NORTH-CAROLINA GAZETTE.

Ours are the plans of fair, delightful, Peace, " Unwarp'd by party rage, to live like Brothers."

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DEBATE IN THE SENATE, MISSOURI QUESTION.

TUESDAY, JAN. 25. In order to give our readers some idea of the grounds taken in this long and important debate, we propose to give them a speech or two on each side of the question : We commence with one by Mr. Orts of Massachasetts, in favor of the Restriction of Slavery in the proposed new State of Mis-

Mr. Orrs said it was asserted by gentlemen, that a more grave and porten tous question had never been agitated within these walls. This he would not deny ; and yet he could not consider it a new question. If a stranger to our country, but familiar with our history, upor arriving here, at this moment, and wifpessing the perturbation of men's minds, within doors and without, should be told, upon enquiring the cause that it arose from a discussion of a question whether slavery should be inhibited in vour territorial possessions; his first impression would certainly be, that this question had been put to rest some three and thirty years ago,-I have "read, (he would be inof your authority over the domain ceded to the U. S. was manifested in a sclemn protest against the introduction of slavery into it, and that you thus afforded an earin regard to all similar acquisitions of ceded territory. Wherefore, in the ordipance for governing the north-western territory, did you, with such grave deliberation establish, as on of the odaliberty, for the regulation of your territories in all future time, the exclusion of involuntary servitude, and why would you now relax a system established in the healthful vigor and freshness of your newly acquired liberty, and bring into doubt principles which were then so solemnly determined?"-To these enquiries, he said, he should only be able to answer, " tempora mutantur et nos mutantur in

If the obligations imposed upon us by the constitution were rigorous to the extent which gentlemen seemed to insist, our situation was indeed deplorable. If, while the nations of the old world were forming confederations in order to exclude from their own dependencies the forure introduction of slave's, and to propitiete heaven by an attempt to atone for past abominations of that traffic of the human species; we are not only inhibited from coming into their system, but are really obliged, by treaty, to open a new and illimitable market within our own territorics; and while they are contracting the sphere of human misery and servitude, we are compelled to widen its expanse from the Mississippi to the setting sun; then, indeed, is our situation most humbling. It will be in vain, he feared, to compare the youth and purity of our institutions with the decripitude of the old world, and the rottenness of their systems, if this be our predicament. If the President and Senate can, by treaty, acquire possessions in all parts of the globe, and bind us to admit them into our Union, without any restriction upon their laws and usages; should be chance to travel through any part of Europe, after these should be admitted as acknowledged principles of constitutional law, and hear his country branded as a region of hy pocrisy, and its people as a race of men, who, with liberty in their months, carried rods for the backs, and chains for the feet of unborn millions, into a new world; he should stand in need of the speech of the hon, gentleman from Md, as the only panoply competent to enable him to repel the point of such injurous accusations, as his own invention would not supply him with a satisfactory answer. Still, if in reality our faith, by treaty, was thus plighted, though he should deem the acquisition of the whole territory a vital misfortune, and should think it would have been happier for us if the Mississippi had been an eternal torrent of burning lava, impassable as the lake which separates the evil from the good, and the regions beyond it destined to be covered rever with brakes and jungles, and the impenetrable haunts of the wolf and panther; yet, he would not then advocate a breach of the public faith, but he should think if the duty of Congress to recommend a new negociation with the present beneficent Monarch of France, to the end of obtaining his release from the provisions of a treaty so fatal to our best interests.

