

THE WHIG CLARION.

H. W. HUSTED, EDITOR.]

RALEIGH, OCTOBER 4, 1843.

[Vol. I. No. 20.]

FROM THE REGISTER.

"THE SENATOR OF HIS PARTY" ON THE BANKRUPT ACT.

The Editor of the Standard last year said, that Democracy and demagogism were inseparable. We have never expressed so harsh an opinion; and we had thought the proposition was not true. We had thought that at least Mr. Haywood was an exception. But since his speech at Charlotte, we do not know what to think. That effort was about as demagogical as anything we ever saw. "The Senator of his party" should at least have spared his friends. In the fourth count of his indictment against the Whigs, "he next placed upon the canvass, the famous Bankrupt Law—a law by one part of which all debtors might be relieved from the payment of their debts without paying them off. By another part of which, a Bankrupt Debtor was to be hereafter prevented from preferring one set of his honest creditors over another set; but when he was unable to pay all of them, his property was to be applied *pro rata* amongst all. The former was sometimes called the cheating clause of the Bankrupt law, and they themselves have now repealed it. In other words, they kept it in force until it had done a large part of the mischief and injury it was pregnant with, and at the moment when it might produce what little good there was in it, it was repealed—begotten and destroyed by the same Congress! And what did the Whig people of the west gain by this?"

Now we do not choose here to advocate the policy of that Law. It may not have answered the expectations of those who passed it. It may, for aught we know, have been abused by some who unworthily took advantage of its provisions. All we can say of it is, if the passage of the law was an error of the Whigs, they hastened to atone for the error by its early repeal. As soon as there seemed to be a general opinion against it, that opinion was respected. But if it be an error, is it an error of the Whigs only? Was that gentleman never in favor of a Bankrupt Law himself? Did his friends, of the Party whose Senator he says he is, never approve, or advocate a Bankrupt Law—"cheating clause" and all?—Is there no double-dealing by the gentleman and his friends, about this much abused law? Did it ever have a party character, before it became unpopular? Does the "Senator of his party" not know that before the year 1840, when this act was passed, a Bankrupt Law was advocated by the following "Democratic" gentlemen: Thomas H. Benton, Senators Wall and Linn, Norvell, Nicholson, Strange, Walker, King and Woodbury, and not least by Richard M. Johnson and Martin Van Buren? Does he not know that "Democratic" States and State Legislatures, were foremost in sending on petitions praying for the passage of such a Law?

In 1827, Mr. Van Buren voted for a Bankrupt Law—and one too, with the "cheating clause," retrospective in its operation, and not extending its benefits to farmers or mechanics. A motion was made so to amend as not to affect "any contract made before the passage and promulgation of this act." Against this amendment are recorded the names of Messrs. Benton, Woodbury, Wm. R. King, R. M. Johnson and Martin Van Buren. Mr. Van Buren was even unwilling to extend the advantages of the law to any individuals but to *merchants and traders*—and made a speech against such extension. Col. Rich'd. M. Johnson replied to Mr. Van Buren and said, "the vivifying principle ought not to be confined to any privileged order, but the relief and advantages held forth in the bill, ought to be general and unconfined; and their good effects be dispersed to the cottage as well as to the palace."

In 1840, when Mr. Van Buren was President, in a letter to some citizens of New York, he thus writes:

"It is a rule, the sacred observance of which is indispensable to the well being of society, that Government should never interfere with private contracts even when the authority to do so is conferred by the Constitution, except upon the ground of evident public necessity, and then with a degree of caution and circumspection which shall guard in an effectual manner against fraud and injustice. That occasion may arise when those who have the rightful power to interfere may do so, and are required to do so, by a regard for the best interests of the community, there can be no doubt. I thought there was occasion for such interference in 1827, and gave my vote for a general Bankrupt Law, applicable to bankers and traders, classes which all must agree, were intended to be embraced by the clause of the constitution relating to this subject. An occasion of at least equal urgency for such a law exists at this time. The embarrassments caused by the pernicious expansion of the currency, and the consequent

facilities of credit and cash enterprises, which have unfortunately characterised the last few years, are such as to render an interference of this kind greatly conducive if not absolutely necessary to the public good. I WOULD THEREFORE HAVE UNHESITATINGLY, CO-OPERATED IN THE PASSAGE OF SUCH A LAW, properly guarded against frauds, and so framed as to secure to the creditors the present estate of their debtors, when the latter were discharged from their obligations."

