1819

No. IIII

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THE ENQUIRER.
ST. LOUIS, WEDNESDAY, MAY 5, 1819.

FOR THE ST. LOUIS ENQUIRER.

NO. III.

To the People of Missouri.

In my last number, Fellow Citizens, I unavoidably touched upon some of the topics which properly belong to the subject of the present, for in showing the mischiefs which must result to one portion of the union from the exercise of the power asserted by the House of Representatives I laid a foundation for proving that we cannot, by any implication, understand the Constitution as warranting Congress to interfere with the subject in question.

On this ground therefore, and for other reasons, which I shall now detail more at large, I proceed to show that Congress have not the right to dictate to us on this subject, because it is forbidden by the Constitution of the United States.

The 10th article of the amendments to the Constitution, declares that "the powers not delegated to the United States by the Constitution, or prohibited by it to the states, are reserved to the states respectively, or to the people." This provision renders it necessary for those who advocate the pretentions of the House of Representatives to look for their warrant in the constitution. If they cannot find it there, it does not exist. Mr. Taylor pretends that he has found it in art. 4, sect. 3, cl. 2, which declares that "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."

To this I answer, in the first place, that the context shows that nothing was intended here, but to authorize Congress to control the subject matter of this clause, so far as it was to be considered *as property*. The words "*other property*," clearly indicate this, and show that the power in question was given over the territories *as property* and not otherwise. It cannot therefore be understood to extend to those things connected by local circumstances with the territory, but in which the United States either never had, or have ceased to have any property. Can it then be pretended that the United States can have any property in our persons except for the purposes of taxation, of that obedience to the general laws of the land which every man owes, and those personal services which every man is bound to render? Can it be pretended that the United States have any farther property in our slaves, than they have in the slaves of any of the states, or any further property in our lands patented by them, or *fully* granted by the Spanish government, than in any other land in the union, to which the owner holds a complete title? Certain it is that no such reservation has ever been understood by the purchasers, and any such pretension now set up would be considered as fraudulent and absurd.

But adopt Mr. Taylor's construction of this clause, and to what would it lead? He tells us himself, that Congress have a right under it to prescribe any condition whatever, and consequently to dictate the terms of any article of our Constitution. If any one, of course any other, and of course the whole. This amounts to the right to bind in all cases whatever, and I have already remarked that it was against this pretension that our fathers took up arms against Great Britain, while they distinctly admitted that she was lawfully entitled, to exercise over them all the authority lawfully inferable from the relation of colony and mother country. By this act of theirs they and their descendants after them are stopped to say that this relation creates any such right. The United States cannot be understood as intending to give to Congress a power which it is clear they did not think at the time they could lawfully confer.

Moreover; by the Constitution art. 1, sect. 9;

Congress are prohibited from passing laws of a certain character. Now the utmost extent to which Mr. Taylor's construction of the Constitution can be carried is this, "that Congress have a right to make for the territories such laws as they are not forbidden to make." But the 3d clause of sect. 9, art. 1, declares that Congress shall not pass any bills of attainder. Fortunately we have so little experience of bills of attainder that many may need to be told what they are. They are laws then, by which a man's life and property are declared to be forfeited without any crime for which such forfeiture has been previously denounced by law as the appropriate penalty. Now will any man say that although Congress cannot do both of these things they may do either? Surely this would render the provision perfectly nugatory; for in order to defeat it entirely Congress would only have to pass two laws instead of one, depriving a man of his property by one, and of his life by another. The object of the Constitution then certainly was that no man should lose his life but for some crime previously ascertained and pronounced worthy of death by law, and that no man should lose his property but in the like manner, or by his consent. Bills of attainder were the only device by which it seemed practicable to assail either, and, by prohibiting these, the framers of the Constitution thought they had effectually protected both.

The very course resorted to by Mr. Taylor and his associates seems to recognize the justice of this reasoning. For, if they have the right to take away our property why did they not do it? Why do they wait for a convention to pass a law, which some of them admit another convention might repeal, instead of declaring our slaves free, by an act, which would be irrepealable, (if lawfully made) except by themselves. Are they afraid that we might remind them, that this was the one thing which the parliament of Great Britain did not presume to do, even after the war had commenced, when some ruffians had the effrontery to propose it, or are they sensible that no such power belonged to parliament then, or belongs to them now? No, fellow citizens, they know well enough that they have it not, although Mr. Taylor's construction of the Constitution would invest them with it. But the shift, they resort to, to get out of the difficulty, is worthy of their motives. It is the device of a robber. He will not put his hand into your pocket. But coolly holds his pistol to your breast until you give him your purse. It is true they do not threaten to make war upon us, to pillage, burn and destroy if we do not consent, but they will withhold from us our rights as men, as inhabitants of the country ceded under stipulations in our favor, and as citizens of the United States. The robber in this case does not threaten his victim with death, but locks him in a dungeon, shuts him from the light, from the common use of air and his own limbs, until he signs a deed to pass away his estate. Can this be done under our boasted constitution? and is it any thing but waste-paper if congress, by any indirection, can violate rights, which directly they dare not touch.

