Col. John H. Wheeler

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FOR GENERAL CIRCULATION
BY
J. M. NEWSON.

TERMS.

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CAROLINA REPUBLICAN.

ASK NOTHING THAT IS NOT RIGHT—SUBMIT TO NOTHING THAT IS WRONG.—*Jackson.*

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LETTERS TO SENATOR BIDGES.—No. 5.

HON GEORGE E. BADGER.—*Sir:* The real difficulty under which you labor, and the one which has been the prolific cause of so much misconstruction in the old school to which you belong, arises, in our judgment, from the light in which you view the federal government.

You, and those with whom you act upon this occasion, seem entirely to overlook that the federal constitution is nothing but a grant of special powers to accomplish certain defined objects; nothing but a trust power to Congress as special agents to carry out certain well defined and enumerated grants; and that the only thing which is left to their discretion is the subordinate means which become necessary to carry out the objects intended. On this construction have been those from the days of Alexander Hamilton down to the present time, who looked upon the government as one great love upon the grand consolidated machine, mainly charged with an almost unlimited power or discretion in the making and administering laws. Now, sir, that we do you no injustice, listen to your own language in the speech which we are now reviewing. You proceed, "where then do gentlemen find ground for the conclusion that although Congress has power to govern these territories in every other particular, it has no power to govern them, in regard to this particular institution; if the conclusion were right, would it not follow that to introduce Slavery is as much beyond the power of Congress as to exclude it."

The meaning of the above cannot be mistaken, and as I is expressly at war with both the nature and character of the government, as well as with its contemporaneous history; in this, that you make any supposed dilemma, difficulty or embarrassment, arising from the want of a power as affording proof positive that the power has been granted, thus entirely overlooking the characteristic difference between the federal and consolidated governments, viz: that in the former no powers should be *assumed*, but those expressly delegated, no matter however so convenient, or however ridiculous and mischievous the absence of the power might become.

What though the conclusion to which you refer "to introduce Slavery is as much beyond the power of Congress as to exclude it," be admitted, does it, by any means involve a surrender of the question in dispute? Certainly not, and to our limited apprehension Congress neither has the right to introduce or exclude Slavery. As Southern men we ask for no intervention, and expressly deny the right of interposition; all we ask is non intervention, hands off; leave that question as you find it, it is one peculiarly our own, and with it Congress as now constituted, can have nothing to do. As Southern men we seek neither Northern aid nor Northern sympathy. We are satisfied with our institutions as they are, with the *Federal* constitution *as it is*, and with the former administration *as it was*; and whenever the recklessness of fanaticism shall rudely interfere in restricting us of our rights, either in the territories, the district, or the States, they taking upon themselves the "initiative," must be prepared for the consequences.

We proceed, however, to your speech. Not satisfied with attempting to prove that Congress possesses the power to exclude the southern slaveholder from the territories, you advance one step further and inflict a deeper wound (if your views are correct,) upon the institution itself; for you do virtually deny that Slavery has received any additional sanction from its federal recognition.

If this is not your meaning we are at a loss to ascertain what it is, but least we may be accused of doing you injustice upon so important a subject, we will proceed to quote from your speech at length. You say: "How do gentlemen make out that from this general power of government, conferred without qualification, is excepted the power of excluding the institution of Slavery? Slavery as it exists under the constitution of the United States is a State institution. It exists in the States which allow it, as a State institution under their laws. It does not exist as an institution of the United States. It is not an institution that owes its origin to any law of the United States by which Slavery is introduced or established. The only reference to it, in that instrument, is the simple provision by which persons bound to service or labor in one State "under the laws thereof," and escaping to another shall be delivered up on the complaint of the party to whom such service or labor may be due."

If all this had been introduced to prove that Congress had nothing to do with the "institution" in any manner, shape or form, then there would have been no grounds for disagreement; but as such was not your object, but was on the contrary to show that the hands of Congress, not being tied by any other recognition than "a State institution," therefore they possessed the power in question.

