a gift of the beneficent Creator to the whole human race: civil liberty is founded on it: civil liberty is only natural liberty modified and secured by civil society. -- *Hamilton's History of the American Republic*, vol. 1, page 70.

In the French constitution of June, 1793, we find this grand and noble declaration:

Government is instituted to insure to man the free use of his natural and inalienable rights. These rights are equality, liberty, security, property. All men are equal by nature and before the law. * * * Law is the same for all, be it protective or penal. Freedom is the power by which man can do what does not interfere with the rights of another: its basis is nature, its standard is justice, its protection is law, its moral boundary is the maxim: "Do not unto others what you do not wish they should do unto you.

Are we then, sir, with the amendments to our Constitution staring us in the face; with these grand truths of history before our eyes; with innumerable wrongs daily inflicted upon five million citizens demanding redress, to commit this question to the diversity of State legislation? In the words of Hamilton--

Is it the interest of the Government to sacrifice individual rights to the preservation of the rights of an artificial being called States? There can be no truer principle than this, that every individual of the community at large has an equal right to the protection of Government. Can this be a free Government if partial distinctions are tolerated or maintained?

The rights contended for in this bill are among "the sacred rights of mankind, which are not to be rummaged for among old parchments or musty records: they are written as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power."

But the Slaughter-house cases! --the Slaughter-house cases!

The honorable gentleman from Kentucky, always swift to sustain the failing and dishonored cause of proscription, rushes forward and flaunts in our faces the decision of the Supreme Court of the United States in the Slaughter-house cases, and in that act he has been willingly aided by the gentleman from Georgia. Hitherto, in the contests which have marked the progress of the cause of equal civil rights, our opponents

have appealed sometimes to custom, sometimes to prejudice, more often to pride of race, but they have never sought to shield themselves behind the Supreme Court. But now, for the first time, we are told that we are barred by a decision of that court, from which there is no appeal. If this be true we must stay our hands. The cause of equal civil rights must pause at the command of a power whose edicts must be obeyed till the fundamental law of our country is changed.

Has the honorable gentleman from Kentucky considered well the claim he now advances! If it were not disrespectful I would ask, has he ever read the decision which he now tells us is an inseparable barrier to the adoption of this great measure of justice?

In the consideration of this subject, has not the judgement of the gentleman from Georgia been warped by the ghost of the dead doctrines of State-rights? Has he been altogether free from prejudices engendered by long training in that school of politics that well-nigh destroyed this Government?

Mr. Speaker, I venture to say here in the presence of the gentleman from Kentucky, and the gentleman from Georgia, and in the presence of the whole country, that there is not a line or word, not a thought or dictum even, in the decision of the Supreme Court in the great Slaughter-house cases which casts a shadow of doubt on the right of Congress to pass the pending bill, or to adopt such other legislation as it may judge proper and necessary to secure perfect equality before the law to every citizen of the Republic. Sir, I protest against the dishonor now cast upon our Supreme Court by both the gentleman from Kentucky and the gentleman from Georgia. In other days, when the whole country was bowing beneath the yoke of slavery, when press, pulpit, platform, Congress, and courts felt the fatal power of the slave oligarchy, I remember a decision of that court which no American now reads without shame and humiliation. But, those days are past. The Supreme Court of today is a tribunal as true to freedom as any department of this Government, and I am honored with the opportunity of repelling a deep disgrace which the gentleman from Kentucky, backed and sustained as he is by the gentleman from Georgia, seeks to put upon it.

What were these Slaughter-house cases? The gentleman should be aware that a decision of any court should be examined in the light of the exact question which is brought before it for decision. That is all that gives authority to any decision.

The State of Louisiana, by act of her legislature, had conferred on certain persons the exclusive right to maintain stock-landings and slaughter-houses within the city of New Orleans, or the parishes of Orleans, Jefferson, and Saint Bernard, in that State. The corporation which was thereby chartered were invested with the sole and exclusive privilege of conducting and carrying on the live-stock, landing, and slaughter-house business within the limits designated.

The supreme court of Louisiana sustained the validity of the act conferring these exclusive privileges, and the plaintiffs in error brought the case before the Supreme Court of the United States for review. The plaintiffs in error contended that the act in question was void, because, first, it established a monopoly which was in derogation of common right and in contravention of the common law; and, second, that the grant of such exclusive privileges was in violation of the thirteenth and fourteenth amendments of the Constitution of the United States.

