THE MEMPHIS DAILY APPEAL

BY M'CLANAHAN, TROUSDALE & DILL. MEMPHIS, FRIDAY, FEBRUARY 3, 1860. VOL

Daily Appeal.

LETTER FROM ARKANSAS.

FORT SMITH, ARK. January 21, 1860.

EDITORS APPEAL: The principal conflict among delegates to the Charleston convention is likely to be on the adoption of an old Whig idea—the principle of intervention by Congress in the assumption of a right never conferred by the Constitution—which, if adopted, will of necessity be preceded by the abrogation of a boasted broad plank laid down in the Cincinnati platform.

During the years 1855-6 Democracy consisted, one might suppose, of the principles of the Kansas-Nebraska bill, of non-intervention by Congress on the subject of slavery in the Territories; now one-half of the southern Democratic presses clamor for striking out non-intervention and inserting "intervention," or in other words, striking out Democracy and inserting (worse than Whiggery) positive *old fashioned federalism.*

If Congress is a co-ordinate branch of a government, owing all its virtue to a Constitution, through which the people have delegated to each branch of government limited power, restricting it with limitations and checks—reserving to the States respectively, through whose action the people had spoken their will, all power not delegated—and there can be no showing made of any grant authorizing Congress to control the local affairs of the people in organized Territories—the adoption by the Charleston convention of such an assumption would not entitle that distinguished body to the honor of discovery; for the same principles and ideas were inaugurated at an early period in the history of this Government, and an attempt made to put it into practical operation by (the Elder) President Adams, by recommending and afterward attempting the enforcement of the alien and sedition laws.

Some have supposed the dawn of civil liberty dated only as far back as 1798-9, when the Virginia and Kentucky resolutions were proclaimed. Others go farther back, and refer to the Declaration of Independence, written by Thos. Jefferson and published to the civilized world on the 4th day of July, 1776; but I view both these instances as simply reaffirmations of the great principles of civil liberty achieved by the citizens or subjects of Great Britain on the adoption of Magna Charta—the rights of the people to rule and govern in all local matters affecting the life and property of the citizen, under prescribed constitutional regulations. This right has been amply secured, it was believed, at the ballot box, and in the trial by jury, the mode being prescribed by conventional arrangement, in accordance with the previously obtained consent of the people in framing the rule by which the people's voice should be heard in the Government.

If we go back to the founders of our Government, the fathers of Democracy, such as Jefferson, were denounced as demagogues, against whom and his colaborers in behalf of the people's rights, those then entertaining the same principles that would now dictate to the Charleston convention the necessity of Congressional intervention in territorial municipal government, claimed for Congress the exercise of powers not delegated by the Constitution—not warranted by the nature of the case—and in place of argument used denunciations and names of derision, in order to bring down odium and contempt on those who were bold and out spoken in behalf of the rights of the people. Andrew Jackson believed in the right of the people to govern—was a supporter of the Constitution and a friend and defender of the Union. He was a disciple of Jefferson—so was Mr. Calhoun, Mr. McDuffie, and other distinguished champions of southern institutions. Mr. Jefferson says, in speaking of the inalienable rights of man: "That to secure these rights governments are instituted among us, *deriving their power from the consent of the governed;* that when any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it."

Gen. Jackson said: "It will be my aim to inculcate, by my official acts, the necessity of exercising, by the General Government, those powers only that are clearly delegated; to encourage simplicity and economy in the expenditures of the Government; to raise no more money from the people than may be requisite for those objects, and in a manner that will best promote the interests of all classes of the community, and of all portions of the Union. Constantly bearing in mind that in entering into society, 'individuals must give up a share of liberty to preserve the rest;' it will be my desire so to discharge my duties as to foster, with our brethren, in all parts of the country, a spirit of liberal concession and compromise; and by reconciling our fellow-citizens to those partial sacrifices which they must unavoidably make for the preservation of a greater good, to recommend our invaluable Government and Union to the confidence and affections of the American people."

Mr. Calhoun, as late as 1848, said that, "On the contrary, Government has no right to control individual liberty, beyond what is necessary to the safety and well-being of society." And again, he says: "So, on the contrary, just as a people rise in the scale of intelligence, virtue and patriotism, and the more perfectly they become capable of forming with the aid of Government, the ends for which it was ordained, and how it ought to be administered, and the less the tendency to violence and disorder within and danger from abroad, the power necessary for Government, becomes less and less, and individual liberty greater and greater."

