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The Proslavery Constitution

Southern politicians argued that the Constitution required the federal government to protect owners of all forms of property, including slaves. The heated sectional debate about the scope of federal power and states' rights focused attention on the territories. Could settlers in a federal territory prohibit slavery or refuse to protect it? Or, regardless of territorial laws, did the Constitution mandate that slavery in federal territories be protected by federal laws? In a speech to the U.S. Senate in May 1860, excerpted here, Jefferson Davis made the case for federal protection. In less than a year, Senator Davis, a wealthy planter from Mississippi, became president of the Confederacy.

Jefferson Davis

Speech before the U.S. Senate, May 1860

Among the many blessings for which we are indebted to our ancestry, is that of transmitting to us a written Constitution; a fixed standard to which, in the progress of events, every case may be referred, and by which it may be measured. . . . With this . . . to check, to restrain, and to direct their posterity, they might reasonably hope the Government they founded should last forever; that it should secure the great purposes for which it was ordained and established; that it would be the shield of their posterity equally in every part of the country, and equally in all time to time. . . .

Our fathers were aware of the different interests of the navigating and planting States, as they were then regarded. They sought to compose those difficulties, and by compensating advantages given by one to the other, to form a Government equal and just in its operation; and which, like the gentle showers of heaven, should fall twice blessed, blessing him that gives and him that receives. This beneficial action and reaction between the different interests of the country constituted the bond of union and the motive of its formation. They constituted it to-day, if we are sufficiently wise to appreciate our interests, and sufficiently faithful to observe our trust. Indeed, with the extension of territory, with the multiplication of interests, with the varieties, increasing from time to time, of the products of this great country, the bonds which bind the Union together should have increased. . . .

The great principle which lay at the foundation of this fixed standard, the Constitution of the United States, was the equality of rights between the States. This was essential; it was necessary; it was a step which had to be taken first, before any progress could be made. It was the essential requisite of the very idea of sovereignty in the State; of a compact voluntarily entered into between sovereigns; and it is that equality of right under the Constitution on which we now insist. . . .

We claim protection [of slavery], first, because it is our right; secondly, because it is the duty of the General Government; and thirdly, because we have entered into a compact together, which deprives each State of the power of using all the

means which it might employ for its own defense. This is the general theory of the right of protection. . . . [I]f general protection be the general duty, I ask, in the name of reason and constitutional right—I ask you to point me to authority by which a discrimination is made between slave property and any other. Yet this is the question now fraught with evil to our country. It is this which has raised the hurricane threatening to sweep our political institutions before it. . . .

I have been the determined opponent of what is called squatter sovereignty. I never gave it countenance, and I am now least of all disposed to give it quarter. . . . What right had Congress then, or what right has it now, to abdicate any power conferred upon it as trustee of the States? . . . In 1850, following the promulgation of this notion of squatter sovereignty, we had the idea of non-intervention introduced into the Senate of the United States, and it is strange to me how that idea has expanded. . . . Non-intervention then meant, as the debates show, that Congress should neither prohibit nor establish slavery in the Territories. That I hold to now. Will any one suppose that Congress then meant by non-intervention that Congress should legislate in no regard in respect to property in slaves? Why, sir, the very acts which they passed at the time refute it. There is the fugitive slave law. . . .

By what species of legerdemain¹ this doctrine of non-intervention has come to extend to a paralysis of the Government on the whole subject, to exclude the Congress from any kind of legislation whatever, I am at a loss to conceive. . . . I had no faith in it then; I considered it an evasion; I held that the duty of Congress ought to be performed, that the issue was before us, and ought to be met, the sooner the better; that truth would prevail if presented to the people. . . .

That is what we ask of Congress now. . . . I am not one of those who would willingly see this Congress enact a code to be applied to all Territories and for all time to come. I only ask that . . . when personal and property rights in the Territories are not protected, then the Congress, by existing laws and governmental machinery, shall intervene and provide such means as will secure in each case, as far as may be, an adequate remedy. I ask no slave code, nor horse code, nor machine code. I ask that the Territorial Legislature be made to understand beforehand that the Congress of the United States does not concede to them the power to interfere with the rights of person or property guaranteed by the Constitution, and that it will apply the remedy, if the Territorial Legislature should so far forget its duty, so far transcend its power, as to commit that violation of right. . . .

These are the general views which I entertain of our right of protection and the duty of the Government. They are those which are entertained by the constituency I have the honor to represent. . . . For weal or for woe, for prosperity or adversity, for the preservation of the great blessings which we enjoy, or the trial of a new and separate condition, I trust Mississippi never will surrender the smallest atom of the sovereignty, independence, and equality, to which she was born, to avoid any danger or any sacrifice to which she may thereby be exposed. . . .

We have made no war against [the North]. We have asked no discrimination in our favor. We claim to have but the Constitution fairly and equally administered. To consent to less than this, would be to sink in the scale of manhood; would be to make our posterity so degraded that they would curse this generation for robbing them of the rights their revolutionary fathers bequeathed them.

¹From Dunbar Rowland, ed., *Jefferson Davis, Constitutionalist: His Letters, Papers, and Speeches* (New York: A. S. Barnes, 1923), 120-30.

¹legerdemain: Sleight of hand, trickery.