In all the discussions of the main question, which had come under his eye, the disputants on each side had placed the constitution in the foreground, and reserved the treaty of cession for subsequent, examination. But to him it appeared? n are proper to invert this order of enquiry. The people of Missouri had no ciains to a participation in the benefits of the constitution, except such as were derived to them through the medium of the treaty, and so far only as those benefits were alluded to, or secured to them by Capress reference in that instrument. ing other states to be erected in the ter- the establishment of states, and their ad-

The constitution was the temple, and the treaty the portion, through which alone they were entitled to admission. In his view of the subject this distinction was extremely material, and he could wish to render it clear. According to the principles of the law of nations, a country. the domain and jurisdiction of which is ceded in full sovereignty to another country, can have no claims to partake in its government which are not to be found in precise terms and stipulations. The right to make war is an attribute of every sovereignty. Conquest is incident to war, and the right to hold a conquered territory follows upon conquest. If peace is made on the principle of uti hesaidetis, without more words the victor disposes of his conquest, and governs it at his pleasure. But if the cession of the conquered territory is extended into special articles, looking to the future condition and government of the inhabitants, the right of the conqueror is then limited and defined by the treaty alone. The principles applicable to a conquered territory are equally so to a territory aequired by amicable purchase. Louisiana was ceded to the United States in full sovereignty, with all the rights over the same which belonged to France and Spain. Had the grant been comprized in these terms only, it would have been absolute. The U. clined to say) that the earliest exercise States might have held it forever as a colone, or prohibited its settlement, or governed it by a prefect; and why not have admitted it to a partial enjoyment of state rights? Such an admission might nest of your future policy and intentions well be conceived to be a boon to the inhabitants. It certainly would have been a relexation of the absolute right of dominion vested by the cession what objection could be raised age proffering to the inhabitants of a court, thus unconditionally surrendered, any limited faculty of partaking of the powers of your constitution, which prudence and policy might induce you to grant? Why should you be compelled to grant to them all or nothing? Why should they be restricted from accepting of a part that would be useful to them, and sufficient for all their purposes, because the whole which might be unsuitable to their circumstances, or unimportant to their welfare, is unattainable? No conjecture could be raised of any good reason for placing a government, and its newly acquired subjects, in any predicament respecting each other, which could not be altered or modified by a fair compact; and he could not doubt that either the right to acquire territory under the constitution must be announced, (a question now too late to be stirred.) r that he faculty of imparting to the new domain so much and no more of the absolute power of the sovereign as to him should seem good, must be admitted. Keeping, then, in view these general principles he was prepared to examine the treaty of cession in detail, and ascertain how far the absolute sovereignty or that of soil and jurisdiction in Louisiana, was courrolled by the i mon" and admission to be states, are syspecial provisions of that instrument. It would, however, faciliate the explanation of his views, to consider who were the parties to the treaty. As to this, he observed, that negatively they were not the white peopled states on one side, and the slave holding states on the other, as the course of the argument might sometimes almost lead us to conclude. It would afflict him to see the Senate divide into the factions of the Guelfs and Ghibelines, or the white and red roses suspended in the festoons of their tapestry. He should not agree, without a struggle, to give up his right to be considered as a citizen of a common country, of which the gentieman who preceded him was so distinguish ed an ornament. The parties then were the United States of America, in behalf of the citizens who were original parties to the constitution, the old states then in of her c stitution. Provi ion was also the Union, on one part; and Napoleon. made by the ordinance of 1787. (justly first Consul of France, in behalf of the styled the immortal ordinance) for the French nation, (of which Louisiana, including Missourt, was a portion,) on the other part. With respect to by far the subject to the inhibition of servitude. All greater number and most important interests of the people at that time inhabi- Union at that time. But as the inferentants of Louisiana, the treaty has been ces resulting from this ordinance, are all have intended to tie up the hands of Conexecuted to their entire satisfaction, and they have nothing to say. They have tion of the subject, and applicable as well been erected usto a state, without any exceptionable restriction. To the residue of those inhabitants, now in the Missouri to demonstrate.) he must crave indulterritory, it was sufficient to say that it | gence to recapitulate its history, and to was not possible, in the words of the shew in what manner it had become entreaty, to make them a state. They were too few, and could have no pretext for claiming this privilege. As to another class-those who had migrated thi- dry, become material. The north-west ther from the United States, they could ern territory was ceded by Virginia, in claun no right in Missouri under the treaty, correctly speaking. They cannot place themselves in the situation of the French subjects who were represented by Napoleon They were American citizens, and as such, inhabiting the old domain, they were parties under the Uni ted States. For any violation of the treaty, affecting the inhabitants of the ceded territory at the time of the cession, the French government might demand redress; but, in behalf of those whose mis gration thither is posterior, that govern-

ment could not be entitled to interpose.

