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LETTER

ADDRESSED TO

THE HON. JOHN C. CALHOUN,

ON THE LAW RELATING TO

SLAVES, FREE NEGROES, AND MULATTOES,

BY A VIRGINIAN.

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SLAVES, FREE NEGROES & MULATTOES.

Among the various subjects that present themselves to the consideration of man, there is none perhaps more important in its various bearings, and which is attended with graver and deeper reflection, than the subject of *slavery*. The mind naturally dwells upon it with profound interest. How could it be otherwise, when all the civilized countries on the globe, influenced by certain and various causes, have, in their deliberate assemblies and legislative halls, weighed and discussed it with that attention and seriousness to which its vast moment has ever entitled it.

There are certain natural and inalienable rights that belong to man which it is utterly impossible to divest him of. They are *his*, and the world acknowledges them to be so. The Maker of all things, guided by a wisdom which belongs not to the creatures of this earth, made, constituted, and ordained them the rulers and protectors of all things, and assimilated them in person and in attributes with the angels of his own kingdom. But in their creation he seemed to have been guided by certain wise, humane, and fixed laws, which are exhibited every day by mankind in the various walks of life. To them he has given the exercise of prerogatives noble in their character, and harmonizing with the grand system of nature. But these connatural principles, though innate and voluntary in their action, are liable to perversion, and may, by a gratification of vicious desires and passions, become much impaired, and at last totally extinct. But it appears that those wise men, whose duty it was to frame laws for the well-being and government of society, were controlled and influenced by certain fixed principles of action, formed and introduced after a thorough and mature reflection and debate. But what has been the result? The legacy has been left behind them for the benefit of posterity, and it was intended and expected, when these laws by common consent were declared valid, that they would be beyond the interference and abrogation of any whimsical party who might undertake a voluntary dictation; it was moreover expected that they would go into immediate and successful operation, under the control of individuals whose duty it was to see that they were enforced, thereby promoting the happiness and interest of those for whom they were intended, and answering all the great ends for which they were instituted. But how great the change that has been wrought within the last half century! Have the kind-

lier feelings of man's nature expanded and grown better with the progress of events? Has his heart been ameliorated and softened by the indulgence of humane charities, and yielded to the influence of generous desires? Has he heeded the promptings, and listened to the solemn warnings, of that inward monitor—the *conscience*? We say with sorrow that the precedents and precepts of by-gone days have been well nigh forgotten, or if not forgotten, shamefully and wilfully abused. Customs, venerated and admired for their age and effect, and whose good influences all admitted, are only thought of when spoken of, because of the loss of that moral force which at one time they so powerfully exerted. The common principles of humanity have been violated, cruelties the most painful and barbarous are tolerated, and those whose fortune it is to occupy conspicuous and independent stations in society, mock at the calamities of those humbled in life by unavoidable circumstances, and disdainfully treat any proposition that may be made to alleviate their conditions. The struggle between virtue and vice which was waged by our first parents has been carried on with unmitigated violence to the present time, and now preponderates on the side of the latter; hence a system of tyranny and legislative abuse, a recklessness of admirable customs, whose existence was cherished and admired, that has rendered the world a theatre of misrule and oppression, a scene of continued strife and distress. How much, indeed, is a downfall, or even a decline, of virtue to be deplored in this era of refinement and intelligence. Humanity, charity, and love, in fine, all the benevolent desires of our hearts, should grow better as the world grows older. Shall it be said, in this nineteenth century, that there is a relapse in the moral world? that our natures, and characters, and habits, are degenerating? that we are infringing upon the sacred mandates and customs of our fathers? The course of man should be “upward and onward;” never to look behind him, but to press “on to the mark of the high prize,” and to a realization of that long expected era of human felicity, which has been foreshewn by prophetic inspiration, and described in the most enraptured language by the muses. Whence arises this exceeding sensitiveness on the subject of human rights? Does not a man's own *sense of propriety*, his own conceptions, that conception that is classed among the refined senses of our nature, speak a language plain and emphatic on this subject? Does not it define the proper course to be pursued in relation to those who are constituted like ourselves in all particulars? This may be so, but the admonition is unheeded, and we know it; a base spirit, despite touching remonstrances and humane appeals, and in violation of all scriptural advice, rules with a sway that has no bounds, embracing in its compass

men of all classes and conditions, and leaving in its train the most incurable evils.