Why, sir, this is the very quintessence of sublimated federalism, and amounts to this, that Congress can exercise *any* power except those forbidden by *express* enumeration; whereas, in truth the history and theory of the government indisputably establish the converse of this proposition to be true, that is, that Congress can exercise no power but such as is *expressly* conferred; or such as may become necessary in carrying out the enumerated grant.

Hear Mr. Charles Pinkney, one of the delegates in the general convention who formed the federal constitution, and see if your doctrine derives any support from him. Mr. Pinkney uses the following language: "The distinction which has often been taken between the nature of a federal and State government, appeared to be conclusive. That in the former, *no power could be exercised or assumed*, but such as were *expressly* delegated."

Hear also what Gen. C. C. Pinkney, another member of the general convention says upon this occasion: "It is admitted on all hands, that the general government has no power but those which are *expressly granted* by the constitution."

If this is not authority sufficient for you, hear what Mr. Madison says in the 45th number of the Federalist: "The powers delegated by the proposed constitution to the federal government are few and *defined*," and if all these be insufficient, hear the very language of the federal constitution itself: "The powers not delegated to the United States by its constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

But let us return to that portion of your speech which we have quoted at some length. What you mean by the word "institution," "State institution," and "institution of the United States," we really feel ourselves at a loss to determine, for we can hardly suppose you capable of "quibbling" upon so solemn a subject, and yet we cannot see *how* you can evade so plain a truth, without some such resort as this. The word institution comes we suppose from the verb "*instituere*," and means "to establish,"—"appoint,"—"to erect." If you meant to say that the federal constitution neither appointed, established, or enacted Slavery, then we see no cause of difference, for in this light you are challenged to show that Slavery as it exists in North Carolina, or any of the States, is either the creature of statute or constitutional law. It goes back so far that we know not where to trace it, unless it be to the same source that the late John Q Adam traced the foundation of all human title to all human possessions—to Gen. ss.

But that there has been such a creation of the institution by the federal government, and such an express recognition of its existence in the States (apart from any other reason) as should estop Congress, from any inroads upon this species of *property*, we most confidently affirm—your own opinion to the contrary notwithstanding.

That it exists *substantially* within the States as an institution, recognized by its laws, no man questions; but sir, it has *another* existence equally valid, for it has been recognized, sanctioned and fully sanctioned by the States, and that too by the federal constitution itself. Yes, it has been recognized in every essential particular as property, and the relation of master and slave put upon the same, as much so as it now is held by municipal law, and was then and there instituted, or created." In truth, sir, if we were called upon to justify the institution by pointing to its creation, we would point to the federal Constitution for accord-ing to our limited reading, it is the only "organic" fundamental law that refers to and recognizes the reciprocal relation of the parties. Why, we ask, was representation allowed it? Was it not because the slave-holding States refused to enter into the compact without the express privilege attaching to it? Why is it, that if your slave leaves your employment and goes into a free State, that the authorities to which he has fled *are bound* to surrender him up? Is is not because the master concluded that he had *a right* to the labor of his slave, which Congress should not only respect, but should undertake to compel the States to respect? Was there *here* no recognition of such a right, as followed the *property* wherever found and imposed upon the federal authorities the *obligation* to see it enforced, whether within the States or within the territories?

If the federal constitution has guaranteed and imposed obligations upon the respective States (as you are bound to admit,) to respect it, and to hold the relation of master and slave inviolable within their limits, and where it does not exist, with what truth or substantial propriety can it be said, that "existing only as a State institution," it ceases to exist as soon as the foot of the slave touches territorial soil? If States, which are independent sovereignties, are bound to consider the relation as sacred, and make a surrender to the owner of the fugitive slave, does not the agreement hold, with equal if not stronger force, when applied to the federal government?

Here is the *same* recognition in both, but no "creation," according to your doctrine, in either; one has simply recognized the relation and agreed to surrender, but the other goes one step further. It not only recognizes the institution, but it allows the master to have his slave represented as property; and not stopping at this, it obligates itself to employ the constituted authorities of the government, and *compel* the contracting parties to carry out their agreement in good faith.

