

Morton's History of Nebraska

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CHAPTER IV CONTINUED. (12)

From the time of the admission of Missouri as a state in 1821 until 1834 all the remaining part of the territory was left without any government whatever. By the act of Congress of June 30, 1834, "All that part of the United States west of the Mississippi river and not within the states of Missouri and Louisiana or the territory of Arkansas, and also that part of the United States east of the Mississippi river, and not within any state to which the Indian title has not been extinguished, for the purposes of this act, shall be taken and deemed to be Indian country." The object of this act was to define and regulate the relations of the United States with the Indians of the territory in question, and jurisdiction of questions arising under it in all the territory south of the north line of the Osage Indian lands was vested in the courts of Arkansas, and of all the territory north of this line and west of the Mississippi in the courts of Missouri. The act provided for a superintendent of Indian affairs for all the Indian country who resided at St. Louis, and his salary was \$1,500 a year. He was provided with two agents. By the act of June 28, 1834, that part of the territory east of the Missouri and White Earth rivers and north of the state of Missouri was "for purposes of temporary government attached to and made a part of Michigan." That part of the territory west of the Missouri river, which included present Nebraska, was left without government or political organization until the passage of the famous Kansas-Nebraska bill in 1854.

CHAPTER V

The Missouri Compromise—The Second Compromise—Stephen A. Douglas—The Richardson Bill—The Dodge Bill—The Kansas-Nebraska Bill—Provisional Government—Division of Nebraska—Iowa Dominance—Estimate of Douglas—Proposed Boundaries.

The first direct contest over the slavery question took place when John Taylor of New York, February 17, 1819, moved to amend the bill for the territorial organization of Arkansas by the same anti-slavery provision which Tallmadge sought to incorporate into the enabling act for the admission of Missouri as a state. It provided that no more slaves should be introduced into the territory, and that all children born after admission should be free, though they might be held to service until the age of twenty-five years. But the status of slavery was fixed on the east in Mississippi and on the south in Louisiana at the time of the purchase, and the argument that Arkansas was naturally and by original right slave territory easily prevailed. But the proposal at the same time to admit Missouri as a state started the fierce controversy over the slavery question, which to leading statesmen even then seemed destined to end in disruption of the Union, and war, and which were postponed merely by the three great compromises—the last being the Nebraska bill.

Missouri became the storm center, partially because it was further north, and therefore less logically or naturally slave territory than Arkansas, and partially because the proposed dedication of the state to slavery by constitutional provision would be final.

The lower house of the 1st Congress resolved, after thorough debate, that Congress had no power to interfere with slavery in the states, and the North faithfully adhered to this decision. The prompt and almost unanimous passage of the act prohibiting the importation of slaves after January 1, 1808, the time when the constitutional limitation would expire, seemed to end the slavery question, and "the abolition societies which existed in all of the states as far south as Virginia died out; it seemed as if their occupation was gone."

There was a growing conviction that slavery was in a decline, and Jefferson and Madison proposed and hoped to colonize the slaves of Virginia in Sierra Leone. But when the Missouri question came up, the cotton gin and the fugitive slave law—brought forth in the same year—had been at work, gradually changing commercial conditions and moral attitudes, for twenty-five years.

From the time of the invention of the cotton gin till slavery agitation culminated in secession in 1860 the production of cotton increased a thousand fold. In 1860 its total product was twelve times that of sugar and thirty-five times that of rice; and to the raising of cotton it was believed that slave labor was indispensable. "Cotton fostered slavery; slavery was the cause of the war between the states. That slavery is a blessing and cotton is king were associated ideas with which the southern mind was imbued before the war. On the floor of the Senate it was declared that cotton had vanquished all powers, and that its supremacy could no longer be doubted."