We have made this digression merely to prove the natural tendency of man to lean upon the side of vice and inhumanity; they are handmaids together, and have been the means of spreading desolation and distress throughout the civilized world. The question may now be very properly asked, can any remedy be applied to arrest a course of action which has been sanctioned and countenanced for the last eighteen centuries? Can a radical or even partial change be effected, calculated to better the condition of the needy and unfortunate, and to soften the asperities of untempered passions and feelings? The heart and mind naturally respond to the suggestions of humanity, and will at any time readily cooperate in arresting the tide which sweeps over the world, leaving in its train poverty, disgrace, and ruin, and in blending in harmony the discordant elements of our nature. But how apt are long established customs to be considered right and politic, bearing on their face the most satisfactory evidences of propriety, and equity, and justice, thereby causing man to respect them, and to insist on their observance. From this cause the most cruel and tyrannical laws have been permitted to remain unrepealed, to the detriment and injury of those for whose benefit they were instituted. As time advances, changes in the conditions of men must necessarily occur, and old statutes which, when passed, may have been approved by all, suiting the age, and producing a desirable effect on society, and answering *all* the ends for which they were intended, may at this time, after the lapse of half a century, tend in an eminent degree to augment the troubles and increase the difficulties of the poor and needy, and to harden the situation of those over whom the broad mantle of national protection should be thrown.

We do not intend on this occasion entering into a lengthy discussion of the rights and privileges which are granted and refused to the colored population, nor to comment at large on the relations that we sustain to them, various and diversified as they are. The theme is exceedingly prolific, and we therefore beg leave to discuss it as briefly as possible, advocating, as we mean to do, the cause of the injured and oppressed.

The laws of our country, generally, relating to slaves, free negroes and mulattoes, are of such a character as to excite the attention of all men whose generous sympathies are not destroyed by the baser passions. When we seriously and impartially reflect upon the character of these laws, for whom they were intended, their hardness, severity, and we might properly say cruelty, the cause of injured humanity irresistibly forces itself upon the

mind and demands instant consideration. When we reflect upon the situation of the slave, his bondage and subserviency to the freak and whim of his master, his dependant and deplorable condition, his comparatively few enjoyments and limited privileges, his unflattering prospects of emancipation—when we remember that they have lived and died among us, after a long, laborious and faithful stewardship, and then look to the laws which they are made under the highest penalties to observe, how ungrateful, cruel and oppressive does it appear, that we should forget that they are human beings, possessing naturally the same faculties and feelings as ourselves, breathing the same air, and destined to the same eternity. Surely they are sensitive and intelligent beings, and though the light of science may have never dawned upon their benighted minds, and their affections never received that cultivation and attention which the white man in his affluence may have enjoyed, yet they have hearts to *feel and understand*, and their wounded spirits are ever brooding over the malignant treatment of their superiors. Gifted with faculties similar to our own, with knowledge intuitively bestowed to comprehend, with red blood like our own coursing through their veins, though chained down to hard and harsh laws, powerless in their might, and held captive by every consideration that can be conceived, they grope their way in darkness to an untried world, unpitied and often unprotected. Let us examine some few clauses of the law of our land relating to slaves, free negroes and mulattoes, and leave to our readers to say whether that kindness is extended to them which as rational beings they deserve. Though the legislatures of the different slave States are empowered with the privilege of making and abrogating laws, tending either to the happiness or distress of their subjects, yet they never appear to be stimulated by those kind and generous emotions, the offspring of philanthropy and common humanity. Year after year these bodies meet together with no other object than to supervise the laws of their States, and to make those enactments which will benefit society. In Henning's Justice, p. 325, the following language is found: "*A slave found on the plantation of another, without lawful business, may receive ten lashes from the owner or overseer of such plantation.*" It is not our purpose to comment at large on this section of our laws, but it must strike the mind of every considerate man as being cruel and tyrannical in the extreme. It must be remembered that it relates not to *the higher intelligences* of nature, to men enlightened in mind and morals, but to poor, ignorant, untutored, unlettered slaves. What opportunity have they to examine the principles of law that are laid down for their observance? Have they the mind to comprehend and the knowledge to

