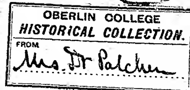
SPEECH

OF



OBERLIN COLLEGE
HISTORICAL COLLECTION.
FROM

HON. GEO. HASTINGS, OF NEW YORK,

ON THE

NEBRASKA AND KANSAS BILL,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, APRIL 20, 1854.

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1854.

NEBRASKA AND KANSAS.

The House being in the Committee of the Whole on the state of the Union—

Mr. HASTINGS said:

Mr. CHAIRMAN: In submitting a few remarks on a subject which seems to absorb all other questions of a public nature in this place and throughout the land, I feel that I ought to apologize to the committee, not only for following the practice here of speaking to a topic not legitimately under discussion, but for speaking at all of matters which are already becoming trite and wearisome. Much as I desire to define my position upon the important and bold proposition contained in the territorial bills sent to the committee for consideration, I should decline doing so did not my views differ somewhat from those expressed by other opponents of these bills.

It is proposed, in territory from which, by the law of 1820, known as the Missouri compromise, slavery was to be forever excluded, to organize two territorial governments, to repeal that prohibition, and thus to open to slavery all that vast domain. To those who are familiar with the history of that period, the proposition, to say the least of it, cannot but be a startling one. When the whole country was in repose, it struck upon the ear suddenly, like the ominous tones of the fire-bell at the dead of night. The people started up in amazement and alarm at the audacity of the proposition. The first impression on the public mind found vent in vehement charges of a violation of solemn compacts—a breach of good faith, and an attempt to extend slavery, and increase its power. In the course I have marked out for myself, I shall not indulge in these denunciations, but will briefly, and as clearly as I am able, present my views of this proposition.

The prohibition in question has been called a compact, and the treasures of legal and philological learning have been exhausted by those who maintain, or those who oppose this opinion. For my part, I do not regard it as a compact, for it wants many of the essentials of a compact. I admit that so far as form is concerned it is a mere law. But when we call it a law, we have not told the whole truth. I shall not go into a history of the Missouri compromise; that ground has already been sufficiently traveled over. I only desire to state two or three plain propositions, which, as all must admit, are fully sustained by well known facts.

It cannot be denied that there was a sectional division in reference to the admission of Missouri, and that the law admitting her was supposed to confer an advantage upon the southern States of this Confederacy.

It is also true that this law could not have been passed without northern votes.

It is equally undeniable that these necessary votes could never have been obtained but for the concession to northern sentiment contained in this slavery prohibition.

Now, I submit to any candid mind, whether, in this view, the Missouri prohibition, although a mere law, does not possess the sanctity of a compact? Can the South, enjoying as it does all the advantages of the admission of Missouri as a sovereign State, without a violation of good faith, recall this concession to northern sentiment against the will of the North? In this view of the case

it matters not that the slavery prohibition may have been unconstitutional; it matters not that Congress had no right to reject the demand of Missouri for admission; it matters not that the North has since refused to extend the same line across the newly acquired Territories. The prohibition, for whatever it was worth, was the price paid for the northern votes, by which Missouri was admitted. It was the poor compensation accorded to the free States for the political strength which the slave States obtained by the accession of another to their number.

To illustrate this position, let me refer to the compromise measures of 1850. One of them is the prohibition of the slave trade in the District of Columbia; another the fugitive slave law. The first was a concession to northern sentiment; the last a boon to southern interest. They are separate and distinct laws; and neither, on the face, bears the slightest relation to the other. One became a law on the 18th, the other on the 21st, of September. And yet all who know anything of the history of that time well know, that in the minds of the legislators, and of the country, they bore the most intimate relation to each other. Everybody knows that neither would have had a place on our statute-books, except upon the assurance that the other also should have a place beside it. Now, sir, I put it to gentlemen from slaveholding States, what would you say to us of the North if we, having the numerical strength, should attempt to exercise it by repealing the fugitive slave law? Would not the shrill voice of the eloquent gentleman from Georgia [Mr. STEPHENS] make the arches of this Hall to echo with denunciations of northern perfidy, such as even he never before uttered? Should we not hear one simultaneous outburst of indignation from southern gentlemen against such faithlessless? It would be in vain for us to answer that a majority of southern members of Congress voted against the abolition of slave marts in the District; and that therefore they violated the compact on their part. It would be in vain for us to insist that the fugitive slave law is unconstitutional, and that it is degrading to the North. The indignant reply would be, we assented to your law because you gave us ours, and good faith requires that both should be held equally sacred.