Such a law would be decidedly more objectionable than the law of 1840.

Col. Johnson, in a letter dated Jan. 13, 1843, replying to an enquiry, states his views fully—in which he first discusses the constitutionality of a Bankrupt Law, of which he has no doubt. He then proceeds in the following strain, which does great honor to the heart of the gallant old soldier:

"Through this vast domain and with their various pursuits, bankruptcies must always exist, and it is the duty of the Government to make such provisions as will be calculated to give the greatest possible relief that can be given, consistently with the principles of justice. Congress alone has power to do this, and on them the work devolves, not only as a constitutional right, but as a solemn duty. Both in private and public life I have regarded it as a paramount duty to relieve the distressed from every burden, as far as possible, and especially to break that yoke by which none can be benefited, and to soothe, rather than break, the heart already rent with the anguish of misfortune.

It is repugnant to every principle of justice to regard bankruptcy as a presumption of guilt. In the fluctuations of trade, the most honorable men are often its victims;—and to hold the person of the debtor subject to his creditor, and to put his future liberty or acquisitions beyond his own control, when he has surrendered all, is to inflict a punishment where there is no crime, nor criminal tribunal to investigate a crime, or to prescribe punishment.

Credit in trade is based upon confidence in the success of him who obtains it, and ought not in any degree to depend upon a contingent right which the creditor may claim on the liberty or the future independence of the debtor. If he chance to be unsuccessful, all that they can claim is a faithful surrender of his remaining effects. Let him give these and begin the world again. What is the effect of subjecting his future acquisitions to the seizure of his creditors? It is to stifle in him all spirit of enterprise, and to bind him and family down to perpetual poverty, without the remotest prospect of benefit to his creditors or to society. A punishment like this, without the conviction of guilt, is too revolting to my feelings to give it my sanction; and it never ought to exist in a free or civilized country. It is said that dishonest persons will sometimes avail themselves of the benefit of a bankrupt law. So unfaithful men may sometimes be elected to legislative bodies, and crimes may sometimes be perpetrated under the cloak of religion. But I would not refuse relief to the unfortunate, nor destroy legislative bodies, nor strive to abolish Christian churches, on account of abuses to which they are all subject; for the same principle is equally applicable to all.

This power in the Constitution is joined with that of naturalization, and with the same benevolent object. Upon that of naturalization, congress has acted, and, in doing so, has provided for the oppressed of all nations in this land of refuge, the blessings of liberty and safety, the protection of our laws; and it was justly expected that a bankrupt law would also be passed, extending protection from oppression to the unfortunate of our own citizens, and to those, of all other nations who might choose to come and reside among us. *This I wish to see done. My opinion is, that it will redound to the honor of our country.* It will relieve the bankrupt, and, by leaving him unshackled in his enterprise, he will often accumulate the means both of providing for himself, and of liquidating his debts, which honest men frequently do under the influence of moral obligations.