Thus the slavery issue was as selfishly sectional and commercial as the tariff issue, which precipitated nullification in 1832 and has kept the country in a state of sectional embroilment ever since. Previous to the war political policies were controlled by the Northeast and the South. The Northeast was adapted to manufacturing, for which slave labor was un-

fit, and so the Northeast eschewed slavery and chose a tariff subsidy instead. The South believed that it could only raise the raw material for which slave labor was essential, and so refused to pay New England's tariff subsidy, and clung to slavery. The same immoral principle in kind was involved in both policies, but it differed in degree, and to the disadvantage of the South; and on this point the Northwest, holding the balance of power, sided with the Northeast, and the South was loser. It was insisted also that the growth of slavery was inherently essential to its life and, in turn, demanded its territorial expansion. To further this end, in the Missouri controversy Clay contended that this spreading policy was philanthropic and would mitigate the evils of crowded confinement within the old states, and Jefferson, in his anxiety to ameliorate the condition of the slaves, since he now despaired of the practicability of abolishing slavery, lent his approval to this theory of dilution.

In 1820 Missouri had a free population of fifty-six thousand and ten thousand slaves. In those days at least no odium of being dedicated to commercialism attached to New York, for she furnished the leaders in this first great anti-slavery battle—Tallmadge and Taylor in the House and Rufus King in the Senate. To illustrate so momentous an event possibly Schouler's partial rhetoric is not too highly colored. Referring to Tallmadge's advocacy of the restriction amendment to the Missouri enabling act, which he had offered, the historian says:

"His torch kindled this great conflagration. A young man of seemingly frail health, but of burning eloquence and seemingly deep conviction, his national service was limited to a single term . . . for he declined a re-election. His crowded hour here was one of glorious life; he blew one loud, shivering blast and then passed out to be heard no more."

But this panegyric is faulty in its implication that the North was the aggressor in the Missouri struggle; and the contrary contention has been urged by the highest authority: "In that section (the North) the status of slavery had long been regarded as settled. No one supposed for a moment that another slave state would ever be added to the Union." "The Missouri compromise was a southern measure. Its passage was considered at the time as in the interests of the South, for it gained immediately a slave state in Missouri, and by implication another in Arkansas, while the settlement of the northern portion of the territory was looked upon as remote."

On the other hand, as late as 1836, John Quincy Adams, a stout and consistent opponent of the expansion of slavery, in advocating the admission of Arkansas as a slave state, quoted the Louisiana treaty, which provided that the inhabitants were to be "incorporated in the Union and admitted as soon as possible to enjoy all the rights, advantages and immunities of the United States." And he held that, "As Congress has not the power to abolish slavery in the original states of the Union, they are equally destitute of power in those parts of the territories ceded by France to the United States by the name of Louisiana, where slavery existed at the time of the acquisition." And Mr. Adams also said that he had favored the admission of Missouri on this ground, though he also favored the restriction of the compromise as to the rest of the territory.

But there is no doubt that the conflict which began over the Missouri question was irrepressible, and a few statesmen at least so interpreted and feared it. From Jefferson in his retirement at Monticello came the cry that it was "the knell of the Union"; and Clay lamented that "the words civil war and disunion are uttered almost without emotion." It was in the very nature of things that the North should stand against the aggressive expansion spirit of the South; and now that the northern obstructionists had outgrown the determined propagators of slavery, outnumbering them in the House of Representatives by twenty-nine members, the obstruction was the more exasperating. Tallmadge's amendment passed the House by eighty-seven to seventy-six, notwithstanding the great adverse influence of Clay who was then speaker; but it was lost in the Senate, and the bill for the time was dead. The bill for admitting Missouri as a slave state was passed March 6, 1820. The three points of the compromise were as follows: First, the Senate should consent to the division of the bill for the admission of both Maine and Missouri; second, the House should yield on the restriction of slavery in Missouri; third, both houses should consent to the admission of Missouri with slavery, but forever restrict it from all the Louisiana territory north of the parallel 36° 30'—the extension of the southern boundary of Missouri. John Randolph dubbed the fifteen northern members who voted against the restriction of slavery in Missouri "dough faces," and the epithet stuck to them and their kind till the death of the slavery question. Every member of Monroe's cabinet answered yes to his question whether Congress had the constitutional power to prohibit slavery in the territories. John Quincy Adams thought that this power extended to statehood as well, while

Crawford, Calhoun and Wirt thought it was limited to the territorial status alone. This difference was portentous of trouble to come.

