

THE SOUTHERN PRESS.

Important Letter from Senator Jeff. Davis. BRADFORD, Warren county, November 10th, 1850.

GENTLEMEN:—In the "Free Trader," of the 26 October, I find the proceedings of a public meeting, held at Natchez, on the 23d September, 1850, to which my attention was directed by a resolution which instructs the President of the meeting to forward a copy of the proceedings to the Hon. H. S. Foote and, also, to our (your) other Senator, etc., etc.

As my name was not mentioned, and as I have not received a copy of the proceedings, as ordered, it is admissible to conclude that my address was not known to the President of the meeting. I am, therefore, in the form in which it is presented, to show my respect for the meeting, by replying to the resolutions through the same channel which has conveyed them to me. By implication, it appears that my constituents assembled, as above, disapprove of my course on the measure of the last session of Congress, in relation to the "controversy between the North and the South." I can not, gentlemen, adopt your views on those measures; and the inequality between us consists of the importance I attach to the opinions of any portion of my constituents and the want of value which my conclusions will, probably, have in your eyes. Believing, however, that you have fallen into grave errors, which a reference to the records will correct, and that those errors are likely to injure, rather than promote, the interests and rights in which we have a common fortune, I plead, even if it be to unwilling ears, for the cause in which I have unsuccessfully labored, but which I believe to be just, and which, as it could have been, if happily, it had triumphed.

That cause is the equality of the Southern States, as members of the Union, and the maintenance of their constitutional rights, as such. It has been painful to me to perceive in any, however few, of the Southern people a disposition to sacrifice their rights and interests, to the rights and interests of the South, as the promoters of agitation, whose influence should be destroyed by attaching to them the odious designation of disunionists. Our Union is a compact, its terms, the Federal Constitution, form the bond of its existence, and breathe into it its life and its strength.

Who, then, are the disunionists? Are they those who sternly insist on a rigid adherence to the Constitution, or those who disregard its principles? But an answer can be given by any who, when they speak of the Union, mean the Confederacy of the Constitution, the inheritance which our revolutionary fathers have bequeathed to us. The question has been frequently asked of those who used the term "ultra Southern men," in what any Southern man had claimed for his section more than its constitutional right. That question has never been so answered as to fix upon men of the South even the wish to violate the contract they have made with the North. Who, then, are truly the disunionists? Surely those who aggress or encourage aggression on those rights and principles which the Union was formed to secure, and on which, as a foundation, it was erected. The framers of the Constitution were those who prepared the revolution and separated from the mother country to submit to taxation by others than their own representatives; and they never would have consented to found a new Government, in which the minority should be subject to the discretionary legislation of a majority. The Government they instituted was one of specific grants and enumerated objects; all else was reserved to the States, and the only power allowed one department of this Government, or common agent, to usurp undelimited powers, subject only to the restraint which another department of the Federal Government may impose, would be to render the reservation not absolute, but conditional, in the end, probably, to become nugatory.

The States are held subordinate to the decision of the co-ordinate branches of the Federal Government, the principal has changed places with his agent, the creator with the creature. If the Constitution can be warped and wrung until its nature is altered, and the States still be coerced to adhere to the Union, they have no opportunity to be questioned, and as little is it to be doubted, that by dissolution, all sections would be injuriously affected; but I do not think the institutions of the South would be destroyed by that event, or our State Governments materially altered. Not only do I believe our liberty would remain, and our commercial interests, if not promoted, would be far less impaired than those of any other section of the Union.

The second resolution approves the series of measures adopted by Congress in relation to the controversy between the North and the South, and as founded on the principle of non-interference with property and the protection of her interests; and as a settlement which rejects and puts to rest the "Wilmut Proviso," and leaves the territories equally open to all citizens, with their property of every species guaranteed by the Constitution; and as a recognition of the right of the people of a territory, in organizing them, to settle the question of slavery for themselves in their organic law. I could see all this in those measures, I would certainly agree that there was much to approve, and should not have returned to Mississippi with the depression which attached to the feeling that I came as a messenger who returned with none other than a declaration of war.

Your construction is certainly not that which I placed upon them when I opposed their enactment, and what is important, is not that given by the Congress which passed them. To secure the rights of property, and protection for interests which had been asserted by the South, I offered two amendments. The first, referring to the territorial governments proposed to be established for Utah and New Mexico, was in these words: "Provided, that nothing herein contained, shall be construed to prevent said territorial legislature from passing such laws as may be necessary for the protection of the rights of property of any kind which may have been, or may hereafter, conformably to the Constitution and laws of the United States, held in, or introduced into said territory." After full debate, and modification of language, so as to avoid the objections made by some, the vote was taken on the amendment in the above form, and it was defeated—yeas 25, nays 30—but one senator from a Northern State (Dickinson) voting for it. The second amendment was in these words: "And that no laws, usages or customs, preexisting in the territories, acquired by the United States from Mexico, and which, in said territories, restrict, abridge or obstruct the full enjoyment of any right of person or property of a citizen of the United States, as recognized or guaranteed by the Constitution or laws of the United States, are hereby declared and shall be held in force." This amendment was defeated—yeas 25, nays 30—but one senator from a Northern State (Dickinson) voting for it. The second amendment was in these words: "And that no laws, usages or customs, preexisting in the territories, acquired by the United States from Mexico, and which, in said territories, restrict, abridge or obstruct the full enjoyment of any right of person or property of a citizen of the United States, as recognized or guaranteed by the Constitution or laws of the United States, are hereby declared and shall be held in force." This amendment was defeated—yeas 25, nays 30—but one senator from a Northern State (Dickinson) voting for it.