So much for the effect of this measure on our rights, and the violence which (to our prejudice) would be done by it to the letter and spirit of the constitution. Now consider, I beseech you, its operation on the rights of the several states, and on the objects for which the constitution was framed:

The purpose of that instrument was to enable the states to present to all foreign powers the aspect of a great empire, by placing all the resources of the whole continent at the disposal of the general government, and to prohibit the several states from making invidious regulations to the prejudice of each other, whereby animosity might have been engendered among themselves. It was desirable that this should be done at the least possible expence of regulation, because it was known that the government could not, consistently with its principles, be invested with power sufficient to bind the states together against their will, and because they were most likely to acquiesce in the authority of the federal government, if it did not interfere with their municipal concerns. Let the bond of union be drawn so close that the people become restive under it, and it will be burst asunder like cords touched by the fire, but let its control be felt only for purposes of a general nature, having no reference but to the mutual intercourse of the states, and to their foreign relations, and its strength will hardly ever be tried. The framers of the constitution were aware of this, and took care not to confer on congress any power to meddle with those subjects, whereon the feelings and interests of the several states were at variance. At the very head of this class of cases, stands that of domestic slavery, about which it was well understood that the northern and southern states could never agree, and that if an occasional majority were permitted to declare that it should exist universally, or that it should not exist at all, immediate disunion must be the consequence. The subject was therefore left to the several state governments exclusively, and measures were taken so to balance the power of these two portions of the union, that neither should exercise an overwhelming influence over the other. On this point the constitution was expressly declared to be the result of compromise which neither party had a right to disturb, and the balance was so ascertained as that neither should have power to disturb it.

Now what becomes of the care exercised by the framers of the constitution for this purpose, if the pretension of the house of representatives be admitted? The whole of the territory west of the Mississippi is to be cut up into states from which domestic slavery is to be excluded. These must be peopled entirely from the north, for southern emigrants could not afford to emancipate their slaves, and for the most part are too humane to sell them. The effect of this in the senate of the United States would be felt at once, for no doubt new states would then be manufactured as fast as materials could be found, and that body would soon become more tractable than it was lately found to be. We should then, like the favored state of Illinois, have laws passed by anticipation for our admission into the union, as soon as the requisite number could be had by counting all travellers over and over again at every house they might stop at.

But the effect upon the senate would not be all. It is of the nature of man, that pent up in a narrow compass, and confined to a poor soil, the species is propagated but slowly. Spread over a large expanse of fertile country, it increases like the leaves of the forest. The additions therefore to the house of representatives would soon be altogether in the northern interest, and it would not be long before their aggressions on their southern neighbors would be carried through that house, in a different style from the bare beggarly majority of two votes, which was all they could command the other day. In such an event, and after the evidences we have lately seen of their grasping spirit, we might expect to see a constitutional majority of states prepared to annihilate the slave representation of the southern states, to emancipate the slaves themselves, and to destroy forever that salutary influence which has conducted this people to a pitch of power and glory unprecedented in the early history of any nation. And can you believe, fellow citizens, that they do not see this, or that they will submit to it? Can you believe that their love of the union will make them acquiesce in the destruction of all that government is intended to protect? That they will permit that which was instituted for the common benefit to be perverted to their own particular ruin? Depend upon it they are as much interested as you are to resist this usurpation, and that sooner than endure the consequences to which it must lead, they will scatter the constitution before the wind, and take up arms in defence of your rights and theirs while they are yet able to maintain them. To this extremity our enemies dare not drive them.

So monstrous, so destructive of all that the constitution was designed to preserve is this single usurpation, that it hardly adds to the enormity of the doctrine contended for by Mr. Taylor and his party, to trace it to its utmost consequences. But remember, the same authority from which they infer their power over this subject, gives them, as they contend, a right to make our constitution throughout. What then? If the prevailing party in congress have high aristocratic notions, they may secure the same character to the new state by confining the right of suffrage to the holders of large estates. If they are possessed by the demon of frantic democracy they may extend it to every vagrant rabble that straggles through the country; after emancipating our slaves, they may bring them to the hustings, and into the legislature, and into the judgment seat. If a neighboring state be much in the interest of the dominant faction of the day, they may make a weeks residence a sufficient qualification to vote, and send over a gang of neighbors to decide every election. The occasional ascendancy of a single session would thus be accompanied by a power to perpetuate itself, and to accumulate like a rolling snow-ball, until the mass would become too huge to be thawed by any thing but such a blaze of popular indignation as would consume the constitution itself.

Such consequences are entirely inconsistent with the spirit of an instrument formed on a principle of compromise, secured by checks and balances against the accumulation of power in either section of the union, and contrived expressly with a view to prevent either from dictating to the other. For all these reasons I have no hesitation in affirming that the constitution cannot be understood as conferring on Congress the power in question, and, not having conferred, it has expressly prohibited it.

HAMPDEN.