Let us examine the reasons for this attempt to repeal a law which, until now, has been regarded as inviolable. It is said to be "inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures," and is therefore declared "inoperative and void." Here is logic which I confess passes my comprehension. This principle of non-intervention is claimed to have been applied only to the Territories of Utah and New Mexico. Now, because this principle is inconsistent with a prior law which is applicable to other territory, for that reason the law is "inoperative and void." Sir, this is a plain and palpable *non sequitur:* the conclusion is "most lame and impotent"—it has not the slightest connection with the premises. The principle of a law applied to certain specified territory can never be inconsistent with the law of a separate and distinct territory, in such a sense as to render the latter "inoperative and void."

If there is any force at all in this reason, it lies in the assumption that the Congress of 1850, when they organized the Territories of Utah and New Mexico, intended to repeal the prohibition in question. I do not know that any one pretends that the Thirty-First Congress really intended any such repeal, but, by a circuitous process of reasoning, an attempt is made to establish such a position by implication. It has been said here and elsewhere that any other view of the legislation of 1850 "is narrow and unstatesmanlike," and surprise has been expressed at the assertion from respectable quarters, "that the provisions touching slavery in New Mexico and Utah were not intended to establish any principle for the future action of Congress upon that subject."

Now, sir, I do not believe it can be shown that the new doctrine of popular sovereignty, as applied to Territories, was intended to be recognized by the legislation of 1850. I do not say that some of the friends of those bills did not put their support on that ground; but what I mean is, that the doctrine was not recognized clearly and distinctly, as the principle which controlled that legislation.

In order to understand precisely the effect of the laws admitting New Mexico and Utah, let us glance at the policy of our Government in reference to slavery from its foundation. It is very clear that the fathers of our Republic regarded slavery as an evil which, under our system, and with our views of human rights, must of necessity be temporary in its duration. Their whole policy looked to its restriction within its then existing limits, and its ultimate extinction. The propagation of slavery is a modern idea—it belongs to the nineteenth century—to this age—(Heaven save the mark!)—this "age of progress." The ordinance of 1787, by which slavery was prohibited in all the territory lying northwest of the Ohio river, received the vote of every Delegate from every State represented in Congress. The prohibition of the

slave trade was another measure of the same character. The admission of the States of Missouri and Arkansas were not departures from this ancient policy. Slavery was recognized and tolerated by the French laws, as is well known, in the whole Louisiana territory. It actually existed, in 1820, in the limits of the present States of Missouri and Arkansas. Let it be remembered that the memorable struggle on that occasion was not whether the further extension of slavery should be prohibited, but whether another slave State should be admitted into the Union. It aimed directly at the abolition of slavery by congressional power. To the application of the policy of prohibiting slavery in those portions of the Louisiana purchase where it did not actually exist, I am not aware that there was any serious opposition. And the parallel of 36° 30′ was adopted, not, I apprehend, as an arbitrary compromise line between free and slave territory, but simply because slavery did not then practically exist north of that line, and west of the State of Missouri. The prohibition covered all the Louisiana purchase outside of the State of Louisiana, the then Territory of Arkansas, and the proposed State of Missouri, except a tract of land of no very great extent, lying between the Red river and the parallel of 36° 30′, then and now occupied by Indians. It was not then agreed that slavery should not be tolerated north of that line, and that it might exist south of it; it was simply an adherence to the old policy of preventing, by law, the extension of slavery over any territory of the United States which could properly be called practically free.