The constitution offered by Missouri forbade the state legislature to interfere with slavery, and required it to pass laws prohibiting free colored people from settling in the state. The anti-slavery element in the House was of course opposed to these provisions, and it seemed as if the whole question would be reopened. But in 1821 Clay succeeded in smoothing over the difficulty by a stipulation that the Missouri legislature assent to a condition that the exclusion clause of the constitution should never be construed to authorize the passage of any law, and that no law should ever be passed, by which a citizen of any state should be deprived of any privileges and immunities to which he was entitled under the Constitution of the United States. The legislature coupled to its assent to this fundamental condition the ungracious declaration that it was an invalid requirement and not binding upon the state. But the restive territory at last came into the Union by the proclamation of the president, August 10, 1821.

The second great slavery compromise took place in 1850, and the controversy which it temporarily settled arose directly out of the question of territorial organization for New Mexico and Utah. This portion of the country had been acquired by the Mexican war and therefore was outside of the Louisiana Purchase, and so appertains to our subject only as it leads up directly to the Nebraska bill. The first contest over the expansion of our territory arose out of the determination of the pro-slavery element to annex Texas. Webster and Clay, the great whig leaders, and the Van Buren element of the democracy were opposed to annexation. Van Buren lost renomination for the presidency through his opposition, and Clay, alarmed at the power and determination of the South, lost the election to Polk by retreating from his positive ground and attempting to get on both sides. The annexation of Texas was chiefly due to Calhoun, Tyler's secretary of state, and he boldly advocated it on the ground that it was necessary to the preservation of slavery. Under Polk the democratic party, for the first time, was in the hands of the southern element and committed to the now aggressive policy of slavery extension, and under this policy war with Mexico was deliberately provoked, and the annexation of the vast territory between the Louisiana purchase and the Pacific ocean brought about. The great northern leaders opposed this acquisition—or "robbery of a realm," as Channing put it. Webster based his opposition ostensibly on the general principle of non-expansion. In a speech before the whig state convention at Boston, December 29, 1847, he denounced the war as unnecessary and therefore unjustifiable.

"I should deprecate any great extension of our domains. . . I think that thus far we have a sort of identity and similarity of character that holds us together pretty well. . . I do not know how we can preserve that feeling of common country if we extend it to California. . . I say at once that unless the president of the United States shall make out a case that the war is not prosecuted for the purpose of acquisition of dominion, for no purpose not connected directly with the safety of the Union, then they (the whig house of representatives) ought not to grant any further supplies."

To what a truly "little American" must such sentiments reduce the "god-like Webster" in the eyes of the present-day expansionist! But slavery extension was firmly in the saddle, and only to be unhorsed by the shock of war. Calhoun boldly brushed aside his assent in Monroe's cabinet to the restriction of slavery in the territories by the Missouri compromise, which the tell-tale diary of John Quincy Adams has disclosed, and insisted that as soon as the treaty with Mexico was ratified the sovereignty of Mexico became extinct and that of the United States was substituted, "carrying with it the Constitution with its overriding control over all the laws and institutions of Mexico inconsistent with it." The continuation of slavery in Arkansas and Missouri had been defended on constitutional ground because it existed there under Spanish and French law at the time of the cession. By parity of reasoning, therefore, slavery should not be extended into the newly acquired Mexican territory because it had been formally abolished throughout the Mexican domains by the Mexican government. But with Calhoun necessity was a prolific mother of invention.

Webster in his speech on the admission of Oregon as a free state, August 12, 1848, reminded the South that already five slave states had been admitted from territory not contemplated when the Constitution was formed, and since slave labor and free labor could not exist together the inequality would be on the side of the North in northern territory. He pointed out, in opposition to Calhoun's sweeping doctrine, that slavery rested on purely local law and was against natural law. Under the Roman law and the law of all mankind a person was presumed to be free till it was proven that he was a slave. But his most important proposition was this:

"Congress has full power over the subject. It may establish any such government, and any such laws in the territories as in its discretion it may see fit. It is subject of course to the rules of justice and propriety; but it is under no constitutional restraints."