It thus appears from a simple statement of the case that the question which was before the court was not whether a State law which denied to a particular portion of her citizens the rights conferred on her citizens generally, on account of race, color, or previous condition of servitude, was unconstitutional because in conflict with the recent amendments, but whether an act which conferred on certain citizens exclusive privileges for police purposes was in conflict therewith, because imposing an involuntary servitude forbidden by the thirteenth amendment, or abridging the rights and immunities of citizens of the United States, or denying the equal protection of the laws, prohibited by the fourteenth amendment.

On the part of the defendants in error it was maintained that the act was the exercise of the ordinary and unquestionable power of the State to make regulation for the health and comfort of society--the exercise of the police power of the State, denied by Chancellor Kent to be "the right to interdict unwholesome trades, slaughter-houses, operations offensive to the senses, the deposit of powder, the application of steam-power to propel cars, the building with combustible materials, and the burial of the dead in the midst of dense masses of population, on the general and rational principle that every person ought so to use his own property as not to injure his neighbors, and that private interests must be made subservient to the general interests of the community."

The decision of the Supreme Court is to be found in the 16th volume of Wallace's Reports, and was delivered by Associate Justice Miller. The court hold, first, that the act in question is a legitimate and warrantable exercise of the police power of the State in regulating the business of stock-landing and slaughtering in the city of New Orleans and the territory immediately contiguous. Having held this, the court proceeds to discuss the question whether the conferring of exclusive privileges, such as those conferred by the act in question, is the imposing of an involuntary servitude, the abridging of the rights and immunities of citizens of the United States, or the denial to any person within the jurisdiction of the State of the equal protection of the laws.

That the act is not the imposition of an involuntary servitude the court hold to be clear, and they next proceed to examine the remaining questions arising under the fourteenth amendment. Upon this question the court hold that the leading and comprehensive purpose of the thirteenth, fourteenth, and fifteenth amendments was to secure the complete freedom of the race, which, by the events of the war, had been wrested from the unwilling grasp of their owners. I know no finer or more just picture, albeit painted in the neutral tints of true judicial impartiality, of the motives and events which led to these amendments. Has the gentleman from Kentucky read these passages which I now quote? Or has the gentleman from Georgia considered well the force of the language therein used? Says the court on page 70.

The process of restoring to their proper relations with the Federal Government and with the other States those which had sided with the rebellion, undertaken under the proclamation of President Johnson in 1865, and before the assembling of Congress, developed the fact that, notwithstanding the formal recognition by those states of the abolition of slavery, the condition of the slave race would, without further protection of the Federal Government, be almost as bad as it was before. Among the first acts of legislation adopted by several of the states in the legislative bodies which claimed to be in their normal relations with the Federal government, were laws which imposed upon the colored race onerous disabilities and burdens, and curtailed their rights in the pursuit of life, liberty, and property to such an extent that their freedom was of little value, while they had lost the protection which they had received from their former owners from motives both of interest and humanity.

They were in some States forbidden to appear in the towns in any other character than menial servants. They were required to reside on and cultivate the soil, without the right to purchase or own it. They were excluded from any occupations of gain, and were not permitted to give testimony in the courts in any case where a white man was a party. It was said that their lives were at the mercy of bad men, either because the laws for their protection were insufficient or were not enforced.

These circumstances, whatever of falsehood or misconception may have been mingled with their presentation forced upon the statesmen who had conducted the Federal government in safety through the crisis of the rebellion, and who supposed that by the thirteenth article of amendment they had secured the result of their labors, the conviction that something more was necessary in the way of constitutional protection to the unfortunate race who had suffered so much. They accordingly passed through Congress the proposition for the fourteenth amendment, and they declined to treat as restored to their 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.

Before we proceed to examine more critically the provisions of this amendment, on which the plaintiff's in error rely, let us complete and dismiss the history of the recent amendments, as that history relates to the general purpose which pervades them all. A few years' experience satisfied the thoughtful men who had been the authors of the other two amendments that, notwithstanding the restraints of those articles on the States and the laws passed under the additional powers granted to Congress, these were inadequate for the protection of life, liberty, and property, without which freedom to the slave was no boon. They were in all those States denied the right of suffrage. The laws were administered by the white man alone. It was

urged that a race of men distinctively marked as was the negro, living in the midst of another and dominant race, could never be fully secured in their person and their property without the right of suffrage.