Mr. McDuffie, the disciple of Mr. Calhoun, says: "We have been frequently told that the farmer should attend to his plow, and the mechanic to his handicraft, during the canvass for the Presidency. Sir, a more dangerous doctrine could not be inculcated. If there is any apostacle from the contemplation of which I would shrink with peculiar horror, it would be that of the great mass of the American people sunk into a profound apathy on the subject of their highest political interest. If the people do not elect the President, somebody must. There is no special providence to decide the question. Who, then, is to make the election and how will it operate? Make the people indifferent, destroy their legitimate influence, and you communicate a morbid violence to the efforts of those who are ever ready to assume the control of such affairs, the mercenary intriguers and interested office-hunters of the country."

These, and hundreds of others, who assisted in the organization of the Democratic party in this country, adopting it and proper principles in support of the rights of a free and intelligent people, based on the great landmarks of the people's power and authority, under the Constitution, have, at all times, and under all circumstances, inculcated the idea that the people of these United States were something more than simple instruments to carry out the will and designs of those who, by a series of management and chicanery, had succeeded in placing themselves, and their friends, in the highest official positions in our Government. They have supported the doctrine that this was a Government of the people, and although managed in an indirect or representative manner, still the people intended to rule, and that in no department of Government have they wholly deprived themselves of a wholesome influence and control over the public interest, and reserved for themselves, in all cases not provided for, an exclusive and immediate control and supervision.

The Constitution of the United States, Art. IV, Sec. 3, says: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States;" which literally means that Congress may establish a surveyor's office—a land office, run out, survey and sell the waste lands, or territory, belonging to the United States—and by inference, by a stretch of power, may organize a frame-work of government to keep the peace beyond the jurisdiction of the several States. I say this power, even to frame a government in an organized Territory, is a vagrant power, and is dependent on the necessity of the case. Congress can confer no power not possessed—and if by implication, such power is exercised as may be found necessary to establish civil government, the exercise of the ruling functions of such government will be found in the people of such Territory; and if the population of the Territory be of an inferior order—negro or Indian—a savage population—all history bears me out in the assertion, that none other than a military government could succeed. If, then, the territory of the United States should be settled by the people of the several States, whose intelligence and virtue habits had given tone and character to the respective States from whence they emigrated—whose votes at the ballot box had assisted in the political rule of such States, and whose verdict as jurors had assisted in molding the judicial decisions within the several States, thereby proving most conclusively such territorial population to be intelligent and patriotic—it would appear strange if by crossing the confines of the States, and emerging into the wilderness of a Territory, they must necessarily loose the power of self-government, and particularly that circumscribed part that refers exclusively to municipal, local or internal policy, the deprivation of which by the mother country caused the people of the Colonies to rebel against her. If this successful rebellion did not result in the achievement of the privilege by the people in control by municipal law their own domestic concerns, then the achievements of our revolution were heolless, and our people remain in ignorance of all advantages they were supposed to have gained.

The rights of domain being in the General Government, really to be disposed of by the limited power conferred by the Constitution on Congress, the paramount law must control, and the supreme judiciary determine, in all cases cognizable before that august tribunal. The internal polity of the State must of right be dependent on the will of the people, under the restrictions of the Constitution, and the decisions of the Supreme Court, or there can be no legitimate political rule in a Territory, as in not conferring the necessary power on Congress, it was virtually denied to it.

Under territorial government, sovereignty is in abeyance, and to some extent it is so in States, at least to the extent that each State has conferred on the General Government through the Constitution, so many important powers, incident to sovereignty, for its exercise for the general advantage of all the State, and among these, the protection of property in the last resort, that the people of a State, no more than the people of a Territory, can pass with impunity any authoritative law which will destroy property. The object of law is to protect property, and the power given in the Constitution to protect it, will, in its exercise by the federal courts in the last resort, protect it in State or Territory, as long as the people hold allegiance to the Constitution of the United States.

The great error of political casuists has been in supposing that the Constitution took property into and controlled it within the Territories, when, in reality, the Federal Court, on appeal, determines the right of parties to property, whose rights trace their origin and maintenance to the local authorities. This distinction may not be clear to all.