The interest of the debtor, the interest of the creditors, the interest of society, and the glory of our country, all conspire to sanction the measure. The object of Government ought always to be the mitigation of human misery, and the advancement of human happiness, as far as possible. If I can light up the smile of gladness, even in one solitary bosom where the tear of sorrow was flowing, I enjoy in the act gratification which my feeble language cannot describe. With these sentiments, I have ever been the advocate for relief to the war-worn soldier, and to the widows and orphans of those who suffered or perished in their country's defence; and with the views which I have expressed upon this subject, I have exerted all my feeble powers in favor of the abolition of imprisonment for debt. When I am satisfied that the object of a constitutional measure is good, I can never abandon it on account of difficulties which present themselves in making it perfect in all its details. Similar difficulties may be urged with equal plausibility against free government; against universal suffrage; against popular elections; and indeed against all of our institutions. It is not good to be impracticable. No man ought

to put himself up as a standard to which all must come—however great, he will be disappointed in the end, and perhaps his usefulness in some measure lost. We should provide a uniform system of bankruptcy upon as liberal principles as justice will warrant—and as experience shall show its imperfections, we should give it such consideration and amendment as will be found equitable. *I should expect its provisions to be extended to all classes of every profession, involuntary as to merchants, and voluntary as to others.*

The law should embrace all cases existing at the passage of the law, as well as all which may happen in future. Such are my views upon this subject. I do not set up myself as a standard for others—organized as I am, I could not act otherwise, without a violation of conscience, and the obligations of solemn duty. For I have no doubt that if the system should be established, its beneficial effects would be felt in every part of our country, and especially throughout our whole trading community. It is a system which I believe prevails in every commercial country in Europe, and in every civilized nation on the globe. Indeed, from the earliest antiquity, the Jews, though an agricultural nation, had their general jubilees. It is the same measure in a different form; the same great conservative principle, for the same great object. In this country, all power is based on the will of the people. We have no legal or constitutional classes; but the rich and the poor, the fortunate and the unfortunate, are all equal. There is a perpetual revolution of property, the poor becoming rich and the rich becoming poor and to suffer any unnecessary impediments to enterprise, is to interrupt the prosperity of the nation. If then the relief which a bankrupt law gives, extending all its provisions to all who desire it, is proper for any other country, it is much more due to this great Republic.

Most respectfully, your fellow-citizen,
R. M. JOHNSON.

And yet the "Senator of his party" talks about the Bankrupt Law, and "the cheating clause of the Bankrupt Law," and asks "what did the Whig people of the West gain by this?" We do not know much about the *finances* of the "Whig people of the West," and therefore cannot say whether they "gained" or lost by the law. But of one thing we are certain, that however the Whigs of the West, whom the "Senator of his party" seems to have taken under his special protection, may or may not have been personally affected, they have patriotism enough, if the law was in their estimation a good one for the people at large, to have supported it; if a bad one, they have sense and shrewdness enough not to allow the "Senator of his party" to throw upon the Whigs, the exclusive odium of passing it. They know that action on Bankruptcy was pressed by all parties, before 1840. Some Democrats too, were in favor of extending its provisions to corporations—and opposed the bill of 1840, only because they were not included. This confining of its operation to individuals, did not certainly alter its principle, so far as it did go. There it stands, *cheating clause* and all, not quite Catholic enough for Democracy to be sure, but if its provisions had been a little broader, and embraced corporations in its compulsory clause, (claws?) it would have been hailed by Democracy as the redeeming act.

The Whigs of the West have studied their horn books long ago, and are by no means so simple as the Senator seems to suppose. They know why the act of 1840 was not a Democratic measure, and they know it was not because of the "cheating clause," but because of its confined operation. The democratic leaders wished it to be universal in its action. And now, "what have the Whigs of the West gained" by it, forsooth? What have the Democrats gained by it? They have gained a hobby, and an opportunity of abusing the Whig party for honestly passing an act which, as they believed, would afford relief to a large class of citizens, struggling with want, oppressed with debt, sinking among fragments of ruin that floated around them, on the maddened sea of experiments. Their design was patriotic and humane; and the Whigs of the West will not forget that the condemned act, with all its faults, has brought peace to thousands of families—has restored many a man of ruined fortune and broken heart, to liberty again, who can stand up and say with exultation, he is once more an American citizen—free!

