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Debates In The House Of Representatives Regarding the Quaker Petition, March 16–23, 1790

March 16

Elias Boudinot (N.J.) moved to take up the report of the committee on the memorial of the people called Quakers; after some opposition his motion was agreed to. The report was then read.

James Jackson (Ga.) rose and observed, that he had been silent on the subject of the Report's coming before the committee [of the whole house], because he wished the principles of the resolutions to be examined fairly and to be decided on their true grounds. He was against the propositions generally, and would examine the policy, the justice and the use of them; and he hoped if he could make them appear in the same light to others as they did to him by fair argument; that the gentlemen in opposition were not so determined in their opinions, as not to give up their present sentiments.

On the principle of emancipation this question arises: What is to be done with the slaves when freed? Two propositions present themselves. Either by incorporating them with the class of citizens or by colonizing them—one or the other of those alternatives must be carried into execution. Mr. Jefferson, our secretary of state (speaking in his notes on Virginia) on the first head, declares it to be impolitic. I know not, Sir, whether I accurately deliver his words; but as well as my memory serves me they are, that “deep rooted prejudices entertained by the whites—ten thousand recollections by the blacks of the injuries they have sustained—new provocations—the real distinctions which nature has made, and many other circumstances would divide us into parties, and produce convulsions which would never end but with the extermination of the one or the other race.” To these he adds, physical and moral objections, as the difference of colour, and so forth. Sir, the observations of this learned gentleman are not merely theoretical—We are taught the truth and justice of them by experience. . . .

Still however, will some gentlemen insist that emancipation, and the prevention of importation is policy, because some of the states have given into the measure. If Sir, the northern states to Virginia, have found it their interest, ought not the southern states to be allowed the same privilege of finding their interest. Will Congress and those states not concerned in the event, undertake to decide for those states which are! Is it not an interference with their local politics, which Congress are not warranted in, nay, are prevented by the constitution? Is it not an infraction of that sacred compact which brought us together, that compact which brought us mutually to relinquish a share of our interests to preserve the remainder? Did not the southern states for this very principle give into what might be termed the navigation law of the eastern and northern states, and having accomplished that, will they break the compact, the principle on which it was obtained? . . . The custom, the habit of slavery is established, and Congress cannot interfere

without endangering the whole system of government: that excellent constitution which we have so happily effected. Cannot the southern states be left to themselves on this subject? Is it supposed that they are not capable of discerning their interest and of receiving improvement? Is their humanity less than that of their more northern neighbours, that they must volunteer this business and exercise humanity for them? . . .

Does the justice of the interference stand on better grounds? I think not. For instance—I hold one thousand acres of tide rice land, on the Altamaha. On the expectation of importations these one thousand acres are worth three guineas per acre—take away this expectation of importation, and you take away that value altogether—restrict that importation, and you diminish that value one half. In the exact proportion as you injure the free importation in that ratio, sir, do you injure this property. Numbers in South-Carolina and Georgia are in this predicament. How, sir, are they to be compensated? Have those Friends [the Quakers] a purse sufficient, and are they willing to carry their justice and humanity so far as to give it? Have Congress a treasury sufficient to indemnify those holders? I do not believe they have, and how, sir, is justice to be done without that compensation? The same objection arises to emancipation; the same compensation justice requires. . . .

March 17

William L. Smith (S.C.) said he lamented much that this subject had been brought before the house—that he had deprecated it from the beginning because he foresaw that it would produce a very unpleasant discussion—that it was a subject of such nature as to excite the alarms of the southern members who could not view, without anxiety, any interference in it on the part of Congress. He remarked, that as they were resolved into a committee of the whole on the powers of Congress respecting slavery and the slave-trade, in consequence of certain memorials from the people called Quakers and the Pennsylvania society for the abolition of slavery, the whole subject, as well as the contents of those memorials, was under consideration: he should therefore enter into the business at large and offer some comments on the contents of the memorials.