When new territory was acquired from Mexico, an attempt was made to extend the same policy over this acquisition. This attempt was vigorously resisted by the South. I need not dwell upon the history of a struggle so recent and so fresh in the minds of all. I refer only to results. The long and bitter contest terminated in a *quasi* abandonment of the restrictive policy, and the organization of two Territories with the right, when admitted as States, to come in with or without slavery, as, by their constitutions, they should provide. There was here, in the strongest view of the case, the recognition of no new principle, but simply a surrender of an old policy. It was intended to be a settlement of an irritating question, so far as it related to the Territories of New Mexico and Utah; and it is an unwarrantable assumption to give it any effect beyond this. I am willing to admit, however, that, as a precedent, it may govern in reference to any further extension of our borders, to which Young America may look with an expectant eye.

Whatever principle may be supposed to have been established by the legislation of 1850, it is very certain that it was not the intention of those who participated in it to apply that principle to the territory then under the Missouri prohibition. In proof of this, I point to the fact that at the last session of the Thirty-Second Congress a bill for the organization of the Territory of Nebraska was passed by this House, in which not one word was said about slavery or a repeal of the Missouri restriction. Indeed in the discussion attending the passage of the bill, I am not aware that the subject was even alluded to, except by the gentleman from Ohio, [Mr. Giddings,] who, in answer to a playful question by a gentleman from Pennsylvania, why the Wilmot proviso was not incorporated in the bill, replied, in substance, that he regarded the prohibition of 1820 as sufficient. Intrinsic evidence to sustain my view is furnished by the bill itself. The thing proposed is simply a repeal of the Missouri restriction, which could have been accomplished in ten words. If the legislation of 1850, or its principles, were understood or intended to apply to this territory, why was not the work done boldly and directly? Why all this circumlocution—this smoothing over—this covering up of the deed by soft phrases—this dragging in by the heels, as it were, of the doctrine of popular sovereignty? Ah, sir! it is the old story of the "cat in the meal tub." It is an attempt to hide the breach of legislative faith, by appealing to the prejudices of the people. If I am mistaken in my view of the legislation of 1850, why at this very session did the Committee on Territories, in the other wing of the Capitol, first report a bill without a repeal of the Missouri prohibition, and in their report expressly declare that this omission was intentional? Sir, I am not mistaken—the evidence in support of the position I take is conclusive, and no man can gainsay it. The legislation of 1850 did not contemplate the repeal of the Missouri compromise. If this view is "narrow and unstatesmanlike," it is the fault of the Thirty-First Congress, and not mine.

The question of slavery was settled in the territory acquired by the Louisiana purchase in 1820; in the territory acquired from Mexico it was settled by the legislation of 1850. In this settlement the whole country acquiesced, and the slavery agitation which had convulsed the land was quieted. In such a state of things the conventions of the two great political parties of the country were held at Baltimore in 1852. To prevent any further disturbance of the slavery issues, both conventions pledged their respective parties, substantially in

the same language to "resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt might be made." Both conventions solemnly agreed to abide by the settlement of the slavery issues then existing; and this agreement was ratified by the votes of millions of freemen at the ballot-box. Now, sir, I distinctly charge that this proposition to repeal the Missouri compromise is a breach of the plighted faith of both of the great political parties, and I ask southern Whigs, and Democrats both from the North and South, who sustain this bill, to meet the charge if they can.

The time chosen for this experiment upon the popular endurance deserves notice. The "bleeding wounds" of the country, about which we heard so much in 1850, were cicatrised—the irritation was allayed, and the healing process well advanced. They needed only to be let alone—"non-intervention," to insure a perfect cure. Just at this time one of these wounds, rudely torn open, the fresh blood flows again. "You rub the sore when you should bring the plaster." And why, let me ask, is this done? Why, when the whole country desired repose, are the freemen of the North startled by the proposition to open to slavery the territory which had been consecrated to free labor by the most sacred legislation and by the common consent of North and South for thirty-four years—and this, too, as a remedy for agitation, when no agitation, in fact, existed? It is but another repetition of the folly chronicled in the familiar epitaph, "I was well—I would be better—I took physic, and here I am." In the circumstances it cannot be regarded otherwise than a gratuitous insult to the free States—an unprovoked buffet in the face of northern sentiment.