Hence the fifteenth amendment, which declares that "the right of a citizen of the United States to vote shall not be denied or abridged by any state on account of race, color, or previous condition of servitude." The negro having, by the fourteenth amendment, been declared to be a citizen of the United states, is thus made a voter in every State of the Union.

We repeat, then, in the light of this recapitulation of events almost too recent to be called history, but which are familiar to us all, and on the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested: we mean the freedom of the slave race, the security and firm establishment of that freedom and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. It is true that only the fifteenth amendment in terms mentions the negro by speaking of his color and his slavery. But it is just as true that each of the other articles was addressed to the grievances of that race, and designed to remedy them, as the fifteenth.

These amendments, one and all, are thus declared to have as their all-pervading design and end the security to the recently enslaved race, not only their nominal freedom, but their complete protection from those who had formerly exercised unlimited dominion over them. It is in this broad light that all these amendments must be read, the purpose to secure the perfect equality before the law of all citizens of the United states. What you give to one class you must give to all; what you deny to one class you shall deny to all, unless in the exercise of the common and universal police power of the state you find it needful to confer exclusive privileges on certain citizens, to be held and exercised still for the common good of all.

Such are the doctrines of the Slaughter-house cases--doctrines worthy of the Republic, worthy of the age, worthy of the great tribunal which thus loftily and impressively enunciates them. Do they--I put it to any man, be he lawyer or not; I put it to the gentleman from Georgia--do they give color even to the claim that this Congress may not now legislate against a plain discrimination made by State laws or State customs against that very race for whose complete freedom and protection these great amendments were elaborated and adopted? Is it pretended, I ask the honorable gentleman from Kentucky or the honorable gentleman from Georgia--is it pretended anywhere that the evils of which we complain, our exclusion from the public inn, from the saloon and table of the steamboat, from the sleeping-coach on the railway, from the right of sepulture in the public burial-ground, are an exercise of the police power of the state? Is such oppression and injustice nothing but the exercise by the State of the right to make regulations for the health, comfort, and security of all her citizens? Is it merely enacting that one man shall use his own as not to injure another's? Are the colored race to be assimilated to an unwholesome trade or to combustible materials, to be interdicted, to be shut up within prescribed limits? Let the gentleman from Kentucky or the gentleman from Georgia answer. Let the country know to what extent even the audacious prejudice of the gentleman from Kentucky will drive him, and how far even the gentleman from Georgia will permit himself to be led captive by the unrighteous teachings of a false political faith.

If we are to be likened in legal view to "unwholesome trades," to "large and offensive collections of animals," to "noxious slaughter-houses," to "the offal and stench which attend on certain manufactures," let it be avowed. If that is still the doctrine of the political party to which the gentlemen belong, let it be put upon record. If State laws which deny us the common rights and privileges of other citizens, upon no possible or conceivable ground save one of prejudice, or of "taste," as the gentleman from Texas termed it, and as I suppose the gentlemen will prefer to call it, are to be placed under the protection of a decision which affirms the right of a State to regulate the police of her great cities then the decision is in conflict with the bill before us. No man will dare maintain such a doctrine. It is as shocking to the legal mind as it is offensive to the heart and conscience of all who love justice or respect manhood. I am astonished that the gentleman from Kentucky or the gentleman from Georgia should have been so grossly misled as to rise here and assert that the decision of the Supreme Court in these cases was a denial to Congress of the power to legislate against discriminations on account of race, color, or previous condition of servitude; because that

court has decided that exclusive privileges conferred for the common protection of the lives and health of the whole community are not in violation of the recent amendments. The only ground upon which the grant of exclusive privileges to a portion of the community is ever defended is that the substantial good of all is promoted; that in truth it is for the welfare of the whole community that certain persons should alone pursue certain occupations. It is not the special benefit conferred on the few that moves the legislature, but the ultimate and real benefit of all, even of those who are denied the right to pursue those specified occupations. Does the gentleman from Kentucky say that my good is promoted when I am excluded from the public inn? Is the health or safety of the community promoted? Doubtless his prejudice is gratified. Doubtless his democratic instincts are pleased; but will he or his able coadjutor say that such exclusion is a lawful exercise of the police power of the State, or that it is not a denial to me of the equal protection of the laws? They will not so say.