The memorial from the Quakers contained, in his opinion, a very indecent attack on the character of those states which possessed slaves; it reprobated slavery as bringing down reproach on the southern states, and expatiated on the detestation due to the licentious wickedness of the African trade, and the inhuman tyranny, and blood-guiltiness inseparable from it. He could not but consider it as calculated to fix a stigma of the blackest nature on the character of the state he had the honor to represent, and to hold its citizens up to public view as men divested of every principle of honor and humanity. Considering it in that light, he felt it incumbent on him not only to refute those atrocious calumnies, but to resent the improper language made use of by the memorialists. Before he entered into the discussion he begged to observe that when any class of men deviated from their own religious principles, and officiously came forward in a business with which they had no concern and attempted to dictate to Congress, he could not ascribe their conduct to any other cause, but to an intolerant spirit of persecution: this application came with the worst grace possible from the Quakers, who professed never to intermeddle in politics, but to submit quietly to the laws of the country. . . .

The memorial from the Pennsylvania society applied in express terms for an emancipation of slaves, and the report of the committee appeared to hold out the idea that Congress might exercise the power of emancipation after the year 1808; for it said that Congress could not emancipate

slaves prior to that period. He remarked that either the power of manumission still remained with the several states, or it was exclusively vested in congress; for no one would contend that such a power could be concurrent in the several states and the United States. He then shewed that the state governments clearly retained all the rights of sovereignty which they had before the establishment of the constitution, unless they were exclusively delegated to the United States; and this could only exist, where the constitution, granted in express terms an exclusive authority to the Union, or where it granted in one instance an authority to the Union, and in another prohibited the states from exercising the like authority, or where it granted an authority to the Union, to which a similar authority in the states would be repugnant. He applied these principles to the case in question, and asked, whether the constitution had, in express terms, vested the Congress with the power of manumission; or whether it restrained the states from exercising that power; or whether there was any authority given to the Union, with which the exercise of this right by any state would be inconsistent? If these questions were answered in the negative, it followed that Congress had not an exclusive right to the power of manumission. Had it a concurrent right with the states? no gentlemen would assert it, because the absurdity was obvious; for a state regulation on the subject might differ from a federal regulation, in which case one or the other must give way: as the laws of the United States were paramount to those of the individual states, the federal regulations would abrogate that of the states, consequently the states would thus be divested of a power which it was evident they now had and might exercise whenever they thought proper. But admitting that Congress had authority to manumit the slaves in America, and were disposed to exercise it, would the southern states acquiesce in such a measure without a struggle? Would the citizens of that country tamely suffer their property to be torn from them? Would even the citizens of the other states which did not possess this property, desire to have all the slaves let loose upon them? Would not such a step be injurious even to the slaves themselves? It was well known that they were an indolent people, improvident, averse to labor; when emancipated, they would either starve or plunder. Nothing was a stronger proof of the absurdity of emancipation than the fanciful schemes which the friends to the measure had suggested: one was to ship them off the country, and colonize them in some foreign region; this plan admitted that it would be dangerous to retain them within the United States after they were manumitted; but surely it would be inconsistent with humanity to banish these people to a remote country, and to expel them from their native soil, and from places to which they had a local attachment; it would be no less repugnant to the principles of freedom, not to allow them to remain here, if they desired it: how could they be called freemen, if they were against their consent to be expelled from the country? Thus did the advocates for emancipation acknowledge that the blacks when liberated, ought not to remain here to stain the blood of the whites by a mixture of the races.

Another plan was to liberate all those who should be born after a certain limited period: such a scheme would produce this very extraordinary phenomenon, that the mother would be a slave, and her child would be free—These young emancipated negroes, by associating with their enslaved parents, would participate in all the debasement which slavery was said to occasion. But allowing that a practicable scheme of general emancipation could be devised, there can be no doubt that the two races would still remain distinct. It was known from experience that the whites had such an idea of their superiority over the blacks that they never even associated with them; even the warmest friends to the blacks kept them at a distance, and rejected all intercourse with them. Could any instance be quoted of their intermarrying? the Quakers asserted that nature had made all men equal, and that the difference of color could not place negroes on a worse footing

in society than the whites; but had any of them ever married a negro, or would any of them suffer their children to mix their blood with that of a black—they would view with abhorrence such an alliance.