Calhoun, who, when the question of the territorial organization of New Mexico and Utah arose, had come to be representative of the South, demanded equal rights for slavery in the newly acquired territory, actual return of fugitive slaves, and that agitation of the slave question should cease. The New Mexico and Utah bill was a compromise with the first demand in providing that when these territories came to be admitted as states they should come in with or without slavery as their constitutions might prescribe; it yielded to the second demand by greatly strengthening the fugitive slave law; and as to the third demand—that was beyond the power or reach of any human agency. The compromise of 1850, then, led the way directly to the third and last compromise of the slavery extension question—the Kansas-Nebraska bill. It was a natural, if not an easy step, for "squatter sovereignty" from this outside territory where it had been enthroned over into the jurisdiction of the Missouri compromise. The alignment of parties, or rather of sections, on the slavery question at this time is shown by the vote for the admission of California as a free state. The ayes were composed of fifteen northern democrats, eleven northern whigs, four southern whigs, and Salmon P. Chase, John P. Hale, Thomas H. Benton and Houston of Texas. The nays were all from slave states, and all democrats but three. The questions of the compromise were, the organization of the territories of New Mexico and Utah without the Wilmot proviso, that is, without any restriction as to slavery, the admission of California as a free state, the abolition of the slave trade in the District of Columbia, adjustment of the Texas boundary dispute, and strengthening of the fugitive slave law. There has never been an array of giants in debate in Congress equal to those who discussed the compromise of 1850. Among its supporters were Webster, Clay, Cass, and Douglas; and among its opponents, Calhoun, Seward, Chase, Hale, Benton and Jefferson Davis. Calhoun's speech in opposition was his last in the Senate, and he died before the bill finally passed. It was the last struggle also of Clay and Webster. Clay died in 1852, two weeks after the whig convention had set him aside for General Scott as the candidate for president, and Webster died four months later, "the victim of personal disappointment."

The slavery question, which had been twice compromised with such facility, in 1820 and 1850, was more acute than ever in the contest over the Nebraska bill, and was now fitly characterized by Seward as the "irrepressible conflict." The death of Webster, Clay and Calhoun left Douglas easily in the ascendancy as leader and effective debater.

"His blue eyes and dark, abundant hair heightened the physical charm of boyishness; his virile movements, his face, heavy-browed, round, and strong, and his well-formed, extraordinarily large head gave him the aspect of intellectual power. He had a truly Napoleon trick of attaching men to his fortunes. He was a born leader beyond question."

This commanding physical equipment was completed by his firm, rich and powerful voice. Douglas certainly strongly resembled Napoleon in his boldness and brilliancy in giving battle and his wonderful successes; and in his tragical personal defeat, which was the concomitant of his brilliant victory in the Kansas-Nebraska campaign, there is a strong reminder of Waterloo. Douglas was the pioneer projector of a territorial organization for Nebraska. As early as 1844 he introduced a bill in the House of Representatives "to establish the territory of Nebraska," which was read twice and referred to the committee on territories from which it was not reported. In March, 1848, he introduced a bill of the same purport which was recommitted on his own motion in the following December, and, like its predecessor in the House, was pigeonholed by the committee.

The boundaries of the proposed territory in the bill of 1844 were as follows:

"Commencing at the junction of the Kansas with the Missouri river; thence following the channel of the Missouri river to its confluence with the Qui Court, or Running Water river; thence following up the latter river to the 43d degree of north latitude; thence due west to the summit of the grand chain of the Rocky mountains; thence due south to the 42d degree of latitude; thence pursuing the line agreed upon between Spain and the United States, February 22, 1819, as the boundary between the territories of the two countries, to the 100th degree of longitude west from Greenwich; thence following the course of the Arkansas river until it intersects the 38th parallel of latitude at a point east of the 98th degree of longitude; thence due east on the 38th parallel to the boundary line of the state of Missouri; thence north on the said boundary line of the state of Missouri to the place of beginning." Following are the boundaries of the

bill of 1848:

"Commencing at a point in the Missouri river where the 40th parallel of north latitude crosses said river; thence following up the main channel of said river to the 43d parallel of north latitude; thence west on said parallel to the summit of the Rocky mountains; thence due south to the 40th parallel of north latitude; thence east on said parallel to the place of beginning."