But each of these gentlemen quote at some length from the decision of the court to show that the court recognizes a difference between citizenship of the United States and citizenship of the States. That is true, and no man here who supports this bill questions or overlooks the difference. There are privileges and immunities which belong to me as a citizen of the United States, and there are privileges and immunities which belong to me as a citizen of my State. The former are under the protection of the Constitution and laws of the United States, and the latter are under the protection of the constitution and laws of my State. But what of that? Are the rights which I now claim--the right to enjoy the common public conveniences of travel on public highways, of rest and refreshment at public inns, of education in public schools, of burial in public cemeteries--rights which I hold as a citizen of the United States or of my State? Or, to state the question more exactly, is not the denial of such privileges to me a denial to me of the equal protection of the laws? For it is under this clause of the fourteenth amendment that we place the present bill, no State shall "deny to any person within its jurisdiction the equal protection of the laws." No matter, therefore, whether his rights are held under the United States or under his particular State, he is equally protected by this amendment. He is always and everywhere entitled to the equal protection of the laws. All discrimination is forbidden; and while the rights of citizens of a State as such are not defined or conferred by the Constitution of the United States, yet all discrimination, all denial of equality before the law, all denial of the equal protection of the laws, whether State or national laws, is forbidden.

The distinction between the two kinds of citizenship is clear, and the Supreme Court have clearly pointed out this distinction, but they have nowhere written a word or line which denies to Congress the power to prevent a denial of equality of rights, whether those rights exist by virtue of citizenship of the United States or of a State. Let honorable members mark well this distinction. There are rights which are conferred on us by the United States. There are other rights conferred on us by the States of which we are individually the citizens. The fourteenth amendment, does not forbid a State to deny to all its citizens any of those rights which the State itself has conferred, with certain exceptions, which are pointed out in the decision which we are examining. What it does forbid is inequality, is discrimination, or, to use the words of the amendment itself, is the denial "to any person within its jurisdiction the equal protection of the laws." If a State denies to me rights which are common to all her other citizens, she violates this amendment, unless she can show, as was shown in the Slaughter-house cases, that she does it in the legitimate exercise of her police power. If she abridges the rights of all her citizens equally, unless those rights are specially guarded by the Constitution of the United States, she does not violate this amendment. This is not to put the rights which I hold by virtue of my citizenship of South Carolina under the protection of the national Government; it is not to blot out or overlook in the slightest particular the distinction between rights held under the United States and rights held under the States; but it seeks to secure equality; to prevent discrimination, to confer as complete and ample protection on the humblest as on the highest.

The gentleman from Kentucky, in the course of the speech to which I am now replying, made a reference to the State of Massachusetts which betrays again the confusion which exists in his mind on this precise point. He tells us that Massachusetts excludes from the ballot-box all who cannot read and write and points to that

fact as the exercise of a right which this bill would abridge or impair. The honorable gentleman from Massachusetts (Mr. Dawes) answered him truly and well, but I submit that he did not make the best reply. Why did he not ask the gentleman from Kentucky if Massachusetts had ever discriminated against any of her citizens on account of color, or race, or previous condition of servitude? When did Massachusetts sully her proud record by placing on her statute-book any law which admitted to the ballot the white man and shut out the black man? She has never done it; she will not do it; she cannot do it so long as we have a Supreme Court which reads the Constitution of our country with the eyes of Justice; nor can Massachusetts or Kentucky deny to any man, on account of his race, color, or previous condition of servitude, that perfect equality of protection under the laws so long as Congress shall exercise the power to enforce, by appropriate legislation, the great and unquestionable securities embodied in the fourteenth amendment to the Constitution.

But, sir, a few words more as to the suffrage regulation of Massachusetts.