understand? Do they know the forfeiture that they make, when innocently they visit their friends, probably their kindred, on an adjoining plantation? Is the social principle to be entirely destroyed, because forsooth they are in bondage, deprived of nearly all the enjoyments which surround the white man? Is all communication to be stopped, and they remain in the world like brutes, deprived in part of the power of speech? "*Unless lawful business carries him on the plantation of another, he may receive ten lashes from the owner or overseer of such plantation.*" What humiliation must this be to individuals who possess the power of thought! subject to the pain and mortification of severe corporeal punishment. And for what? Why, because in his ignorance of the consequences, and influenced by correct motives, he seeks the company of his friends to gratify the implanted principles of his nature. Were the slave population of our country disposed to be rebellious; were insurrectionary attempts made by them, and a desire manifested to acquire their independence *vi et armis*, then with some degree of plausibility might those laws be passed and executed, which would be calculated to render impregnable the strongholds of our freedoms and rights. But when was there such an attempt made, we mean a united attempt, concocted and planned long before the proposed period of its execution? Has it been within the last half century? Though there may have been occasional outbreaks of rebellion and resentment plainly exhibited, and plots devised which were intended to be carried out, which might have revolutionized the whole South, and rendered it a scene of bloodshed and confusion, yet the slave population have quietly and tamely borne the yoke of their burden, and submissively passed through the painful and protracted ordeal which it seems they were destined to experience.

We now come to Henning's Justice, 13 sec., p. 240: "*Persons permitting slaves to remain on their plantations four hours at a time, without leave from their masters or overseers, forfeit three dollars; for permitting more than four negroes to remain, forfeit one dollar for each negro.*" With regard to this passage of law, we have only to express our decided and entire disapprobation of it, not because of any severity that it attaches to the slave, but because of its being beneath the dignity and tone of our statutes generally, and at variance with their true spirit! Though the slave, through his master, might be aware of the existence of this law, which he would be compelled sometimes necessarily to disregard and violate, his master would be the loser. Here there is no actual punishment attached to the slave, but his owner exclusively the sufferer, and he is exempt from all blame. How can it happen that the master can be always on the alert, watching the

movements of his negroes to prevent their leaving the premises? This would require a degree of super-vigilance which would be wholly incompatible with his business, and a direct interference with his ordinary occupations. We therefore object to the existence of this law, because it is impossible to observe it strictly; but could there be a faithful observance of it, we cannot see the benefit accruing from its existence.

