

but this was suspended by the occurrence of hostilities in the Canton river between Great Britain and the Chinese Empire. The hostilities have necessarily interrupted the trade of all nations with Canton, which is now in a state of blockade, and have occasioned a serious loss of life and property. Meanwhile the insurrection within the Empire against the existing imperial dynasty still continues, and it is difficult to anticipate what will be the result.

Under these circumstances, I have deemed it advisable to appoint a distinguished citizen of Pennsylvania an extraordinary minister and plenipotentiary to proceed to China, and to avail himself of any opportunities which may offer to effect changes in the existing treaty favorable to American commerce. He left the U. S. for the place of his destination in July last, in the steamer *Minnesota*. Special ministers to China have also been appointed by the governments of Great Britain and France.

While our minister has been instructed to occupy a neutral position in reference to the existing hostilities at Canton, he will cordially co-operate with the British and French ministers in all peaceful measures to secure treaty stipulations, those just concessions to commerce which the nations of the world have a right to expect, and which China cannot be permitted to withhold. From assurances received, I entertain no doubt that the three ministers will act in harmonious concert to obtain similar commercial treaties for each of the powers they represent.

We cannot fail to feel a deep interest in all that concerns the welfare of the independent republics of our own continent, as well as of the empire of Brazil. Our difficulties with New Granada, which a short time since, were so threatening an aspect, are, it is to be hoped, in a fair train of settlement in a manner just and honorable to both parties.

The isthmus of Central America, including that of Panama, is the great highway between the Atlantic and Pacific, over which a large portion of the commerce of the world is destined to pass. The U. S. States are more deeply interested than any other nation in preserving the freedom and security of all the communications across the isthmus. It is our duty, therefore, to take care that they shall not be interrupted either by invasion from our own country or by war between the independent States of Central America.

Under our treaty with New Granada of the 12th December, 1846, we are bound to guarantee the neutrality of the isthmus of Panama, through which the rights of commerce and property which New Granada has and possesses over the said Territory. This obligation is founded upon equivalents granted by the treaty to the government and people of the U. S. States.

Under these circumstances, I recommend to Congress the passage of an act authorizing the President, in case of necessity, to employ the land and naval forces of the United States to carry into effect the guarantee of neutrality and protection. I also recommend similar legislation for the security of any other route across the isthmus in which we may acquire an interest by treaty.

With the independent republics on this continent it is both our duty and our interest to cultivate the most friendly relation. We can never feel indifferent to their fate, and must always rejoice in their prosperity, and most especially so for them and for us, our example and advice have lost much of their influence in consequence of the lawless expeditions which have been fitted out against some of them within the limits of our country. Nothing is better calculated to retard our steady material progress, or impair our character as a nation, than the toleration of such enterprises in violation of the law of nations.

It is one of the first and highest duties of any independent State, in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects. The most eminent writers on public law do not hesitate to denounce such hostile acts as robbery and murder.

Weak and feeble States, like those of Central America, may not feel themselves able to assert and vindicate their rights. The ease with which different expeditions were set on foot within our own territories to make private war against a powerful nation, if such expeditions were fitted out from abroad against any portion of our own country, to burn down our cities, murder and plunder our people, and usurp our government, we should call any power on earth to the strictest account for not preventing such enormities.

Ever since the administration of General Washington; acts of Congress have been in force to punish severely the crime of setting on foot a military expedition within the limits of the U. S. States, to proceed from thence against a nation or State with which we are at peace. The present neutrality act of April 25th, 1818, is more than a violation of pre-existing laws. Under this act the President is empowered to employ the land and naval forces and the militia for the purpose of preventing the carrying on of any such expedition or enterprise from the territories and jurisdiction of the United States; and the collectors of customs are authorized and required to detain any vessel in port when there is reason to believe she is about to take part in such lawless enterprises.

When it was first rendered probable that an attempt would be made to get up another unlawful expedition against Nicaragua, the Secretary of State issued instructions to the marshals and district attorneys, which were directed by the Secretaries of War and the Navy to the appropriate army and navy officers, requiring them to be vigilant, and to use their best exertions in carrying into effect the provisions of the act of 1818. Notwithstanding these precautions, the expedition has escaped from our shores. Such enterprises can do no possible good to the country, but have already inflicted much injury both on its interests and its character. They have prevented peaceful emigration from the U. S. States to the States of Central America, which could not fail to prove highly beneficial to all parties concerned. In a pecuniary point of view alone, our citizens have sustained heavy losses from the seizure of and closing of the transit route by the San Juan between the two oceans.

