



MARTIN & KENDRICK,

"BE SURE YOU'RE RIGHT, THEN GO A-HEAD."—Crockett.

Proprietors.

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NO 3

Extract from Mr. CALHOUN'S argument, on the Slavery question.

I have now repelled all the charges intended to shake your confidence in my fidelity to you, in reference to the most vital of all subjects to the South. I have shown that they all rest either on statements that are utterly false, or conclusions that are entirely erroneous or inconclusive. I have also shown, that Col. Benton has involved himself at every step, in false statements, contradictions, inconsistency and absurdities. I will not say that he made his charges knowing them to be false; for that would brand him as a base calumniator and slanderer; but I will say he ought to have known they were. It may be, however, that he was too much blinded by his passion and prejudice, or lacked the discrimination to perceive they were.

I have passed over all that was directed against me personally, and not intended to impeach my fidelity to you and your cause, because it did not fall within the reasons, which induced me to notice him at all. I have also passed over the torrent of abuse he has poured out against me; not only for the same reason, but because I deem it beneath my notice. He doubtless thinks differently, and regards it as the finest portion of his speech; for he has used expressions which pretty clearly indicate that he anticipates it will raise him to the level of the great Athenian orator, for indignant denunciation. He mistakes his fate. He will be fortunate should he escape sinking to the level of Thersites. He seems not to apprehend that the difference is wide between the indignant eloquence of patriotism and truth, and scurrilous defamation. I also pass over his attack on the Southern Address; because it has been to generally read, and is too well understood by you, for him to do any mischief by assailing it. The wonder is, that he should venture to make an attack in open daylight.—The remote twilight region of the past, lying between truth and fiction, best suits his taste and genius.

Passing all these by, I am brought to where he throws off his disguise, and enters the camp of the enemy; and openly proclaiming himself an Abolitionist, endorses all their doctrines; and steps forth as their champion. In that character, he assumes a dictatorial air, and pronounces that it is absurd to deny the power of Congress to legislate as it pleases, on the subject of slavery in the territories; that it has exercised the power from the foundation without being questioned, until I introduced my resolutions; that slavery is local in its character; that it must be created by law, and cannot be carried an inch beyond the limits of the State that enacted it; that slaves cannot be carried into the territories of New Mexico or California because the Mexican laws abolished slavery there, and are still in force; and concludes that it is a mere abstract question of no importance, because the people there, and especially the foreigners, are opposed to it, and will not permit you to emigrate into the territory with your slaves.

I do not propose to enter into a formal petition of assertions so ostentatiously pronounced. It is not necessary. They were the same that were put forth and relied on by those opposed to you in the discussion on the Oregon territorial bill, during the session preceding the last; and which were then fully met and refuted by me and others, who took your side of the question. What I now propose is a very summary and brief notice of these several assertions.

I begin with that which asserts that Congress has the power to do as it pleases upon the subject of slavery in the territories. I deny the assertion and maintain that Congress has no such power over slavery there or elsewhere, or over any other subject. I deny that Congress has any absolute power whatever, or that it has any of any description, except such as are specifically delegated, or that are necessary and proper to carry them into execution. I maintain, that all its powers are delegated and trust powers, and not positive and absolute; and that all of the latter description belongs exclusively to the people of the several States in their sovereign char-

acter. I also hold, that Congress is but their representative and trustee, and that in carrying into execution its powers, it cannot rightfully exercise any inconsistent with the nature and object of the trust, or with the character of the party who created the trust and for whose benefit it was created. I finally hold, that instead of having the absolute power over the territories of doing as it pleases, that Congress is restrained by all these limitations; and that its power to exclude you from emigrating with your slaves into them cannot be maintained without denying that ours is a government of specific power; that is a government of which States, and not individuals, are the constituents, and that Congress holds its powers as delegated and trust powers. Nor can it be maintained, without assuming that ours is a consolidated Government, and holds its powers absolutely in its own sovereign right of doing as it pleases.

I also deny, the truth of his next assertion, that it has exercised the power over the territories, as it pleased, without being questioned until I introduced my resolutions. I maintain, on the contrary, that such power never was exercised by Congress, until he and his associates passed the Oregon territorial bill. That was the first bill containing the Wilmot Proviso, that ever passed, as has been stated—passed solely to assert the absolute right of doing as it pleases. All others, including the ordinance of 1787, were passed as compromises which waived the question of power, as has been frequently shown. Nor is his assertion more correct, that the power never was questioned, until the introduction of my resolutions. It was questioned from the start, beginning with the ordinance of 1787. Mr. Madison pronounced that it was adopted without a shadow of right. Since then, it has been acquiesced in not as a right, but as a compromise, until the North refused all compromise, and forced the South to stand on its rights where it should have stood from the first.