The next portion of law to which we shall invite the attention of our readers, is Henning's Justice, 25 sec., p. 130: "*If any slave, free negro or mulatto, shall prepare, exhibit or administer any medicine, the offender shall suffer death without the benefit of clergy.*" The cruelty, injustice and absurdity of this law is plainly manifest, and bears cruelty and impropriety on its face. For the mere preparation of medicine, in times perhaps of emergency, when there was no one near whose skill and experience could be confided in, the ignorant and innocent slave, actuated by none other than the best and purest motives, takes that step which he thinks will benefit the diseased and sick, and restore him to bodily health and strength. He prepares the dose under the excitement of great alarm, and administers it, hoping at the same time that a desirable effect will be produced. What is the consequence? The law, which he never heard of, deprives him of life—that boon which few, very few, have been ever willing to part with; at a time, too, when his suspicions and fears are quiet and unexcited, he is robbed of that which God gave, and which He says "no one shall take away." Suspended between heaven and earth, with the eyes of thousands of curious spectators resting upon him, for this act of kindness, humanity and benevolence, he dies a death of pain and ignominy, and is heard of no more. Where is the humanity in this law, like the one posted by Dionysius at such a height that none could read it, an ignorance of which was death, we find on our continent where religion has planted her altars and philosophy built her laboratories, is this unrepealed statute, with all its severity and disgrace. Is this humanity, is it justice? Does it accord with the sentiments and opinions of rational and intelligent beings? Does it appear as though it was made for any thing human, possessing high and noble faculties? What a power and sway does independence and freedom exert! What a marked and radical difference between the oppressor and the oppressed! The one forever basking in the pure sun-light of prosperity, and lighted through the world by fortune's brightest beacons; the other not even cheered by fitful gleams, which it is supposed would sometimes break upon his pathway, expelling some of the dim memorials of grief, and kindling new rays of hope and joy!

There is another of our laws which for cruelty stands unparalleled, we refer to "*burning in the hand*," which we are pleased to say has been repealed; but it did exist, however, and we take occasion to say that we have read in history of deeds in barbarous countries which blackened their calendars, and were revolting to humanity, but never in a civilized land, distinguished at home and abroad for its virtue and christianity, have we heard of such a law. What pain known to human suffering can be more intense than the one referred to; yet there was frequent resort made to it. This subject has been very frequently alluded to in the journals of foreign countries. They make capital of it, and speak of it as it really is, "*an abomination and a disgrace*." How is it possible, when the colored population of our country are denied by law the privilege of reading and writing, that they can be expected to understand and learn the laws which are intended for them. In proportion as the mind is improved, so are the feelings and sensibilities softened. Should gross and dark ignorance pervade our whole country, a scene of demoralization would be witnessed by no means consonant with the views of intelligent men. Vice and ignorance are handmaids together, and when the mind is enlightened, the heart undergoes a radical change for the better. Look to the pagan and uncivilized countries of the world, where heathenism and idolatry held their sway? Do we find virtue, refinement, and intelligence there? By no means. Barbarities the most cruel and deplorable exist, and man, the creature of inordinate appetites, lives and dies like the beast of the forest. There no monument to his fame and greatness is raised; no vocal praises ring from mountain to mountain, in honor of his virtues and services; scenes of bloodshed and rapacity blacken their legends, and the demon of destruction stalks through the country, disseminating the direst of evils. See the fierce and exterminating conflicts that have marked that sanguinary arena of ignorance and ambition which has laid waste so many fair and beautiful countries. The greater part of mankind must, in the nature of things be poor and ignorant, toiling anxiously for their daily bread, and in the language of the all accomplished and talented John Thompson Brown, "All cannot be raised to the top of the scale; and the negro, of all others, is the least susceptible of elevation. You may declare him free, but unless you can reverse his doom of inferiority, unless you can exempt him from poverty and toil, your utmost efforts will only change him from a slave to a serf." But let him be educated, at all events so as to be enabled to read the laws which he is forced to observe. Should he see that an attempt was being made by his superiors to better his condition, and to render him more happy; that they were turning their fa-