The leader of the recent expedition was arrested at New Orleans, but was discharged on giving bail for his appearance in the insufficient sum of two thousand dollars. I commend the whole subject to the serious attention of Congress, believing that our duty and our interest, as well as our national character, require that we should adopt such measures as will be effectual in restraining our citizens from committing such outrages.

I regret to inform you that the President of Paraguay has refused to ratify the treaty between the United States and that State, as mentioned in the message of my predecessor to Congress at the opening of his session in Dec. 1853. The reasons assigned for this refusal will appear in the correspondence herewith submitted. It being desirable to ascertain the fitness of the river La Plata and its tributaries for navigation by steam, the U. S. steamer *Water Witch* was sent thither for that purpose in 1853. This enterprise was successfully carried on until Feb., 1855, when, whilst in the peaceful prosecution of her voyage up the Parana river, the steamer was fired upon by a Paraguayan fort. The fire was returned; but as the *Water Witch* was of small force, had not designed for offensive operations, she retired from the conflict. The pretext upon which the attack was made was a decree of the President of Paraguay of Oct. 1854, prohibiting foreign vessels of war from navigating the rivers of that State. As Paraguay, however, was the owner of but one bank of the river of that name, the other belonging to Corrientes, a State of the Argentine Confederation, the right of its government to expect that such a decree would be obeyed cannot be acknowledged. But the *Water Witch* was not, properly speaking, a vessel of war. She was a small steamer engaged in a scientific enterprise intended for the advantage of commercial States generally. Under these circumstances, I am constrained to consider the attack upon her as unjustifiable, and as calling for satisfaction from the Paraguayan government.

Citizens of the U. S. States, who were established in business in Paraguay, have had their property seized and taken from them, and have otherwise been treated by the authorities in an insulting and arbitrary manner, which requires redress.

A demand for these purposes will be made in a firm but conciliatory spirit. This will the more probably be granted if the Executive have authority to use other means in the event of a refusal. This is accordingly recommended.

It is unnecessary to state in detail the alarming condition of the Territory of Kansas at the time of my inauguration. The opposing parties then stood in hostile array against each other, and any accident might have rekindled the flame of civil war. Besides, at this critical moment, Kansas was left without a governor by the resignation of Governor Geary.

On the 19th of Feb'y previous, the territorial legislature had passed a law providing for the election of delegates to the third Monday of June to a convention to meet on the first Monday of Sept'r, for the purpose of framing a constitution preparatory to admission into the Union. This law was in the main fair and just; and it is to be regretted that all the qualified electors had not registered themselves and voted under its provisions.

At the time of the election for delegates, an extensive organization existed in the Territory, whose avowed object it was, if need be, to put down the lawful government by force, and to establish a government of their own under the so-called *Topeka* constitution. The persons attached to this revolutionary organization obtained from taking any part in the election.

The act of the territorial legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention; and in the excited state of public feeling, throughout Kansas, an apprehension extensively prevailed that a design existed to force upon them a constitution in relation to slavery against their will. In this emergency it became my duty, as it was my unquestionable right, having in view the union of all good citizens in support of the territorial laws, to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 20th May 1854. Congress declared it to be "the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Did Congress mean by this language that the delegates elected to frame a constitution should have authority finally to decide the question of slavery, or did they intend by leaving it to the people that the people of Kansas themselves should decide this question by a direct vote? On this subject, I confess I had never entertained a serious doubt, and therefore, in my instructions to Gov. Walker on the 28th March last, I merely said that when "a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

In expressing this opinion, it was far from my intention to interfere with the decision of the people of Kansas either for or against slavery. From this I have always carefully abstained. Intrusted with the duty of taking care that the laws be faithfully executed, my only desire was that the people of Kansas should furnish to Congress the evidence required by the organic act, whether for or against slavery; and in this manner smooth their passage into the Union. In emerging from the condition of territorial dependence into that of a sovereign State, it was their duty, in my opinion, to make known their will by the votes of the majority, on the direct question whether this important domestic institution should or should not continue to exist. Indeed, this is the only possible mode in which their will could be authentically ascertained.