The next assertion, that slavery is local in its character, that it must be enacted by law, and cannot be carried an inch beyond the limits of the State that enacted it, is equally unimpeachable. It is clear that in making it, he intended to affirm, that in these respects, property in slaves stands on very different ground from every other description of property.

I deny the fact, and maintain that there is no distinction between it and other property, in that respect. It no more requires to be enacted by law, or to express it more specifically to have a positive enactment for its origin, than property in land or any thing else. The relation of master and slave was one of the first and most universal forms in which property existed. It is so ancient that there is no record of its origin. It is probably more ancient than separate and distinct property in lands, and quite as easily defended on abstract principles. So far from being created by positive enactment, I know of no instance in which it ever was, or to express it more accurately, in which it had its origin in acts of legislatures. It is always older than the laws which undertake to regulate it, and such is the case with slavery as it exists with us. They were, for the most part, slaves in Africa; they were bought as slaves, brought here as slaves, sold here as slaves, and held as slaves, long before any enactment made them slaves. I even doubt, whether there is a single State in the South that ever enacted them to be slaves. There are hundreds of acts that recognize and regulate them as such, but none, I apprehend, that undertake to create them as slaves.—Master and slaves are constantly regarded as pre-existing relations.

Nor is it any more local in its character than other property. The laws of all countries, in reference to every thing, including property of every kind, are local, and cannot go beyond the limits to which the authority of the country extends. In case of property of every description, if it passes beyond the authority of the country where it is, into another where the same description of things are regarded as property, it continues to be so there, but becomes subject to

the laws and regulation of the place in reference to such property. But if it be prohibited, as property, in the country into which it passes, it ceases to be so, unless it has been forced in, under circumstances which placed it under the protection of international laws. Thus, one and the same principle apply in this respect to all property, in things animate or inanimate and rational or irrational. There can be no exception; as property every where and of every kind is subject to the control of the authority of the country. Thus far, I hold that there can be no reasonable doubt.

Nor can there be any that the same principle applies between the several States in our system of Government. Slaves or any other property carried into a State where it is also property, continues still to be so; but if into one where it is prohibited, it ceases to be property. This is admitted too, by all. It is also admitted by all, that the General Government cannot overrule the laws of a State, as to what shall or shall not be property within the limits of its authority.—The only question then is, what is the power of the General Government where its authority extends beyond the limits of the authority of the States, regarded in their separate and individual character? Or to make it more specific, can it determine what shall or shall not be property in the territories or wherever else its authority extends, beyond that of the States separately? Or to make it still more so, can it establish slavery in the territories? Can it enact a law providing that any negro or mulatto found in the territories of the United States shall be a slave, and be liable to be seized, and treated as such by whoever may choose to do so? According to Col. Benton's doctrine, that Congress may legislate as it pleases upon the subject of slavery in the territories, it would have the power, but I doubt whether there is another individual who would agree with him.—But if it has not the power to establish slavery in the territories, how can it have the power to abolish it?—The one is the counterpart of the other, where is the provision of the Constitution to be found which authorizes the one and forbids the other?

The same question may be propounded as to public and private vessels belonging to the United States and their citizens on the high seas; for the principle which applies to the territories, equally applies to them, and to all places, to which the authority of the General Government extends, the States regarded separately.

It is indeed a great misconception of the character and object of the General Government, to suppose that it has the power either to establish or abolish slavery, or any other property, where its authority extends beyond the limits of the States regarded individually. Its authority is but the united and joint authority of the several States, conferred upon it by a Constitution, adopted on mutual agreement, but by the separate act of each State, in like manner, in every respect, as each adopted its own separate Constitution, with the single exception that one was adopted without, and the other on mutual agreement of all the States. It is then in fact, the Constitution of each State, as much so as its own separate Constitution; and is only the Constitution of all the States, because it is that of each.—As the constitution made the General government, that too is in like manner, as much the government of each State as its own separate government, and only the government of all, because it is the government of each. So likewise are its laws, and for the same reason. Its authority, then, is but the united and common authority of the several States, delegated by each, to be exercised for the mutual benefit of each and all, and for the greater security of the rights and interests of each and all. It was for that purpose the States united in a Federal Union, and adopted a common Constitution and government. With the same view, they conferred upon the government whatever power it has of regulating and protecting what appertained to their relations among themselves, and with the rest of the world. Each, in brief, agreed with the others, to unite their

joint authority and power to protect the safety and rights and promote the interest of each by their united power.