avorable attention to him in his dependance and distress, how much would his burden be lightened. Satisfaction and contentment, which before knew him not, would add their comfortings, and emotions would be excited in his bosom which he never before experienced. In England all stand on an equal footing; there liberty is extended to all the human family, and the banner of independence waves over her millions of independent subjects. There, there is nothing like tyranny over man, and the immortal Curran tells us: "*The moment a slave treads on British soil his shackles fall off, and he stands regenerated and disenthralled by the redceming spirit of universal emancipation.*" How much better for mankind in general would it be if every country on the globe could make the same boast! Then the paupers of our land, unpitied in their poverty and distress, who have been for years out of employment, not because they have not sought it, would rejoice that a time had come when their own resources would enable them to surround their suffering household with the necessaries of life, and stand before the world the acknowledged laborers, "worthy of their hire." Those who have neither "food nor raiment" would greet with joy the day-spring from on high, the harbinger of their emancipation, to unloose the fetters that had bound them down in the very dust of distress and humiliation. How much is slavery to be deplored. Yet it has its friends, who are not confined to the humbler classes of life. There is a distinguished statesman, who lives in its midst, whose fame is known in distant lands, and the power of whose brilliant genius has solved the most abstruse political problems, and thrown new light upon deeply important constitutional questions. He is a skilful and able political economist, is no stranger in the legislative halls of our country, and is now regarded as one of the most gifted men who have lived in any age or clime. We allude to John C. Calhoun; and it is indeed remarkable that a gentleman of his transcendant abilities and long experience, who has studied the human character with so critical an eye, and knows so well what should be the rule of action for the human family in our intercourse with subordinates, should, in the retirement of his closet, publish to the world a letter, in which he states that *slavery is an institution right in the abstract, and that the prosperity of the South depends upon its existence.* How, we should like to know, does the prosperity of the South depend upon slavery, when there are now thousands of suffering, dependant paupers, honest and industrious men, who are shut out from employment because of the slave labor. They can scarcely get any compensation for their services, certainly not what they deserve, because of the competition. Were the whole slave population emancipated, or the number by a

certain process greatly diminished, an opportunity would thus be afforded them of making at all events an humble competency. But now their services are not needed, there is no demand; the hardy negro is subservient, and can answer the most menial ends. It appears to us, therefore, that slavery, instead of benefitting the South, and rendering it more prosperous, has clearly a contrary effect. It certainly denies to the white man opportunities of employment, and thereby deprives him of those resources which he would otherwise obtain. Its evils are apparent to all, but it is in vain to remonstrate at this eleventh hour. Would to God that the seed had never been planted; but it has been; its roots struck deep, and its fruit has scattered troubles and misery throughout every portion of the civilized world in which it exists. Slavery has ever been regarded as an evil, as a growing evil, and unless some plan is recommended and agreed to that will arrest its progress, a plan universally consented to and approved, the abolition petitions which have been flooding our Congress, will not only greatly increase, but the people of the South, living in the midst of slavery, and enjoying its immediate profits and benefits, will, from the multiplied number of slaves, cry out at last *en masse* for a removal of them, but it will then be too late; the die will have then been cast, and it will be utterly impossible to make that disposition of them which could have been made at an earlier period.

In referring to the proceedings of the Virginia Convention which formed our constitution, we find that, when the constitution was presented for adoption, it was violently objected to and opposed, on the ground that it did not prohibit the States from allowing a further importation of slaves. This subject was discussed by many of the ablest and most influential members of the convention. What does this prove, but that it was a great and important subject, touching the safety and happiness of generations to come. But what has been the result? The slave population, as can be seen from the last census, has augmented to an alarming degree, and has spread itself from the Ganges to the Nile, from the Indus to the Poles. Far and wide we find this unhappy race are subject to the most cruel and oppressive laws. Various schemes of emancipation have been suggested by distinguished individuals, and they have presented their views and arguments on strong and plausible pretexs. Some have been partially sanctioned, others have been discountenanced; but no decided and decisive step has yet been taken to remove from the country this blot upon her character. Many years ago it was proposed to purchase slaves by taxation, and to apply it in the most economical and effectual manner, according to certain rules prescribed for the removal of slaves of certain ages and sexes. This scheme was found to be