The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that in some districts delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents. The truth is, that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of any State or Territory on an important and existing question like that of slavery in Kansas, except by leaving it to a direct vote. How wise, then, was it for Congress to pass over all

subordinate and intermediate agencies, and proceed directly to the source of all legislative power under our institutions! How vain would any other principle prove in practice! This may be illustrated by the case of Kansas. Should she be admitted into the Union, with a constitution either maintaining or abolishing slavery against the sentiment of the people, this could have no other effect than to continue and to exacerbate the existing agitation during the brief period required to make the constitution conform to the irresistible will of the majority.

The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and honor, that they would cheerfully submit the question of slavery to the decision of the bona fide people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions. Had it then been insinuated from any quarter, that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally-assembled majority of all their constituents, this would have been instantly rejected. Every where they remained true to the resolution adopted on a celebrated occasion recognizing "the right of the people of all the Territories, including Nebraska and Kansas, acting through the legally and fairly-expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without slavery, and to be admitted into the Union upon terms of perfect equality with the other States."

The convention to frame a constitution for Kansas met on the 1st Monday of Sept'r last. They were called together by virtue of an act of the territorial legislature, whose lawful existence had been recognized by Congress in different forms and by different enactments. A large proportion of the citizens of Kansas did not think proper to register their names to vote at the election for delegates; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention.

This convention proceeded to frame a constitution for Kansas, and finally adjourned to the 7th of Nov'r. But little difficulty occurred in the convention, except on the subject of slavery. The truth is that the general provision of our recent State constitutions are so similar—and, I may add, so excellent—that the difference between them is not essential. Under the earlier practice of the gov't, no constitution framed by the convention of a territory preparatory to its admission into the Union as a State had been submitted to the people. I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota "should be subject to the approval and ratification of the people of the proposed State," may be followed on future occasions.

I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is on correct principles, and hence, my instructions to Gov. Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms. In the Kansas-Nebraska act, however, this requirement, as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the "domestic institution" of slavery. This will be rendered clear by a simple reference to its language. It was "not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way."

According to the plain construction of the sentence, the words "domestic institutions" have a direct as they have an appropriate reference to slavery. "Domestic institutions" are limited to the family. The relation between master and slave and a few others are "domestic institutions," of a political character. Besides, there was no question then before Congress, nor indeed has there since been any serious question before the people of Kansas or the country, except that which relates to the "domestic institution" of slavery.

The convention, after an angry and excited debate, finally determined, by a majority of only two, to submit the question of slavery to the people, though at the last forty-three of the fifty delegates present affixed their signatures to the constitution. A large majority of the convention were in favor of establishing slavery in Kansas. They accordingly inserted an article in the constitution for this purpose similar in form to those which had been adopted by other territorial conventions. In the schedule, however, providing for the transition from a territorial to a State government, reference to the people, whether they will have a constitution "with or without slavery." It declares that, before the constitution by the convention "shall be sent to Congress for admission in the Union as a State," an election shall be held to decide this question, at which all the white male inhabitants of the Territory above the age of 21 are entitled to vote. They are to vote by ballot; and "the ballots cast at such election shall be endorsed 'constitution with slavery,' and 'constitution with no slavery.'" If there be a majority in favor of the "constitution with slavery," then it is to be transmitted to Congress by the president of the convention in its original form. If, on the contrary, there shall be a majority in favor of the "constitution with no slavery," then the article providing for slavery shall be stricken from the constitution by the president of the convention; and it is expressly declared that "no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with;" and in that event it is made his duty to have the constitution thus ratified transmitted to the Congress of the United States for the admission of the State into the Union.

At this election every citizen will have an opportunity of expressing his opinion by his vote, "whether Kansas shall be received into the Union with or without slavery," and thus this exciting question may be satisfactorily settled in the very mode required by the organic law. The election will be held under legitimate authority, and if any portion of the inhabitants shall refuse to vote, a fair opportunity to do so having been presented, they alone will be responsible for the consequences.

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