The State of Virginia, by her Constitution and laws, recognizes the right of individuals to property and slaves—is a controversy in regard to title, if of sufficient magnitude, in its final determination, on appeal to the Supreme Court of the United States, the rights of the parties are determined by the court under the laws of Virginia. If a similar case came up from Ohio, being governed by the Constitution and statutes of Ohio, the decision, if the plea of matter involved the right of property in a slave, the laws of Ohio governing the case, the decision being based on the local laws of the State might be the reverse of the first case stated, and yet be just and in full accordance with the Constitution of the United States. As the Constitution does not, nor cannot take any kind of property into a State or Territory—if it died, it would take it into all alike, and would be bound to protect it in the free as well as the slave States—the rights of property in any chattle or thing coming from any State where it is recognized as such, the federal judiciary as may be seen by reference to the decision made in the Dred Scott case, will secure the party in that right. That sovereign power belonging to States, (which those forming this Union or Confederacy did not, in its compact, confer on the General Government, but another truly astonishing in variety, and such too, for the most part, modern slede-travelers in those regions would consider a mere accumulation of dead weight, but slightly useful, and very likely to break down the strength of the sledge-crave.

The only provision we could find were tea and chocolate; of the former very little remained but there were nearly forty pounds of the latter. These articles alone could never support life in such a climate, and we found neither liquor nor food of any kind. A portion of tobacco and an empty pemmican-tin, capable of containing twenty-two pounds weight, were discovered. The tin was marked with an E, it had probably belonged to the Erebus. None of the fuel originally brought from the ships remained in or about the boat, but there was one log, 14 ft. 6 in. in length, 8 inches in width, and with an average thickness of 3½ inches. These planks formed the sides of runners of the sledge; they were connected by five cross bars of oak, each 4 feet long, and 4 inches by 3½ inches thick, and bolted down to the runners; the underneath parts of the latter were shod with iron. Upon the cross bars five sad-ties or supporting chocks for the boat were lashed, and the drag-ropes, by which the crew moved this massive sledge, and the weights upon it, consisted of 24 inch whole-line.

I have calculated the weight of this sledge to be 650 pounds; it could not have been less, and may have been considerably more. The total weight of boat and sledge may be about at 1800 pounds, which amounts to a heavy load for seven strong, healthy men.

The only markings about the boat were those upon her stern, by which we learned that she was built by contract, was received into Woolwich Dockyard in April, 1844, and was numbered 61. There may have been a fourth figure to the right hand, as the stern has been reduced in order to lighten the boat. The ground the sledge rested upon, was the usual limestone shingle, perfectly flat, and probably overflowed at times every summer, as the stones were imbedded in ice.

The boat was partially out of her cradle upon the sledge, and was lying in such a position as to lead me to suppose it the effect of a violent northwest gale. She was barely, if at all, above the reach of occasional tides.

One hundred yards from the boat, upon the land side, lay the stumps of a fir tree twelve feet long, and sixteen inches in diameter at three feet above the roots. Although the ice had used it roughly during its drift to this shore, and rubbed off every vestige of bark, yet the wood was perfectly sound. It may have been and probably has been lying there for twenty or thirty years, and during such a period would suffer less decay in this region of frost than in one-sixth of the time at home. Within two yards of it, I noticed a few scanty tufts of grass.

But all these were after observations; there was that in the boat which transfixed us with awe. It was portions of two human skeletons. One was that of a slight young person, the other of a large, strongly-made, middle-aged man. The former was found in the bow of the boat, but in too much disturbed a state to enable Hobson to judge whether the sufferer had died there; large and powerful animals, probably wolves, had destroyed much of this skeleton, which must have been that of an officer. Near it was found the fragment of a pair of worked slippers, of which I give the pattern, as they may possibly be identified. The lines were white, with a black margin; the ground white, red and yellow. They had originally been eleven inches long, lined with calf skin with the hair left on, and the edges bound with red silk ribbon. Beside the stunted fir were a pair of small shooting half-boots. The other skeleton was in a somewhat more perfect state, and was enveloped with clothes and furs; it lay across the bottom of the after-athwart. Close beside it were found five water-casks; and there were two double barreled guns—one barrel in each loaded and cocked—standing muzzle upward against the boat's side. It may be imagined with what deep interest these and relics were scrutinized, and how anxiously every fragment of clothing was turned over in search of pockets, journals or even names. Five or six small books were found, all of them scriptural or devotional works, except the "Vicar of Wakefield." One little book, "Christian Melodies," bore an inscription upon the title page from the donor to G. G. (Graham Gore?) A small Bible contained numerous original notes, and whole passages underlined. Besides these books, the crew of a New Testament and Prayer-book were found.