It is true that Massachusetts in 1857, finding that her illiterate population was being constantly augmented by the continual influx of ignorant emigrants, placed in her constitution the least possible limitation consistent with manhood suffrage to stay this tide of foreign ignorance. Its benefit has been fully demonstrated in the intelligent character of the voters of that honored commonwealth, reflected so conspicuously in the able Representatives she has today upon this floor. But neither is the inference of the gentleman from Kentucky legitimate, nor do the statistics of the census of 1870, drawn from his own State, sustain his astounding assumption. According to the statistics we find the whole white population of that State is 1,098,692; the whole colored population 222,210. Of the whole white population who cannot write we find 201,077; of the whole colored population who cannot write, 126,048; giving us, as will be seen, 96,162 colored persons who can write to 897,615 white person who can write. Now, the ratio of the colored population to the white is as 1 to 5, and the ratio of the illiterate colored population to the whole colored population is as 1 to 2; the ratio of the illiterate white population is to the whole white population as 1 is to 5. Reducing this, we have only a preponderance of three-tenths in favor of the whites as to literacy, notwithstanding the advantages which they have always enjoyed and do now enjoy of free-school privileges, and this too, taking solely into account the single item of being unable to write; for with regard to the inability to read, there is no discrimination in the statistics between the white and colored population. There is, moreover, a peculiar felicity in these statistics with regard to the State of Kentucky, quoted so opportunely for me by the honorable gentleman; for I find that the population of that State, both with regard to its white and colored populations, bears the same relative rank in regard to the white and colored populations of the United States; and therefore, while one negro would be disfranchised were the limitation of Massachusetts put in force, nearly three white men would at the same time be deprived of the right of suffrage--a consummation which I think would be far more acceptable to the colored people of that State than to the whites.

Now, Sir, having spoken as to the intention of the prohibition imposed by Massachusetts, I may be pardoned for a slight inquiry as to the effect of this prohibition. First, it did not in any way abridge or curtail the exercise of the suffrage by any person who at that time enjoyed such right. Nor did it discriminate between the illiterate native and the illiterate foreigner. Being enacted for the good of the entire Commonwealth, like all just laws, its obligations fell equally and impartially upon all its citizens. And as a justification for such a measure, it is a fact too well known almost for mention here that Massachusetts had, from the beginning of her history, recognized the inestimable value of an educated ballot, by not only maintaining a system of free schools, but also enforcing an attendance thereupon, as one of the safeguards for the preservation of a real republican form of government. Recurring then, sir, to the possible contingency alluded to by the gentleman from Kentucky, should the State of Kentucky, having first established a system of common schools whose doors shall swing open freely to all, as contemplated by the provisions of this bill, adopt a provision similar to that of Massachusetts, no one would have cause justly to complain. And if in the coming years the result of such legislation should produce a constituency rivaling

that of the old Bay State, no one would be more highly gratified than I.

Mr. Speaker, I have neither the time nor the inclination to notice the many illogical and forced conclusions, the numerous transfers of terms, or the vulgar insinuations which further incumber the argument of the gentleman from Kentucky. Reason and argument are worse than wasted upon those who meet every demand for political and civil liberty by such ribaldry as this--extracted from the speech of the gentleman from Kentucky:

I suppose there are gentlemen on this floor who would arrest, imprison, and fine a young woman in any State of the South if she were to refuse to marry a negro man on account of color, race, or previous condition of servitude, in the event of his making her a proposal of marriage, and her refusing on that ground. That would be depriving him of a right he had under the amendment, and Congress would be asked to take it up and say, "This insolent white woman must be taught to know that it is a misdemeanor to deny a man marriage because of race, color, or previous condition of servitude;" and Congress will be urged to say after a while that that sort of thing must be put a stop to, and your conventions of colored men will come here asking you to enforce that right.

Now , sir, recurring to the venerable and distinguished gentleman from Georgia, [Mr. Stephens,] who has added his remonstrance against the passage of this bill, permit me to say that I share in the feeling of high personal regard for that gentleman which pervades this House. His years, his ability, and his long experience in public affairs entitle him to the measure of consideration which has been accorded to him on this floor. But in this discussion I cannot and I will not forget that the welfare and rights of my whole race in this country are involved. When, therefore, the honorable gentleman from Georgia lends his voice and influence to defeat this measure, I do not shrink from saying that it is not from him that the American House of Representatives should take lessons in matters touching human rights or the joint relations of the State and national governments. While the honorable gentleman contented himself with harmless speculations in his study, or in the columns of a newspaper, we might well smile at the impotence of his efforts to turn back the advancing tide of opinion and progress; but, when he comes again upon this national arena, and throws himself with all his power and influence across the path which leads to the full enfranchisement of my race, I meet him only as an adversary; nor shall age or any other consideration restrain me from saying that he now offers this Government, which he has done his utmost to destroy, a very poor return for its magnanimous treatment, to come here and seek to continue, by the assertion of doctrines obnoxious to the true principles of our Government, the burdens and oppressions which rest upon five millions of his countrymen who never failed to lift their earnest prayers for the success of this Government when the gentleman was seeking to break up the Union of these States and to blot the American Republic from the galaxy of nations. [Loud applause.]