Suppose you, sir, that a British vessel, under the authority of that government, were to seize your slaves in an American port, or upon the high seas. Is there nothing under the federal constitution obligatory upon President Taylor to make a demand upon her Majesty, not only for the indignity, but also for the slave, as well as remuneration to you for the loss of his labor? If this be so, then why is it so? There can be but one reason, and that is, that the federal constitution has thrown around the "institution" its broad ægis to shelter protect and defend it wherever found, not up forbidden ground, for we admit, and the very admission, with the reason, is proof of our position, if a negro carries his slaves into a free State, that he becomes subject to their laws. Why so? Because each State is a "sovereignty" and as such can impose what terms it pleases upon property.

This is the only reason, and it proves that nothing short of "sovereignty" can so legislate as to affect either the one or the other of any of their pre-existing rights. Now we ask you whether the Federal Government is a "sovereignty," or exercises any "sovereign" power in the proper signification of that word? Clearly not, for the plainest of all reasons, that its powers are *derivative*, and nothing *derived* from *another* can be independent of that other; and if not independent, then *it is assuredly* in the absence of *express* authority, it *cannot* rightfully pull down or impair whatsoever that other has created.

Suppose, then, we admit to the fullest extent, that the state of slavery is a mere municipal regulation confined to and limited to the State in which it has been sanctioned. What do you gain by the admission of this? Nothing at all, but on the contrary, you are involved just as deep in a morass, from which you cannot extricate yourself but by recklessly disregarding and assailing a species of *property* which "sovereignty" has established, and which nothing short of admitted sovereignty can control.

No man in his senses contends that slavery exists by force of any municipal law of the Territories, or even that the Territories have any right to legislate upon the subject; this we most unqualifiedly deny. Neither Congress, nor yet the Territories (as such) have any right to interfere in a manner prejudicial to the *actual* interest of the "Copartners," but are bound by the letter and spirit of the federal compact to see those rights respected until they shall have been abolished, forfeited and substituted by others originating from the same foundation—"sovereignty."

"State institution" indeed! You might, with the same propriety, contend that because the qualification of voters for Congress, exists under the Constitution as a State institution, (and it has no other existence,) that therefore the qualifications required for the most numerous branch of the State Legislature, were not the Constitutional *test* which the voter elect presents his certificate to the House.

If the reason is good in the one case, it is good in the other, for in neither does the Federal Constitution "create," but in both it guarantees and recognizes as *previously existing*, and adopts them as the *standard* of its action in every thing appertaining to [illegible] out of the rights of each.

We feel therefore warranted in the assertion, that for all practical purpose the "recognition" of which you speak is substantially as much a "creation" as if the Federal Government had, for the first time, spoken slavery into existence.

A SLAVEHOLDER.

No. 6.

HON. GEORGE E. BADGER.—*Sir:* We have examined with somewhat of minuteness, and we fear with more of repetition than we desired, your speech of the 3d inst., and have arrived at the conclusion that the three propositions which you labored to prove; there yet remains another equally indefensible, which with your permission we will notice. You say without any action on the part of our Government slavery would be excluded from the territories in question by the laws of Mexico, which would be the laws of the territory, until changed by the subjugating power.

We prefer, however, to give your own words as you proceed,—"Sir, the enquiry must present itself whether slavery was an institution of the territory before in point of fact any slave was carried there by one of our own citizens. If so, then the slave carried would be recognized as property in the territory by force of its own institution, and not that of the State from which the slave was brought." We will not detain you to argue whether the Mexican Congress allows of slavery, but will admit to the fullest extent that African slavery, as recognized with us, does not exist in the Mexican territores. Still sir, we maintain, and that by the very authority you quote, as well as from the nature and character of the conquering Government, that your position throughout is perfectly indefensible.