It is undoubtedly true, however, that if,

by the sal of your lands, or by permit-

ritory, exempt from the restriction of mission to a share in the federal councils, munities which the people acquire from slavery, or by any other circumstances, these persons have been induced to seule in Missouri, under an expectation of retaining their slaves, it would be repugnant to the principles of equity to disconcert their plans, and liberate the negroes already there. And against this effect they are protected by the amendment. It roughes not the property in slaves already introduced, but regards the future aug. mentation of their numbers. So that jusrice would be done to all parties to the treaty, in the most ample sense and also to those whose claims arise not under that instrument, but under the laws, grants and acquiescence of the government of the United States.

Thus not a mortal can make any rea-

sonable complaint. Nor is the hardship

greater upon the owner of a slave, who

is prevented from taking him hereafter

into that country, than upon the proprie

tor of a house or a ship, which cannot be removed. Let us then, having designated the parties, their rights, and their present attitudes, proceed to those clauses of limitation of the absolute right of sovereignty, which the terms of cession used in the treaty, if not qualified, would import. The enquiry, he readily greed, should be approached with a spirit of h beraity and fair interpretation, and not with the artifices of forced constructions, and the narrowness of Juridical forms .-The material words are these: "The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted, as soon as possible, according to the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the U States; and, in the mean time, shall be maintained and protected in the tree enjoyme of their liberty, property, and the religion which they profess." Mr. O. would not pause to consider whether all these we might not be satisfied by imparting nose inhabitants a territorial government, such as they now enjoyed. though much might be arg d in favor of such a construction. The first consul. Napoleon, had indeed, extended his paternal care to most of the nations in Europe, and taken at least a bird's eve view of the affairs of the United States, and shown a condescending willingness to display his good offices in giving to them a convenient direction. But he donited how far it was an indispensable consideration with him at the trate of making the trea ty, that the people of Luisiana should become independent states, and members of the Federal Union. He was a great giver of constitutions, which he took from his own pigeon holes, and hung upon the neck of his allies with chains; but they were generally of a different description from those of the United States. But waving this consideration, and accepting the phraseology of the treaty in the most popular and liberal sense, and granting that the terms "incorporation in the Unonimous terms, the question na urally occurs, what was the condition and character of this union of States at the time of framing the treaty & Tothis, whatever it might be, both parties, certainly the ministers of the United States, must be understood to refer. There is no rule more certain in the interpretation of treaties, than that which prescribes a regard to be had to the condition of the parties, and subject matter of the negociation at the epoch of its conclusion. At this pe riod the Fed ral union consisted of states which had joined the confederacy under various circumstances. There were the old United States; there were also Kentucky, Vermont, Tennessee, who had come in without the restriction upon slavery, and Ohio, which had acceded to the restriction, and adopted it as a part admission of other states in the only territorial possessions of the United States. these states were incorporated into the important and conclusive in the illustrato the construction of the constitution as of the treaty, (which he should endeavor grafted into the whole body of our laws appertaining to this power of admitting new states. On this topic, dates, though March, 1784. In July, 1786, Congress passed a resolu ion recommending to Virginla to revise her act of cession, so far as to empower Congress to erest not more than five, or less than three states, as future circumstances might require, in the ceded territory, which should have the same rights of sovere guty, freedom and independence, as the original states In July, 1787, was passed the celebrated ordinance for the government of that territory, establishing fundamental principles of civil and religious liberty as the basis of all laws, constitutions, and governments, which should forever after be