Sir, it is scarcely twelve years since that gentleman shocked the civilized world by announcing the birth of a government which rested on human slavery as its corner-stone. The progress of events has swept away that *pseudo*-government which rested on greed, pride, and tyranny; and the race whom he then ruthlessly spurned and trampled on are here to meet him in debate, and to demand that the rights which are enjoyed by their former oppressors--who vainly sought to overthrow a Government which they could not prostitute to the base uses of slavery--shall be accorded to those who even in the darkness of slavery kept their allegiance true to freedom and the Union. Sir, the gentleman from Georgia has learned much since 1861; but he is still a laggard. Let him put away entirely the false and fatal theories which have so greatly marred an otherwise enviable record. Let him accept, in its fullness and beneficence, the great doctrine that American citizenship carries with it every civil and political right which manhood can confer. Let him lend his influence, with all his masterly ability, to complete the proud structure of legislation which makes his nation worthy of the great declaration which heralded its birth, and he will have done that which will most nearly redeem his reputation in the eyes of the world, and best vindicate the wisdom of that policy which has permitted him to regain his seat upon this floor.

To the diatribe of the gentleman from Virginia, [Mr. Harris,] who spoke on yesterday, and who so far

transcended the limits of decency and propriety as to announce upon this floor that his remarks were addressed to white men alone, I shall have no word of reply.[(1)] Let him feel that a negro was not only too magnanimous to smite him in his weakness, but was even charitable enough to grant him the mercy of his silence. [Laughter and applause on the floor and in the galleries.] I shall, sir, leave to others less charitable the unenviable and fatiguing task of sifting out of that mass of chaff the few grains of sense that may, perchance, deserve notice. Assuring the gentleman that the negro in this country aims at a higher degree of intellect than that exhibited by him in this debate, I cheerfully commend him to the commiseration of all intelligent men the world over--black men as well as white men.

Sir, equality before the law is now the broad, universal, glorious rule and mandate of the Republic. No State can violate that. Kentucky and Georgia may crowd their statute-books with retrograde and barbarous legislation; they may rejoice in the odious eminence of their consistent hostility to all the great steps of human progress which have marked our national history since slavery tore down the stars and stripes on Fort Sumter; but, if Congress shall do its duty, if Congress shall enforce the great guarantees which the Supreme Court has declared to be the one pervading purpose of all the recent amendments, then their unwise and unenlightened conduct will fall with the same weight upon the gentlemen from those States who now lend their influence to defeat this bill, as upon the poorest slave who once had no rights which the honorable gentlemen were bound to respect.

But, sir, not only does the decision in the Slaughter-house cases contain nothing which suggests a doubt of the power of Congress to pass the pending bill, but it contains an express recognition and affirmance of such power. I quote now from page 81 of the volume:

"Nor shall any State deny to any person within its jurisdiction the equal protection of the laws."

In the light of the history of these amendments, and the pervading purpose of them, which we have already discussed, it is not difficult to give a meaning to this clause. The existence of laws in the States where the newly emancipated negroes resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied by this clause, and by it such laws are forbidden.

If, however, the States did not conform their laws to its requirements, then, by the fifth section of the article of amendment, Congress was authorized to enforce it by suitable legislation. We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class, or on account of their race, will ever be held to come within the purview of this provision. It is so clearly a provision for that race and that emergency, that a strong case would be necessary for its application to any other. But as it is a State that is to be dealt with, and not alone the validity of its laws, we may safely leave that matter until Congress shall have exercised its power, or some case of State oppression, by denial of equal justice in its courts shall, have claimed a decision at our hands.