not the basis on which the bill was founded.—There were not wanting, even among those who admitted the equality of right, persons who objected to the claim for protection as a violation of the principle of non-interference with property. It was answered, that the Federal Government was established by the States to afford, within its prescribed sphere, common and equal protection and security to all. The plastic, variously defined, intangible doctrine of non-interference formed a shelter for all who, eschewing the tent of the Constitution, nevertheless hostile to the institution of slavery.

The third resolution assumes that the admission of California was a mere matter of congressional discretion, and asserts that those who opposed it were willing to admit her with limited boundaries, thereby acknowledging they had no constitutional objection. That position is an error of fact; your Senator, I did not, could not offer or except any such proposition; my objections were fundamental, and had my course in any moderate degree attracted your attention, you could not have attributed to me a disposition to enter into such a concession. I did not consider the admission of California as a violation of the principle of non-interference with property. Every question of legislation is a constitutional question, and should be distinctly referable to a prescribed duty or a granted power. Congress may admit new States into the Union. This is not an authority which would warrant that body in the creation of a State, or would justify it in assuming an authority which it does not possess, or in assuming to take its place in the union of equals, and properly to discharge its duties as a member of the confederacy.

The right of "the people of a territory" in organizing themselves into a State, to determine its organic law, is not disputed, has not been questioned by the members of either House of Congress, and by the action of some Northern members after the bills had finally passed. The argument which prevailed against the Wilmut Proviso was not that it violated the principle of non-interference with property, but that it violated the law of nature and the law of Mexico. If, then, it should be found that the law of nature is not a "territory,"—the inhabitants, except the Mexican, remaining in the territory, and the promoters of the public domain, which was not a "territory," but an undefined part of the territory belonging to the United States. The States of the Union were the sovereign owners, not those who first might reach the new acquisition in the race of the gold hunters. The ultimate right of the people of a territory, in organizing themselves, by withdrawal of the authority of the States to whom the territory belonged, or by successful revolution. No one will contend that it was acquired in either mode; that essential requisite therefore did not exist. There having been no census, there being no officer who could take an election, and no authority to receive a return; and no prescribed qualifications for voters; the information was so imperfect, so wholly unofficial, and the defects so radical, as to constitute a case which in my opinion did not come within the constitutional power of Congress, conferred for the admission of new States. The necessity of the case, and the acquiescence of government and a review of the action of Congress at the last and two preceding sessions will show, why the mode of admitting California as a State was adopted instead of following the oldest and safest mode of establishing a territorial government, preparatory to a transfer of the same directly to the people of the territory, for their organization into a State. It will be seen that the Southern members, as a class, had for years past desired and attempted to organize a territorial government, but that the effort failed because of the determination of Northern members not to allow such government, unless with the condition that involuntary servitude should be prohibited in the territory. The inhabitants of California were driven to the formation of a State as the only mode of obtaining a government, and could not have doubted, as it appears by the debates of their convention they did not, that in order to be admitted as a State it was necessary that they should conform to the views of the North. This furnishes an explanation for the extended unratified boundaries which were claimed, including in one section a population whose representatives protested against the act, in another an unknown inaccessible desert, with the prohibition of slavery in the whole, that the agitating and incendiary spirit of the South should be kept out of Congress. Thus the inhabitants of California are relieved from the censure which would have attached to the attempt of aliens and citizens to prohibit other citizens from sharing with them the harvest offered by a country filled with hidden treasure, which every fresh settler would have established, and the responsibility attaches to the anti-slavery majority represented in the Federal Government, which refused the mode best suited to the condition of California, and adopted another, because thus the slaveholder of the South could be excluded. Had there been no such influence, and had the opportunity been afforded to the South as from the North, the resulting population might have decided differently as to the introduction of slaves; but if not, there would have been no cause to complain when in due time and manner the decision was made against it.