impolitic, from the fact that by removing a certain number and class of this population, would cause those to whom emancipation was denied by infirmities, old age, or some other cause, to become dissatisfied and rebellious. The proposition was therefore abandoned, as none could be suggested which would meet with the general consent of the people. Emancipation was found to conflict with the "*right of property*" as is contained in the "*Bill of Rights*," and we had no right to demand *that* which was *bona fide* and legally the property of another. "*The right of property*" was at that time acknowledged by Mr. Jefferson, together with many other worthy and highly distinguished men. He insisted that "they should be purchased from their owners, and without such purchase we had no right to take them." (Vide Letter to Jared Sparks.) It is absurd to contend that the owners of slaves are not entitled to the increase thereof; and though it has been argued, and strongly too, that the increase can be disposed of, as was once the case in the Legislature of Virginia, the constitution, in saying that "*property shall not be taken without due process of law*," and whatever comes under that denomination is equally protected, and is at the voluntary disposal of the owner. To ascertain what is property, we must refer to the laws that define it. The statute declaring slaves to be property was in force at the adoption of the constitution, and is to be regarded as supplementary and explanatory of the provisions in that instrument.

It is not necessary, we presume, to show that the right of property in slaves is founded in nature. No one would contend for that. It is a right purely and solely conventional, and is derived from the assent and agreement of those who are united with us by compact, and not from nature. The fact is, we have no right, either by the constitution or by any implied power, be what it may, to exact from any man a surrender of what law and custom recognise as property. The established rule that man is free to make what disposition he pleases of that which belongs to him, is conceded on all hands, and an attempt at this late day to seize any thing which precedent has pronounced not our own, is a gross innovation upon the rights and interests of our fellow man. Though we may be all abolitionists in the *abstract*, because we believe in our hearts slavery to be an evil and a curse, and because it may be cruel and unrighteous to retain them, but where is the man who would surrender his slaves without a full and satisfactory compensation? We are led blindly along by our interests, despite the promptings of our reason and the dictates of our own judgment and consciences. We wish for the day when the evil will be removed, when the negro will return, by proper means, to the genial clime of his native land.

But how can it be, when apathy and indifference pervade the whole slaveholding country? Are we waiting for a more favorable time when we know "that procrastination is dangerous," and may be fatal to our peace and liberties? Self-preservation is a law of nature, and is frequently called into exercise. We must anticipate danger in proportion as slavery increases; but we are waiting for it to be urgent, imminent, inevitable. We believe that it was never intended that the slave should be in his present capacity—that he should subserve the degrading ends of which he is now the instrument, and spend his life on earth in answering the will and wants of haughty and relentless masters. There is a voice that speaks from within, which tells us that they were born to enjoy the privileges of freemen, and the rational enjoyments of life; that they were made by the same God, proceeded from the same common parents, and are entitled to the same public rights as ourselves. Gifted with the same faculties with which we are blessed, why may they not possess the same prerogatives? We believe that the day is approaching, and fast too, when the cry of universal freedom will ring in thunder tones from one pole to the other; when freed spirits now suffering with galling trammels, will raise one unmixed and deafening chorus of praises to the great God that made them for their emancipation. Slavery has disappeared from the eastern and middle States, and is to be found only where planting is the characteristic occupation. Slaves in the north ceased to be profitable, therefore it was abolished, not because of the moral impropriety of retaining them. Such was the case from the fact that many were sent from the northern to the southern market to avoid the operation of their emancipation laws. On the seaboard of the Carolinas, slaves bear a much greater proportion to the whites than here. In the mountainous districts they are comparatively few. "The foot of the negro delights not in the dew of the mountain grass. He is the child and native of the sandy desert. The burning sun gives new life and vigor, and his step is most joyous on the arid plain." Let him while he remains here enjoy some of the few pleasures allotted to poor human nature. The Father of nations looks with joy upon the humane, and though we be in the ascendant, holding in our hands the reins of government, the chief ruler of the world, yet let a spirit of kindness govern our conduct, and be hereafter the rule of our action.

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