formed therein; and providing also for

on an equal footing with the origina tion to the entire ordinance, to the extent of her power. No imagination, he believ ed, c uld form an ide. of a more perfect i compact than this. Here were parties, consideration, solemnities, exchange of documents, perfect and mutual intelliof Congress which received the cossion, ritory, was not deemed to impair, in any respect, but to be perfectly consistent with "the sovereignty, freedom, and independence" of the states, and "the original footing" upon which they were to be ad-

acquire territory or not. Virginia, who granted could not have disputed the title, and any court of chancery would have de !! cided that the grantees took and held and est ite in trust for the whole American people. If they could not have held it, not rest here. He would demonstrate that it had been wrought into the entire under the new constitution, was framed to infuse new vigor into this ordinance,

order of things. to, and establishes, so far as her consent could do it, this same ordinance, except ing however the slave article, (thus impiving that without the exception she would be bound by it) and this cession is accepted by Congress soon after the a deption of the new constitution. In April, settlement of the limits of G orgin makes this ordinance, with the same exception, the basis of all the rights and privileges of the people of the territory. In May, 1800, the very first section of the act relative to the territory ceded by Georgia, sets up and extends this ordinance to that country, by express reference; again, in April, 1802, the articles of agreement between the United States and the State of Georgia, for the cession of the Vazoo Lands, recognize the authority of the same ordinance, and stipulate for the future admission of the ceded territory into the union,' on the same conditions and restrictions, and with the same privileges, and in the same manner, "as is provided by that ordinance." Such being the state of facts connected with this ordinance, at the time of making the Louislana treaty, it is altogether inconceivable that the A merican ministers, in constructing an article which looked to the future incorporation of states from a territory which was to be transferred to the United States should lose sight either of an ordinance. or of the practice under it, which contained the fundamental principles that had been recognized and adopted in every former instance of the admission of a "territorial" state. It is equally impossible that the framers of the treaty should gress from the power of "incorporating the inhabitants into the union," in the same mode that the inhabitants of other territorial possessions, or any of them, had been so incorporated. Hence, it irresistibly follows. that Congress, by incorporating the people of Missouri into the union, upon the same principles and with similar restrictions to those which at the time of that treaty had been actually moulded into the constitution of Ohio, and which were promulgated and established as fundamentals for the future states to be erec ed in the North-western territory, would execute the treaty not only in the spirit, but to the very letter. -But they were not only to be incorporated in the Union; they were to be admitted, according to the principles of the federal constitution, to the enjoyment of all the rights, immunities, and advantages of citizens of the Unned States. What, then is a just description of rights, immunities, and advantages, derivable from the constitution of the United States; for it is these alone which fell within the scope of