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I had taken a position in the Senate which was equivalent to this, and though my action may not have received your notice, your repudiation of this proposition of the Nashville Convention is certainly to me as a surrender to Congress of the right to unlimited legislation over the territories, and the territories, and as presenting, as the only alternative, *disunion*. It was certainly not all to which I considered the South entitled, but I do not perceive how it is deemed the subject of censure on that account by those who approve the measures of Congress, a part of the history of which is a refusal to give up the territories. When Senator King, of Alabama, proposed to limit California on the South by the parallel of 35° 30' min. I offered an amendment to his amendment, substituting the line of 36° 30' min., which, then, as now, I believed to be the line indicated by nature and best suited to the population. The amendment to his amendment was rejected—yeas 23, nays 32. The question

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Let us answer, that we can appeal to the courts? If so, I reply, we could have appealed to the courts against the Wilmut Proviso, and security and protection and equality assured by you could not, I suppose, have meant the right to appeal to the Supreme Court against a hostile discrimination. The North has not abandoned the claim of power to legislate in relation to slavery in the territories, is shown by the report which accompanied the bills when jointly brought in by the Committee of Thirteen; by the action of the members of both Houses of Congress, and by the action of some Northern members after the bills had finally passed. The argument which prevailed against the Wilmut Proviso was not that it violated the principle of non-interference with property, but that it violated the law of nature and the law of Mexico. If, then, it should be found that the law of nature is not a "territory,"—the inhabitants, except the Mexican, remaining in the territory, and the promoters of the public domain, which was not a "territory," but an undefined part of the territory belonging to the United States. The States of the Union were the sovereign owners, not those who first might reach the new acquisition in the race of the gold hunters. The ultimate right of the people of a territory, in organizing themselves, by withdrawal of the authority of the States to whom the territory belonged, or by successful revolution. No one will contend that it was acquired in either mode; that essential requisite therefore did not exist. There having been no census, there being no officer who could take an election, and no authority to receive a return; and no prescribed qualifications for voters; the information was so imperfect, so wholly unofficial, and the defects so radical, as to constitute a case which in my opinion did not come within the constitutional power of Congress, conferred for the admission of new States. The necessity of the case, and the acquiescence of government and a review of the action of Congress at the last and two preceding sessions will show, why the mode of admitting California as a State was adopted instead of following the oldest and safest mode of establishing a territorial government, preparatory to a transfer of the same directly to the people of the territory, for their organization into a State. It will be seen that the Southern members, as a class, had for years past desired and attempted to organize a territorial government, but that the effort failed because of the determination of Northern members not to allow such government, unless with the condition that involuntary servitude should be prohibited in the territory. The inhabitants of California were driven to the formation of a State as the only mode of obtaining a government, and could not have doubted, as it appears by the debates of their convention they did not, that in order to be admitted as a State it was necessary that they should conform to the views of the North. This furnishes an explanation for the extended unratified boundaries which were claimed, including in one section a population whose representatives protested against the act, in another an unknown inaccessible desert, with the prohibition of slavery in the whole, that the agitating and incendiary spirit of the South should be kept out of Congress. Thus the inhabitants of California are relieved from the censure which would have attached to the attempt of aliens and citizens to prohibit other citizens from sharing with them the harvest offered by a country filled with hidden treasure, which every fresh settler would have established, and the responsibility attaches to the anti-slavery majority represented in the Federal Government, which refused the mode best suited to the condition of California, and adopted another, because thus the slaveholder of the South could be excluded. Had there been no such influence, and had the opportunity been afforded to the South as from the North, the resulting population might have decided differently as to the introduction of slaves; but if not, there would have been no cause to complain when in due time and manner the decision was made against it.

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Though the Missouri Compromise was within the constitutional powers of Congress, may have derived its validity from the acquiescence of the States, and certainly should not have been repudiated by the North, for whose benefit it was introduced and by whose votes it was almost unanimously supported. Two senators from Indiana, one member from New Hampshire, and one from New York, and three from Massachusetts, being the Northern votes against the Missouri Compromise. Whilst, then, I agree with the strictures contained in your fourth resolution on the Missouri Compromise, as an original proposition, I thought and still believe the question, as presented to us, wears a very different aspect from that which it bore in 1820. Though time cannot sanctify wrong, it may establish acquiescence, and thus it may be considered a compromise between the States, whose powers are not, like the Congress, restricted to the grants of the Constitution. In the action of the Nashville Convention on this subject, I see but a laudable anxiety to avoid sectional strife, and a fraternal spirit of concession. After asserting in their sixth resolution, the duty of the Federal Government to recognize and maintain the equal rights of the citizens of the several States in the territories of the United States, their eleventh resolution set forth: "That in the event a dominant majority shall refuse to recognize the great constitutional rights we assert, and still continue to deny the obligations of the Federal Government to maintain them, it is the sense of this Convention that the territories should be treated as property, and divided between the sections of the Union, so that the rights of both sections be adequately secured in their respective shares. That we are aware this course is open to grave objections, but we are ready to acquiesce in the adoption of the line of 36° 30' min. North latitude except in the case of Texas, as an extreme concession, upon consideration of which is due to the stability of our institutions."

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