You in the first place quote Vattell for the purpose of drawing a distinction betwen "political" and civil laws. Those laws, made directly with a view to the public welfare that writer denominates "political." The civil laws are such as regulate the rights and conduct of the citizens among themselves. You then proceed to quote from a decision of Chief Justice Marshall showing the effect produced by the cession of territory in which he uses the following language: "On such transfer of territory it has never been held that the relation of the inhabitants with each other undergo any change. Their relations with their former soverign are adopted, and new relations are created between them and the government which has acquired their territory. The same act which transfers their country transfers the allegiance of those who remain in it, and the laws which may be termed "political" are necessarily changed, although those which regulate the intercourse and general conduct of individuals remain in force until altered by the newly created power of the State." Now sir, if we can understand the import of the English language when clearly and perspicuously expressed, Chief Justice Marshall only affirms, the relation of the inhabitants with each other (these are his words) only remain unaltered until repealed by the conquering power, but that those laws which are "political" which do interfere with the new relations of the parties, are necessarily repealed. Why? Either because they do interfere with the allegiance which has been transferred, or which is the same thing, with the character of the government to which they have become subject.

Every word refers to the inhabitants of the country then subjugated, and is pointing out the relations which they sustain to each other, and expressly admits if there was any in force in the territory at the time of the cession inconsistent with the obligations they became under, (which was the Federal Constitution) or inconsistent with the obligations which the conquering power was under to its citizens, that those laws were repealed. To every word of which do we subscribe; not because it has emanated from an individual who was you say "the embodiment of all judicial excellence," but because it is in perfect accordance with common sense.

Any other construction than the one now given, involves this rediculous absurdity, that you may conquer a territory and subjugate its inhabitants to the most degrading terms you may see proper to impose, and yet by the mystical operation of what you call the law of nations (which rightly understood is nothing but the law of common sense,) their "civil laws," suffered only to remain from the necessity of their extreme situation, are allowed to have sufficient potency to set at defiance those solemn obligations which the conquering Government is under to the States and to the people respectively.

We had supposed that citizens have rights as well as soverigns, that allegiance and protection were in there nature reciprocal obligations, an I that all this is clearly taught in the declaration of independence. Yes, in that very instrument, which spoke into being the very constitution we are now considering, and which of course was intended to carry out the truth so beautifully and forcibly expressed.

This brings us back, however, to the original question, how far is slavery recognized by the constitution, of the United States. We will not go into a repetition of our former argument to prove that African slavery has been fully guarantied in every essential material as property, and as such that the government is bound so to consider it, but we will proceed to shew what the federal government itself has done, and then call upon you to disprove it.

Under the 9th section of the 1st article of the federal constitution, "The migration of such persons, as any of the States now existing shall think proper to admit, shall not be prohibited prior to 1808." Congress, subsequent to that time have enacted laws making the importation piracy and declaring the cargo forfeited, &c. (We do not speak positively of the precise character of the enactment, not having the act to refer to.) This law and constitutional provision have again and again been violated. Africans have been introduced, the vessel and cargo have been seized upon by the proper authorities of the United States, and the whole crew sold into perpetual bondage.—Was not this, we ask you, a substantial recognition of the "institution?" We will not say how far this truth may affect the "patriotic horror" of a Giddings, but of one thing we feel fully assured, it will excite the holy horror of your "friend" Corwin, and compel him to exclaim, "gracious heavens" Mr. Badger, this is a recognition with a vengence! Why sir, the descendents of those very Africans, imported contrary to law, are now in the possession of their masters, who, if we have not been misinformed, trace their title directly from the federal government; and yet you say it exists only as "a State institution."

Allow us to say, that to our apprehension such language is a quibble. No sir, pardon that expression, for we would rather have said a "sophism;" for certainly it contains a latent fallacy under the general appearance of correctness. The language employed to some extent may be true, but the meaning you seek to convey is false throughout, and is negatived by the nature, theory and practice of the government.

What say you sir, to the daily sale of slaves in the States made by the Marshals, enforcing the decisions of the federal judiciary; is not this too a recognition, and one of that character hard to get over? Now you cannot escape by saying that property being an arbitrary thing, and the creature of the States, that the federal government acting *in rem* as well as *in rec*, is bound to consider that as such which has been made so by the States. Admit this and what follows? Why, a surrender of the entire question in dispute; for if the federal government, when it wishes to realize value, has to look to the State institutions to ascertain what constitutes property, how can you dispense with a similar obligation when property comes in question in the territories?