treaty on your behalf? They were not

entrusted to bargain for any rights or im-

a state, or a state from the people. H states. Am ng these fundamental prin | denied, unequiv cally, that what was ciples is found a perpetual cannon against led the right of sell government in the involuntary servingle. Now, sir, please to observe a most decisive and leading constitution, proceeded from the principal fact. In December, 1788, the state of ples of the federal constitution. On the Virginia, by an act reciting the recommendation of Congress, of 1786, and in people of the several old U. States, vestexpress words recognizing the ordinance | ed in them by the laws of nature and naof 1787, assents to the proposal made by tions, when sovereignty was cast upon Congress, and ratifies and confirms the hein, and they were compelled to form article of that ordinance which cont ined these governments for themselves. This a repetition of terms of that proposal; | right in those old inhabitants was paras thus giving its solemn sanction and adop- mount to the formation of the federal conscitution, and had been exercised before it breathed the breath of life; It was phys idally impossing to place the people the subsequently acquired territory, and the states hereafter to be formed, in the same precise relation to the union that gence, and due deliberation. Hence it exists between the union and the citizens follows irresistibly, that, by the admission of the old states. In the latter connexion, of all parties, of Virginia who made, and f all that is not granted to the union is reserved to the states. In the former, all the prohibition of slavery to all perpetu | that is not granted to the new state is retuity, and in all governments in that ter- served to the Union In one case, the states are the sources of power, and the constitution is the reservoir; in the other, the people of the United States are the fountain, whence must issue the streams destined to fertilize and irregate the cemitted into the union. Ye this ordinance | ded territories, and Congress, as their had been desparched by the honorable | agents, may and ought to pre-ribe the gentleman who precede mim, as an usur- course and direction, & erect the mounds parion. But it was an u arpation in favor and the dykes which a regard to be come of the rights of mankind, with the consent | mon welfare may demand. In a word, of all parties concerned; and Mr. O. car- he insisted, in reference to the two tases ed nor at this day whether congress un- that in one the states were grantors and the old confederation, had power to the constitution the grantee, and that in the other, the grantor is the constitution, and the grantees the territorial states. The principles of the constitution had no bearing on one class of these relations Principles are postulates, which constitute the essence of the subject to wrich there was no title else where to be found. I they relate, which make it what it is,-But the recognition of this ordinance does | But there are no principles touching the municipal relations between states and citizens in the federal compact, except system of the constitution and laws, and that a republican government shall be interwoven with the very warp and woof, guaranteed. For the rest, the treaty stiso as to have become a part of the fabric. | pulations determine that the inhabitante One of the first acts of the first Congress, of Lou siana, when incorporated, shall be eligible to the Presidents, Vice Presidents dents, members of Congress, and canable and to give it full effect, under the new of sustaining all offices under the constitution, civil and military, and entitled to In December, 1789 North Carolina | their fair and proportionate share of all cedes to the United States that portion of the great contracts and little contracts. her territory, since constituted into the hand to all sorts of privileges and advanstate of Tennessee; and expressly refers | tages enjoyed by another sitizen of the union in that capacity. But it does not secure to them that they shall be admite ted without the slave inhibition, as was Tennessee; nor absolutely subject to it as were the north-western territorial states; but that ei her one or the other of these modes of admission should be 1793, an act of Congress for the amicable adopted in the discretion of Congress, exercise I under a future view of all circum-

This is sufficient for all purposes ; and it is an unreasonable complaint from the lips of those who have been the subjects of a despotic government, that they are degraded by being placed on a level with the vigorous and flourishing states of O. hio, Indiana, and Illinois; whose Senators and Representatives would be close upon his heels, and with great reason. should he contend that they were not so vereign states; on the same footing with the original associates. He was not disposed to expatiate upon the import of other words used in the treaty. He admitted that slaves, considering how value able a portion they constituted in a part of Louisiana at the epoch of the treaty. ought to be comprehended in the term "property," and protected as such i that they should be preserved and protected, and that slavery would be permitted in that part of the territory, where that unhappy condition of society existed; and that, where it did not, a sound discretion would be exercised by Const gress. On this ground the State of Lais siana is not inhibited from holding slaves and on this same ground the amendment does not affect slaves already in Missous ri. All abstract discussions, therefore, on the philological meaning of the term property, were, in his hamble opinion, superfluous, on this occasion.

Having shewn, as he thought, conclusively, that no impediment could be found in the treaty of cession, to the any n xation of the proposed condition to the charter requested by Missouri, Mr. Q. was prepared to investigate the object tions suggested as arising from the Constitution. As his entire reliance was placed upon the express power, and he felt not the least necessity of resorting to any constructive or implied authority he should advert to certain clauses of the Constitution cited on both sides, in which no express power was apparent, merely for the purpose of laying them out of his course. The first of these, was the artis cle respecting the migration or importation of slaves. The opponents of the a mendment were welcome to that article and to any construction waich they had seen fit to attach to it. He had no dispos sicion to impair the force of the arguments of his friends, deduced from that the authority of the negociators of the article. They might be satisfactory in conclusive in their estimation, but he had always believed that the scope of that