Such is clearly the character and object of the General Government, and of the power and authority conferred on it. Its power and authority, having for its object the more perfect protection and promotion of the safety and rights of each and all, it is bound to protect by its united power the safety, the right, the property, and the interest of the citizens of all wherever its authority extends.—That was the object for conferring whatever power and authority it has, and if it fails to fulfil that, it fails to perform the duty for which it was created. It is enough for it to know, that it is the right, property of a citizen of one of the States, to make it its duty to protect it wherever it comes within the sphere of its authority, whether in the territories, or on the high seas, or anywhere else. Its power and authority were conferred on it, not to establish or to abolish property, or rights of any description, but to protect them. To establish or abolish belonging to the States, in their separate sovereign capacity—the capacity in which they created both the General and their separate State Governments. It would be then, a total and gross perversion of its powers and authority to use them to establish or abolish slavery, or any other property of the citizens of the United States, in the territories. All the power it has, in that respect, is to recognize as property there, whatever is recognized as such by the authority of any one of the States, its own being but the united authority of each and all of the States, and to adopt such laws for its regulation and protection as the state of the case may require. Nor is there the slightest danger, that the recognition of the property of citizens of each and all the States within the territories, would turn them into a Babel, as Col. Benton contends. All may co-exist without conflict or confusion, by observing the plain and simple rule of duty and justice.

There is another error akin to this: that the Mexican law abolishing slavery is still in force in New Mexico and California, when not a particle of its authority or sovereignty remains in either. Their conquest by us, and the treaty that followed, extinguished the whole, and with it annulled all her laws applicable to them, except those relating to such rights of property and relations between individuals, as may be necessary to prevent anarchy; and even these are continued only by sufferance and on the implied authority of the conquering country, and not the authority of the conquered, and only from the necessity of the case. Her laws abolishing slavery, are not embraced in the exception; and if it were, it would be taken out of it, as the assent of Congress could not be implied to continue a law, which it had no right to establish.

But still higher ground may be taken. The moment the territory becomes ours, the Constitution passes over and covers the whole with all its provisions, which from their nature are applicable to territories, carrying with it the joint sovereignty and authority of each and all the States of the Union, and sweeping away every Mexican law incompatible with the right, property, and relations belonging to the citizens of the United States, without regard to what state they belong, or whether it be situated in the Northern or the Southern section of the Union. The citizens of all have equal rights of protection in their property, relations, and person, in the territories of each and all the States. The same power that swept away all the laws of Mexico which made the Catholic religion the exclusive religion of the country and which let in the religion of all denominations, which swept away all the laws prohibiting the introduction of property of almost every description, some absolutely and others under the condition of paying duty, and letting them in duty free until otherwise provided for, swept that which abolished slavery, and let in property in slaves. No distinction can be made between it and any other description of property or thing consist-

ently, with the Constitution and the equal rights of the several states of the Union and their citizens.

But we are told by Col. Benton that the question has become a mere abstraction of no importance; that few have gone into either territory, except citizens of the North and foreigners and that they are all opposed to us. What insult! What want us by telling us, we cannot go into them because foreigners and others who have been let in freely, and we kept out by a threat of confiscating our property by himself and his associates, who have become sufficiently numerous to keep us out without the intervention of Congress to aid them! He knew that 'property is timid,' and could be kept out by threats, and that to keep us out for a short time was one of the ways to exclude us ultimately. What a comment on the equity and justice of the Government, that we, who have so freely spent our blood and treasure to conquer the country, should be excluded from all its benefits, while it is left open for the use and enjoyment of all that rabble of foreigners, which he enumerates with so much zest, as the efficient means of our exclusion. Is there another instance of such an outrage to be found in the history of any other Government that ever existed?