Why Douglas should have projected these measures so much before their time, or, to put it another way, why so forceful a member as Douglas should have done so little with them has been superficially regarded as inexplicable except by the assumption that from the first his motive was to further the scheme of the South for the extension of slavery. But insipidly the origin and running through the entire long campaign for the organization of Nebraska we find the strong and steady purpose of commercial enterprise. Chicago, where Douglas lived, was already the potential base of northwestern commercial conquest and development. In 1844 the state of Illinois was already well settled, and the territory of Iowa had become important in population as well as promise. The quick eye of business interest already saw that the Missouri river would soon be the terminus of railway lines leading from Chicago. Whitney had come home from Europe in 1844 enthusiastic in the conviction of the need and practicability of a railway to the Pacific, and as early as January, 1845, he memorialized both houses of Congress in favor of such a project, and from that time on the national legislature was bombarded with influences in its favor. The representatives in Congress from Illinois and Iowa could now see the importance of making the most of this border territory. Douglas, as chairman of the committee on territories, was the natural agent and spokesman for these interests. He afterward explained his seemingly premature action in introducing the organization bill of 1844 by saying that he served it on the secretary of war as notice that he must not locate any more Indians there, and by repeating this notice he prevented action for ten years. He said also that the Atlantic states opposed opening Nebraska to settlement out of jealousy, and that both political parties had the power to defeat the Kansas-Nebraska bill by making new Indian treaties, and "I was afraid of letting that slip."

In December, 1851, Willard P. Hall, member of the House from Missouri, gave notice of a bill for the same purpose, and although Missouri statesmen favored the organization of the territory on their western border at the earliest time, and Mr. Hall actively supported the successful measure in 1854, his own bill seems to have perished by neglect. Mr. Hall also introduced a bill for the organization of the territory of the Platte on the 13th of December, 1852, but it was never reported from the committee. The introduction of a bill by this leading member of the lower house from Missouri so shortly before the completion of the Kansas-Nebraska bill, and which made no reference to slavery or the repeal of the compromise, illustrates the indifference to that question then existing in that state, and also the complete dominance in the public mind of the name Nebraska, or its French substitute, for the country in question.

From the time the region of the Platte valley became known to white men till it was politically divided by the Kansas-Nebraska act, the name of its principal river was applied, roughly speaking, to the country between the water-shed of the Platte and Arkansas rivers on the south and the 43d parallel on the north, the Missouri river on the east, and the Rocky mountains on the west. It was "the Nebraska country."

On February 2, 1853, William A. Richardson, member of the House from Illinois, and who, after the death of Douglas in 1861, was elected to fill a portion of his unexpired senatorial term, introduced house bill No. 353, "to organize the territory of Nebraska." This bill, which made no reference to slavery, passed the house February 10, 1853, by a vote of 98 to 43. The northern boundary of the territory described in this bill was the 43d parallel, the present boundary of Nebraska on that side, its eastern limit was the west line of Missouri and Iowa, its southern, the territory of New Mexico and the parallel of 36° 30', and its western, the summit of the Rocky mountains. The bill underwent an extended and spirited debate which throws an interesting light on the condition of the territory and of politics at that time. It appears from the debate that the Indian affairs of the territory were under the jurisdiction of the superintendent at St. Louis, and that all Indians located immediately along the Missouri frontier had been removed there from their eastern habitat. Mr. Brooks of New York objected strongly to the bill on the ground that the government had no right to take possession of the territory because the Indian title to it had not been extinguished.