The Senator has mistaken his men. He has carried his wares to the wrong market. They are hard to fool—those mountain men. And the Senator will find out his error, before he has "seen" much of the country west of Charlotte. We hope for the honor of the good old North—for his own honor—to save his party from contempt—that the gentleman has made no more such miserably demagogical displays as he is reported to have made at Charlotte. We do hope most sincerely, that the "Jeffersonian" gave an incorrect account of the matter, and that he will

yet come out over his own name, and pronounce that sketch an unworthy and cruel caricature of what he did say, well intended perhaps, but most offensive in fact. We do not see how otherwise, so many and such blunders could have been attributed to a gentleman so capable of knowing, and distinguishing truth from fiction.

Unless Mr. Haywood makes this protestation, we shall hereafter notice some other matters that figure in his reported speech, very little to his credit.

SENATOR HAYWOOD.

This gentleman lately delivered a Speech at a Barbecue in Mecklenburg county, so full of injustice to the Whig party, so abounding with misrepresentations and misstatements, so uncandid and bitter, that it has aroused a feeling of deep regret in those, (of whom we were one,) who rejoiced at his election over Brown and Saunders, and of violent indignation in others. Among these last, the Richmond Whig has a column of extremely severe reproof of the demagogical speech and speaker.

We do not intend to imitate the severity of the Whig, nor to excuse what is inexcusable in Mr. Haywood. There is a single remark in his speech which we could contrast with the closing sentence of his letter of acceptance, written last winter:—

From the Speech.—"On the subject of the Presidency, Mr. Haywood said he had his opinions and his preferences; but he had not and should not express them, because he was the Senator of his party."

From the Letter.—"Relying upon the blessing of God on my efforts to serve North Carolina, and as her Senator, [adhering] to right for its own sake, in public as in private life, I shall strive to deserve alike the confidence of the State and of the party by whose favor this high trust has been, confidence in me."

The whole tenor of the Letter is equally at variance with that of the Speech. It is not difficult to decide which does the most honor to Mr. Haywood.—*Fayetteville Observer.*

FROM THE REGISTER.

"NORTH CAROLINA'S SENATOR."

MR. GALES: For myself, and in behalf of every true Whig, and every honest Locofoco, I protest against this detestable sentiment. I protest against it simply because it is absolutely false. The subject of it does not represent the Whig party, nor does he represent the liberal, the honest, and the candid of his own party. The people of North Carolina are plain, modest, unassuming candid, high-minded, independent. Will any man in his senses, say that W. H. Haywood is a fit representative of any one of these qualities. Is there a citizen in North Carolina, who does not combine in his character, more of these qualities than the subject of this quizzical toast? In his social relations, he is an aristocrat; in his political conduct, an unrelenting, uncompromising partisan. The Whigs, who form a large majority in the State, dislike him, because there has never been any thing open, fair and manly in his opposition to their principles. Whilst abler and better men were boldly struggling in a desperate cause, face to face with their opponents, he was fighting in anonymous communications to the newspapers, anxious only to avoid the mortification of defeat, and secure to himself the rewards of a victory won by the efforts of others. In his own party, he was the first choice of but a small minority. So far from his being North Carolina's Senator, he is not the Senator of the whole Locofoco party, which is, itself, in a minority in the State.

A WHIG.

P. S. I have just read the speech of the political missionary, and if every line in it is not drawn in the slime of the demagogue, I am incapable of understanding the term. There is the appeal to prejudice and passion, the positive falsehood, the suppression and concealment of truth, the wilful perversion of well-known facts, presuming for approval, upon the ignorance of his audience. If he has not mistaken the character and intelligence of that audience, I know nothing of the Western people.

On his return from this Western mission, it is understood that Mr. Rayner's district is to receive the benefit of his labors, the Democratic Synod having in their benevolence, decreed that the political heathen in that region shall be converted to the true faith. God speed him in his labors of charity.

A letter to the Editor of the Washington Globe, dated Halifax County, N. C. nominates SAMUEL L. ARRINGTON as the Locofoco Candidate for Governor of North Carolina.