Mr. Smith then read some extracts from Mr. Jefferson's notes on Virginia, proving that negroes were by nature an inferior race of beings; and that the whites would always feel a repugnance at mixing their blood with that of the blacks. Thus, he proceeded, that respectable author, who was desirous of countenancing emancipation, was on a consideration of the subject induced candidly to avow that the difficulties appeared insurmountable. The friends to manumission had said that by prohibiting the further importation of slaves and by liberating those born after a certain period, a gradual emancipation might take place, and that in process of time the very color would be extinct and there would be none but whites. He was at a loss to learn how that consequence would result. If the blacks did not intermarry with the whites, they would remain black to the end of time; for it was not contended that liberating them would whitewash them; if they did intermarry with the whites, then the white race would be extinct, and the American people would be all of the mulatto breed. In whatever light therefore the subject was viewed, the folly of emancipation was manifest. He trusted these considerations would prevent any further application to Congress on this point, and would so far have weight with the committee as to reject the clause altogether, or at least to declare in plain terms that Congress have no right whatever to manumit the slaves of this country.

Various objections, said he, had at different times been alledged against the abominable practice, as it had been called, of one man exercising dominion over another; but slavery was no new thing in the world—the Romans, the Greeks, and other nations of antiquity, held slaves at the time christianity first dawned on society, and the professors of its mild doctrines never preached against it. Here Mr. Smith read a quotation from the Roman and Grecian history, and from some accounts of the government and manners of the people of Africa, before they had any knowledge of the African traders, from which he said it appeared that slavery was not disapproved of by the apostles when they went about diffusing the principles of christianity; and that it was not owing to the African trade, as had been alledged, that the people of Africa made war on each other.

Another objection against slavery was, that the number of slaves in the southern states weakened that part of the Union, and in case of invasion would require a greater force to protect it. Negroes, it was said, would not fight: but he would ask whether it was owing to their being black or to their being slaves; if to their being black, then unquestionably emancipating them would not remedy the evil, for they would still remain black; if it was owing to their being slaves, he denied the position; for it was an undeniable truth, that in many countries slaves made excellent soldiers. In Russia, Hungary, Poland, the peasants were slaves, and yet were brave troops. In Scotland, not many years ago, the Highland peasants were absolute slaves to their lairds, and they were renowned for their bravery. The Turks were as much enslaved as the negroes—their property and lives were at the absolute disposal of the Sultan, yet they fought with undaunted courage. Many other instances might be quoted, but those would suffice to refute the fact. Had experience proved that the negroes would not make good soldiers? He did not assert that they would, but they had never been tried; discipline was every thing; white militia made but indifferent soldiers before they were disciplined. It was well known that according to the present art of war, a soldier was a mere machine, and he did not see why a black machine was not as good as a white one; in one respect the black troops would have the advantage of appearing more horrible in the eyes of the enemy. But admitting that they would not fight, to what would the argument lead? Undoubtedly

to shew that the Quakers, Moravians, and all the non resisting and non fighting sects, constituted the weakness of a country. Did they not contribute to strengthen the country against invasion by staying at home and joining the invader as soon as he was successful? But they furnished money, he should be told and paid substitutes—and did not the slaves by encreasing the agriculture of the country add to its wealth, and thereby encrease its strength? did they not moreover perform many laborious services in the camp and in the field, assist in transporting baggage, conveying artillery, throwing up fortifications, and thus encrease the numbers in the ranks by supplying their places in these services? Nor was it necessary that every part of an empire should furnish fighting men, one part supplied men, another money—one part was strong in population, another in valuable exports, which added to the opulence of the whole. Great Britain obtained no soldiers from her East and West India settlements, were they therefore useless? She was obliged to send troops to protect them, but their valuable trade furnished her with means of paying those troops.

Another objection was, that the public opinion was against slavery: how did that appear? Were there any petitions on the subject excepting that from the Pennsylvania society and a few Quakers? And were they to judge for the whole continent? Were the citizens of the northern or southern states to dictate to Congress on a measure in which the southern states were so deeply interested? There were no petitions against slavery from the southern states, and they were the only proper judges of what was for their interest. The toleration of slavery in the several states was a matter of internal regulation and policy, in which each state had a right to do as she pleased, and no other state had any right to intermeddle with her policy or laws. If the citizens of the northern states were displeased with the toleration of slavery in the southern states, the latter were equally disgusted with some things tolerated in the former. He had mentioned on a former occasion the dangerous tenets and pernicious practices of the sect of Shaking Quakers, who preached against matrimony, and whose doctrine and example, if they prevailed, would either depopulate the United States, or people it with a spurious race. However the people of South Carolina reprobated the gross and immoral conduct of these Shakers, they had not petitioned Congress to expel them from the continent, though they thought such a measure would be serviceable to the United States. The legislature of South Carolina had prohibited theatrical representations, deeming them improper, but they did not trouble Congress with an application to abolish them in New-York and Philadelphia—The southern citizens might also consider the toleration of Quakers as an injury to the community, because in time of war they would not defend their country from the enemy, and in time of peace they were interfering in the concerns of others, and doing every thing in their power to excite the slaves in the southern states to insurrection; notwithstanding which the people of those states had not required the assistance of Congress to exterminate the Quakers.