But, if by doing this great mischief we are really to accomplish a greater good, if, as the friends of this measure claim, we are to establish a principle which will forever set at rest slavery agitation, and bind North and South, as with bands of iron in one common brotherhood, we can almost reconcile ourselves to the deed. Let us examine briefly this doctrine of congressional non-intervention—this idea of popular sovereignty as applied to Territories—to see whether it is really a panacea for slavery agitation, or whether it is only a nostrum of a political empiric. If it is in good faith intended to subject all past and future legislation to this principle, and sever all connection between the General Government and slavery, I am with the friends of this measure with all my heart. I can almost venture to pledge to them the aid of the whole Abolition party; for if I understand their views, that is precisely what they desire. It is obvious, however, that the adoption of such a principle will open wide the gates of a new and unexplored field of slavery agitation, into which hordes of political speculators and demagogues may enter. It will require but a moderate share of ingenuity to find material there for more than one presidential campaign.

Let us look at what may very possibly happen, when these Territories shall be organized, and clothed with all the majesty of popular sovereignty. Suppose, that as soon as the territorial doors are thrown open, the swift-footed freemen of the North shall rush in and take possession of this land of promise, shall control its legislation, and prohibit at once the introduction of slavery; or, suppose, what is by no means improbable, that the enterprising citizens of the flourishing Territory of Utah shall come over the mountains, expel the peculiar institution of the South and establish their own peculiar institutions—I ask, will the South submit to such an exclusion? What is to prevent a renewal of the slavery excitement in circumstances similar to these? What guaranty have we against it? Simply a legislative guaranty! Repeal the Missouri prohibition in the face of the party pledges to maintain it, and who, I ask in all the broad extent of this land, so stupid as to confide one moment in such a guarantee? We have the power to enact this law: the next Congress will have the same power to repeal it.

The truth is, sir, this idea of territorial self-government is a chimera—a solecism. The condition of a Territory is one of tutelage, with which absolute independence is wholly inconsistent. We appoint the officers of the Territories; we direct the mode of organizing the government; we prescribe its powers; and when the expenses of administering the government are to be paid, no one thinks of setting up as an objection, the doctrine of non-intervention. The device of not requiring the submission to Congress of the territorial laws, though ingenious, does not free the subject of the difficulty. The stubborn fact remains, that a Territory is not an independent State; its government is the mere creature of Congress, and from necessity, is subject to the control of Congress just so long as the territorial condition endures.

I have no doubt, sir, that the friends of this measure have the power to carry it through the House. The vote by which, contrary to their wishes, but as I think very properly, it was sent to this committee for consideration, is not a certain index of their strength. Indeed, the honorable gentleman from Kentucky takes courage from

that vote because, as he tells us, it "proved that there are ninety-six men here, who if waked up by an alarm bell at night would be ready to support the bill." As that gentleman is supposed to stand here as one of the sponsors of the bill, he is undoubtedly authorized to speak of the spirit that animates its friends. For my part, I can easily believe he has spoken truly. Indeed, when the supporters of this scheme shall be called up to the work of passing the bill through this House, I shall not think it at all strange, if some of them, at least, rather prefer to come at midnight. That hour would seem especially appropriate to the deed. But I ask gentlemen before they do this deed, before they strike the finishing blow to the little remaining confidence which the people repose in legislative compromises, to weigh well the consequences of the act. I speak not of the consequences to party organizations, for those are, from their nature, temporary and comparatively of little importance. I refer to the sectional jealousies, the mutual distrust, the want of faith in legislative integrity, that, like noxious weeds, must spring up all over this our fair inheritance, and turn its beauty into deformity, its fruitfulness into baleful luxuriance.

I did desire, sir, to say a few words in reference to political tests, but shall detain the committee only to say that, for one, I submit to no such tests. I wish no other indorsement of my Democracy than that which I have received from my constituents. I acknowledge the right of no man, or set of men, in high places or low, to try my political faith by any standard which they may choose to adopt. Nor am I willing to believe that any Democratic Administration will ever attempt the application of tests to the Democracy of the country. Should the attempt be made, I have no doubt the experimenters will find, to their own confusion, that the support of the Democracy is far more important to them than the support of an Administration can ever be to the Democracy.