There is no way to dispense with it but by resorting to your "necessary and proper" clause, which we think has been sufficiently refuted. But sir, we will not let you go, but will press you still further.

If this doctrine of yours be true, what limitations on earth are there to the powers of Congress over the territories? Powers originating solely for the purpose of "organization" to aid the territories *in transitu* from a state of infancy to a state of manhood, are seized upon by you as plenary to inflict the greatest of all possible outrages; for if Congress can pass beyond the power to "organize" governments they may a territory "rule" at pleasure, and prostrate every barrier of freedom. If they can regulate the relation of master and slave, there is nothing to prevent them from regulating any other relation, even that of husband and wife, of parent and child, and every other object which belongs to the social state. Nor sir, does the federal doctrine of yours stop here. Take another view of it—it may be made to sanction a religious persecution.

The roman Catholic religion was at the time of cession, and is now the established religion of Mexico. Certain rights and privileges and immunities attach to it by express enactments; among others is that of collecting "tithes" for the support of the church and clergy.

Now here sir, is clearly a civil law" in contradistinction to a "political one." It says not one word about how or by whom the people are to be governed, or what are the rights or the duties of the governor; it only regulates "the rights and conduct of the people among themselves." It seeks not to interfere with any earthly sovereign whatever. According to your interpretation of the federal constitution the Catholic priests of the country have the absolute and unqualified right to exact "tithes" from the many thousand Protestants who have gone thither. Yes, can take the 10th sheaf, the 10th lamb, and the 10th bushel of grain!

You cannot escape it, for here is the Mexican law, and it is a "civil" law as laid down by Vattell, and there stands the mitred priest holding up to you your own speech. The priest replies in your own language to any remonstrance you make: "It is one thing for you to say that certain restraints upon this (priestly) power would be convenient, would at this particular time be reasonable, but it is another and a very different thing to show an actual restriction upon the power in question." He still further justifies by resorting to the arguments of his church, and shows that religious establishments are founded in the nature of man, and are interwoven with all the constituent principles of human society; that the knowledge and profession of Christianity cannot be upheld without a clergy, and a clergy cannot be supported without a legal provision, and a legal provision cannot be constituted without the preference of one set of Christians over the rest. To any other remonstrance which you may make, he will reply, true sir, your government has overrun our country, and by strong arm has conquered and extorted a treaty which rightfully transfers our allegiance, but there remains to us that which we prize more highly—supreme ecclesiastical jurisdiction over the consciences of men.

Thus the 10th of all must be surrendered—yes, extorted from the American citizens, and that too upon a soil which he has mainly assisted in subjugating, and which is within the admitted jurisdiction of his own government, where, if there is any one political truth in the front rank it is that every man can worship under his own vine and fig tree, and none dare make him afraid.

Why sir, you have forgotten that it was religious persecution that mainly colonized these States. It was religious persecution that as early as 1620 drove the pilgrim fathers hither. They fled from persecution in the old world to seek an asylum of religious freedom in the new; and we, their decendants, have been shamefully recreant to our trust, if in this our day and time, we recognize the established rights of any Preisthood. No, it cannot be, although one thousand "worm-eaten volumes" be brought to its support; for in this as well as in the other our federal constitution being *sui generis*, you must not go to the law of nations, but to the constitution. Where ever the stars and stripes obtain a foothold there is religious liberty, for the protecting jurisdiction is co-extensive with the domain; and as far as the american eagle soars with *E pluribus unum* on its beak, though in his lofty flight he should sweep over the El Dorado of the South or the Canada's of the North, the rights of property are respected and religious liberty secured.

We are well assured that we have already wearied your patience as well as fatigued the reader; but as a Southern man as a slaveholder we can never permit the doctrine which you have so widely circulated to pass unrebuked in the Old North State.

We have the slightest apprehension that they have fallen upon "good ground," or that the piercing rays of Southern indignation will not "scorch" the few seeds which may have alighted upon "stony ground;" for we can assure you, that not one in twenty of either of the great political parties of the State endorse your views. Yet still we consider when a gentlemen of your prominence and distinguished abilities, and filling the responsible station you do, advances doctrines so much at variance with the sentiments of those he represents, that it is incumbent upon some one of the many he thus misrepresents, to step forward and say to him that North Carolina had rather go unrepresented than to be *thus* represented.