No language could convey a more complete assertion of the power of Congress over the subject embraced in the present bill than is here expressed. If the States do not conform to the requirements of this clause, if they continue to deny to any person within their jurisdiction the equal protection of the laws, or as the Supreme Court had said, "deny equal justice in its courts," then Congress is here said to have power to enforce the constitutional guarantee by appropriate legislation. That is the power which this bill now seeks to put in exercise. It proposes to enforce the constitutional guarantee against inequality and discrimination by appropriate legislation. It does not seek to confer new rights, nor to place rights conferred by State citizenship under the protection of the United States, but simply to prevent and forbid inequality and discrimination on account of race, color, or previous condition of servitude. Never was there a bill more completely within the constitutional power of Congress. Never was there a bill which appealed for support more strongly to that sense of justice and fair-play which has been said, and in the main with justice, to be a characteristic of the Anglo-Saxon race. The Constitution warrants it; the Supreme Court sanctions it; justice demands it.

Sir, I have replied to the extent of my ability to the arguments which have been presented by the opponents of this measure. I have replied also to some of the legal propositions advanced by gentlemen on the other side; and now that I am about to conclude, I am deeply sensible of the imperfect manner in which I have preformed the task. Technically, this bill is to decide upon the civil status of the colored American citizen: a

point disputed at the very formation of our present Government, when by a short-sighted policy, a policy repugnant to true republican government, one negro counted as three-fifths of a man. The logical result of this mistake of the framers of the Constitution strengthened the cancer of slavery, which finally spread its poisonous tentacles over the southern portion of the body-politic. To arrest its growth and save the nation we have passed through the harrowing operation of intestine war, dreaded at all times, resorted to at the last extremity, like the surgeon's knife, but absolutely necessary to extirpate the disease which threatened with the life of the nation the overthrow of civil and political liberty on this continent. In that dire extremity the members of the race which I have the honor in part to represent--the race which pleads for justice at your hands today, forgetful of their inhuman and brutalizing servitude at the South, their degradation and ostracism at the North--flew willingly and gallantly to the support of the national Government. Their sufferings, assistance, privations, and trials in the swamps and in the rice-fields, their valor on the land and on the sea, is a part of the ever-glorious record which makes up the history of a nation preserved, and might, should I urge the claim, incline you to respect and guarantee their rights and privileges as citizens of our common Republic. But I remember that valor, devotion, and loyalty are not always rewarded according to their just deserts, and that after the battle some who have borne the brunt of the fray may, through neglect or contempt, be assigned to a subordinate place, while the enemies in war may be preferred to the sufferers.

The results of the war, as seen in reconstruction, have settled forever the political status of my race. The passage of this bill will determine the civil status, not only of the negro, but of any other class of citizens who may feel themselves discriminated against. It will form the cap-stone of that temple of liberty, begun on this continent under discouraging circumstances, carried on in spite of the sneers of monarchists and the cavils of pretended friends of freedom, until at last it stands in all its beautiful symmetry and proportions, a building the grandest which the world has ever seen, realizing the most sanguine expectations and the highest hopes of those who, in the name of equal, impartial, and universal liberty, laid the foundation stones.

The Holy Scriptures tell us of an humble hand-maiden who long, faithfully, and patiently gleaned in the rich fields of her wealthy kinsman; and we are told further that at last, in spite of her humble antecedents, she found complete favor in his sight. For over two centuries our race had "reaped down your fields." The cries and woes which we have uttered have "entered into the ears of the Lord of Sabaoth," and we are at last politically free. The last vestiture only is needed--civil rights. Having gained this, we may, with hearts overflowing with gratitude, and thankful that our prayer has been granted, repeat the prayer of Ruth: "entreat me not to leave thee, or to return from following after thee; for whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people, and thy god my God; where thou diest, will I die, and there will I be buried; the Lord do so to me, and more also, if aught but death part thee and me." [Great applause.][(3)]

1. Representative Elliot refers to the following exchange:

> Mr. HARRIS of Virginia. I know the objection that will occur to the mind of every gentleman on the other side of the House, and of every one here who differs from me on this question. They will say that it is prejudice--unjust prejudice. Admit that it is prejudice; yet the fact exists and you, as members of Congress and legislators are bound to respect that prejudice. It was born in the children of the South--born in our ancestors and born in your ancestors in Massachusetts--that the colored man was inferior to the white.
>
> Mr. RANSIER. I deny that.
>
> Mr. HARRIS of Virginia. I do not allow you to interrupt me. Sit down; I am talking to white men; I am talking to gentleman.[(2)]

2. 2 Cong. Rec. 565-567 (1874)

3. 2 Cong. Rec. 407-410 (1874).