His avowal of the doctrines of the Abolitionists, will have an effect, he little expected when he made it.—It furnishes ample means to show that he used deception in assigning his reasons for declining to obey the instructions of his Legislature. It will be remembered he offered as his reasons, that their resolutions instructing him were borrowed from mine, and that mine was introduced for disunion purposes, and that there was no difference between them, except that mine aimed directly at disunion, and theirs ultimately at the same thing. He added, in effect, that his devotion to the Union would not permit him to vote for resolutions so deeply tainted with disunion.—That was at the commencement of his speech. We now have in its conclusion, conclusive evidence from himself, that all this was a mere feign, a stratagem to conceal his real motive for declining to obey them. His real motive, as it now appears, was that he could not vote for them under any circumstances, for how could an abolitionist, as he avowed himself to be, possibly obey resolutions, which are utterly at variance with their doctrines? To obey would have involved him in palpable contradiction, so much so, that it could not fail to prostrate and overwhelm him with shame, if he is not to shame invulnerably.—This he saw, and that he had no alternative left but to resign or disobey. He determined in favor of the latter; but this of itself did not relieve him of his dilemma. He knew well that it would defeat his objects to come out boldly, and say that he had abjured his former creed and adopted that of the abolitionists. And hence, he was forced to adopt some other expedient; and for that purpose, adopted the miserable pretext of slanderously charging me and my resolutions, and his own Legislature and their resolutions, with disunion, and of assigning that as his reason for not obeying them, when he knew that his position made it impossible for him to obey them. But these are not the only resolutions adopted by the Legislature of his State to instruct him. The previous Legislature adopted two others, of which he says, that they truly express the sense of the State, and that he obeyed them, not only in their letter, but spirit. They are in the following words:

Resolved, That the peace, permanency and welfare of our National Union depend upon a strict adherence to the letter and spirit of the 8th section of the United States, entitled "an act to authorize the people of the Missouri territory to form a Constitution and state government for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain territories." Approved March 5th 1820.

Resolved, That our Senators in the Congress of the United States are hereby instructed, and our Represent-

tatives requested, to vote in accordance with the provisions and the spirit of the said 8th section of the said act, in all the questions which may come before them in relation to the organization of new territory now belonging to the United States, or which hereafter may be acquired either by purchase, by treaty, or by conquest.

It is proper to observe, that the 8th section to which they refer contains the Missouri compromise, which established the dividing line between the western boundary of the State of Missouri and the western boundary of Louisiana. These resolutions he says he obeyed, in letter and spirit, when in fact he flagrantly violated them, by his vote for the Oregon territorial bill, prohibiting slavery in that territory, without any compromise, annexed; and that too, to assert the principle of unlimited power of Congress over the territories, and in open defiance of all compromise. He calls that bill his proviso, and well he may, for he passed it, when it was in his power to defeat it. A very few remarks will suffice to show that I have not expressed myself stronger than truth warrants.

The first resolution asserts "that the peace, harmony, and welfare of our National Union depends upon a strict adherence to the letter and spirit of Missouri Compromise; and the last instructs their Senators and Representatives to vote in accordance with its provisions and spirit in all questions which may come up before them in relation to the organization of new territories or States, out of territories now belonging to the United States, or which hereafter may be acquired." No instructions could be more full or explicit, or assign stronger motives for obeying them, especially to one professing so great a devotion to the Union.—There is no mistaking the meaning.—He is instructed to vote for all bills in reference to the territories which may conform to the letter and spirit of the compromise, and against all that do not, that is, to vote for all that extend the line westward from its terminus on the western boundary of Texas, for that is its letter; and to secure to the South that portion of the territory lying on the Southern side of the line, as effectually as that compromise did, in fact, all the territory which lay on the Southern side, and to vote against all bills that did not, for that is meant by its spirit. There was good reason to put in "spirit," for it was understood then that the doctrine began to be broached that the laws of Mexico abolishing slavery would continue in force, unless they were repealed, if not prevented by some effectual guard. No additional remarks can make his disobedience more clear, and he now stands condemned for disobeying the instructions of his Legislature, which he himself praises, and which he does not even pretend to charge with disunion.

I notice in the progress of this communication, that Col. Benton evinced unusual solicitude to confound the Missouri Compromise and all other compromises of the kind, with the Wilmot Proviso. I attribute it, in part, to a desire to screen himself from the odium of having voted for the Wilmot Proviso, by confounding it with other measures, that were far less offensive; but I said that there was another more powerful reason which would be explained in the sequel. That reason was to shelter himself, if possible, against the charge of violating instructions, which he acknowledged to be above exception. If he could possibly establish that the Missouri Compromise and the Wilmot Proviso were identical, as he would have his constituents believe, to obey the one would be to obey the other.—But I have shown that was impossible, and thus he is left without the possibility of escaping the charge of disobeying them.

With a few additional remarks, I shall close this long communication.

Col. Benton assigns devotion to the Union as his motive for taking the course he has; and by implication, charges yours as being the side of disunion; and his and the Abol-