Among an amazing quantity of clothing there were seven or eight pairs of boots of various kinds—cloth winter boots, sea boots, heavy ankle boots, and strong shoes. I noted that there were silk handkerchiefs—black, white and striped; towels, soap, sponge, toothbrush, and hair-comb; Macintosh rug-cover, market outside with paint A. 12, and lined with black cloth. Besides these articles we found clothes, belts, vests, hats, boots, waistcoats, sailmakers' palms, powder, bullets shot, cartridges, wads, leather cartridge-case, knives—clasp and dinner ones—needle and thread cases, aloe-catch, several tape-and scabbards cut down into knife-sheaths, two rolls of sheet-lead, oil, in short, a quantity of articles of one description and another truly astonishing in variety, and such too, for the most part, modern sledge-travelers in those regions would consider a mere accumulation of dead weight, but slightly useful, and very likely to break down the strength of the sledge-crave.

The only provision we could find were tea and chocolate; of the former very little remained but there were nearly forty pounds of the latter. These articles alone could never support life in such a climate, and we found neither liquor nor food of any kind. A portion of tobacco and an empty pemmican-tin, capable of containing twenty-two pounds weight, were discovered. The tin was marked with an E, it had probably belonged to the Erebus. None of the fuel originally brought from the ships remained in or about the boat, but there was one log, 14 ft. 6 in. in length, 8 inches in width, and with an average thickness of 3½ inches. These planks formed the sides of runners of the sledge; they were connected by five cross bars of oak, each 4 feet long, and 4 inches by 3½ inches thick, and bolted down to the runners; the underneath parts of the latter were shod with iron. Upon the cross bars five sad-ties or supporting chocks for the boat were lashed, and the drag-ropes, by which the crew moved this massive sledge, and the weights upon it, consisted of 24 inch whole-line.

I have calculated the weight of this sledge to be 650 pounds; it could not have been less, and may have been considerably more. The total weight of boat and sledge may be about at 1800 pounds, which amounts to a heavy load for seven strong, healthy men.

The only markings about the boat were those upon her stern, by which we learned that she was built by contract, was received into Woolwich Dockyard in April, 1844, and was numbered 61. There may have been a fourth figure to the right hand, as the stern has been reduced in order to lighten the boat. The ground the sledge rested upon, was the usual limestone shingle, perfectly flat, and probably overflowed at times every summer, as the stones were imbedded in ice.

The boat was partially out of her cradle upon the sledge, and was lying in such a position as to lead me to suppose it the effect of a violent northwest gale. She was barely, if at all, above the reach of occasional tides.

One hundred yards from the boat, upon the land side, lay the stumps of a fir tree twelve feet long, and sixteen inches in diameter at three feet above the roots. Although the ice had used it roughly during its drift to this shore, and rubbed off every vestige of bark, yet the wood was perfectly sound. It may have been and probably has been lying there for twenty or thirty years, and during such a period would suffer less decay in this region of frost than in one-sixth of the time at home. Within two yards of it, I noticed a few scanty tufts of grass.

But all these were after observations; there was that in the boat which transfixed us with awe. It was portions of two human skeletons. One was that of a slight young person, the other of a large, strongly-made, middle-aged man. The former was found in the bow of the boat, but in too much disturbed a state to enable Hobson to judge whether the sufferer had died there; large and powerful animals, probably wolves, had destroyed much of this skeleton, which must have been that of an officer. Near it was found the fragment of a pair of worked slippers, of which I give the pattern, as they may possibly be identified. The lines were white, with a black margin; the ground white, red and yellow. They had originally been eleven inches long, lined with calf skin with the hair left on, and the edges bound with red silk ribbon. Besides these slippers there were a pair of small shooting half-boots. The other skeleton was in a somewhat more perfect state, and was enveloped with clothes and furs; it lay across the bottom of the after-athwart. Close beside it were found five water-casks; and there were two double barreled guns—one barrel in each loaded and cocked—standing muzzle upward against the boat's side. It may be imagined with what deep interest these and relics were scrutinized, and how anxiously every fragment of clothing was turned over in search of pockets, journals or even names. Five or six small books were found, all of them scriptural or devotional works, except the "Vicar of Wakefield." One little book, "Christian Melodies," bore an inscription upon the title page from the donor to G. G. (Graham Gore?) A small Bible contained numerous original notes, and whole passages underlined. Besides these books, the crew of a New Testament and Prayer-book were found.

Among an amazing quantity of clothing there were seven or eight pairs of boots of various kinds—cloth winter boots, sea boots, heavy ankle boots, and strong shoes. I noted that there were silk handkerchiefs—black, white and striped; towel, soap, sponge, tooth-br