If he be a wise man, he will either change his course, (and if this cannot be done from conscientious scruples,) he will give place to some one of the many scores of Whigs, who, upon this subject, would be trusted by

A SLAVEHOLDER.

HONORS TO MR. POLK.—The ceremonies at Nashville on the 1st of November, the day selected were the most imposing ever known in that city. The State and city authorities and the various societies with their banners, participated. The oration was a fine one being pronounced by A. N. O. Nicholson, Esq. an intimate friend and discriminating admirer of the Ex-President. The whole city seems to have united with one accord in paying honor to the distinguished dead, whose ashes repose in their midst.

DOMESTIC TRAGEDY.

The papers have nearly all published the following notice:—"DIED, very suddenly in Fayetteville, on the 8th instant, ALEXANDER C. SIMPSON, native of New York, aged 31 years."

We learn that a horrid suspicion arose in the minds of the Physicians that Mr. S. had been poisoned, and it was proposed that his body should be opened in a private way; but the wife of Mr. S. would not consent. So disturbed did the public mind become, however, that a jury of inquest was held over the body, and an examination made, when, the contents of his stomach being analysed, a quantity of Arsenic was found. It afterwards appeared that Mrs. S. had bought an ounce of this article at the Apothecary's a short time before, for the purpose, as she said, of destroying Rats.

Great excitement prevailed in the town of Fayetville on account of those occurrences; and Court being in session, the Grand Jury found a True Bill against Mrs. S. on Friday last—and the Officers of Justice and the Telegraph were put in requisition for her arrest; but, up to the date of our information, she had not been found.

We know not that we have ever chronicled so horrible an affair before. Mr. and Mrs. S. were young people, who had been married only a few years. She is said to be a very pretty woman,—looked more like a school girl than a married woman, and her conversation and actions agreed with her looks. She has a large and respectable farmily connexion, who have been disgraced by the horrible details of this distressing affair which are afloat; and it is even surmised that the woman was not the sole contriver of the deed. However this may be, we trust her apprehension may be effected, that crime may receive the just punishment due.

The above details we give as they have been furnished us, discarding many rumors which have been in circulation, in connection with the affair. The source whence we obtained them is reliable. Her maiden name was Watts—a native of Orange County.

P. S. We have since learned the unhappy woman has been arrested in Wilmington. —*Raleigh Times.*

BUNGLING EXECUTION.—A good deal of ceasure has been expressed at the bungling manner in which the Sheriff of Richmond county, N. C., hung a criminal named Hildreth, on the 2d inst. It is said that the Sheriff was so green, or so scared, that he did not know how to make a "deadfall" or a hangman's knot; but that the criminal was choked to death by the weight of his own body; a slow and painful process. He struggled and once regained the platform, and asked the Sheriff to fix the rope right; but the Sheriff, after fumbling awhile, pushed him off the platform again, to take his chance; and he was four or five minutes dying.—*North Carolinian.*

A GLORIOUS OCCUPATION.

"Preaching the gospel is a glorious occupation," said a colored pastor recently, "but please to remember, my hearers, the clergymen want shirts, champagne iced, venison, pork and beans, and other luxuries while their wives can't get along without dresses, bonnets and pelisses; therefore don't drop in no bad pennies and chaws of tobacker when Cato brings round the sugar-bowl for your contribution"

SINGULAR DESEASE.

The Pittsburg Post says: "Another death by that most horrible of all diseases—A German girl—has since taken place."

We don't see anything particularly horrible in catching the descase, says the Louisville Courier—indeed, we have known many persons who have gladly embraced, and in fact, become *wedded* to it.

KISSING.

"Come kiss me!" said Robin. I gently said "No,"
For my mother forbade me to play with men so,
Ashamed of my answer, he glided away,
Though my look pretty plainly advised him to stay,
Silly swain! not at all recollecting—not he,
That *his* mother ne'er said that *he* must not kiss me!