But he could not help observing that this squeamishness was very extraordinary at this time. The northern states knew that the southern states had slaves before they confederated with them. If they had such an abhorrence for slavery, why said Mr. Smith, did they not cast us off and reject our alliance? The truth was, that the most informed part of the citizens of the northern states knew, that slavery was so ingrafted into the policy of the southern states, that it could not be eradicated without tearing up by the roots their happiness, tranquility and prosperity—that if it were an evil, it was one for which there was no remedy, and therefore, like wise men, they acquiesced in it: we, on the other hand, knew that the Quaker doctrines had taken such deep root in some of the States that all resistance to them must be useless: we therefore made a compromise on both sides, we took each other with our mutual bad habits and respective evils, for better for

worse; the northern States adopted us with our slaves, we adopted them with their Quakers. There was then an implied compact between the Northern and Southern people that no step should be taken to injure the property of the latter, or to disturb their tranquility. It was therefore with great pain he had viewed the anxiety of some of the members to pay such uncommon respect to the memorialists as even to set aside the common rules of proceeding, and attempt to commit the memorials the very day they were presented, though the southern members had solicited one day's delay. Such proceedings had justly raised an alarm in the minds of his southern colleagues; and feeling that alarm, they would have acted a dishonorable part to their constituents had they not expressed themselves with that warmth and solicitude which some gentlemen had disapproved.

A proper consideration of this business, must convince every candid mind, that emancipation would be attended with one or other of these consequences; either that a mixture of the races would degenerate the whites, without improving the blacks, or that it would create two separate classes of people in the community involved in inveterate hostility, which would terminate in the massacre and extirpation of one or the other, as Moors were expelled from Spain and the Danes from England. The negroes would not be benefited by it; free negroes never improve in talents, never grow rich, and continue to associate with the people of their own colour. This is owing either to the natural aversion the whites entertain towards them, and an opinion of the superiority of their race, or to the natural attachment the blacks have to those of their own colour; in either case it proves that they will after manumission continue as a distinct people, and have separate interests. The author [Thomas Jefferson] already quoted, has proved that they are an inferior race even to the Indians.

After the last war a number of negroes which had been stolen from the southern states, and carried to England, either quitted the persons who carried them there, or were abandoned by them. Unable to provide for themselves, and rejected from the society of the common people of England, they were begging about the streets of London in great numbers; they supplicated captains of vessels to carry them back to their owners in America, preferring slavery there, to freedom in England. Many of them were shipped to Africa by the humanity of the English, and were either butchered or made slaves by their savage countrymen, or reshipped for sale to the plantations.

But some persons have been of opinion that if the further importation of slaves could be prohibited, there would be a gradual extinction of the species. Having shewn the absurdity of liberating the postnati without extending it to all the slaves old and young, and the greater absurdity and even impracticability of extending it to all, I shall say a few words with regard to the extinction; that would be impossible, because they increase—to occasion an extinction, Congress must prohibit all intercourse between the sexes; this would be an act of humanity they would not thank us for, nor would they be persuaded that it was for their own good, or Congress must, like Herod, order all the children to be put to death as soon as born. If then nothing but evil would result from emancipation, under the existing circumstances of the country, why should Congress stir at all in the business, or give any countenance to such dangerous applications. We have been told that the government ought to manifest a disposition inimical to this practise which the people reprobate. If some citizens, from misinformation and ignorance have imbibed prejudices against the southern states, if ill-intentioned authors have related false facts, and gross misrepresentations tending to traduce the character of the whole state, and to mislead the citizens in other states, is that a sufficient reason why a large territory is to be depopulated, merely to gratify the wish of

some misinformed individuals? But what have the citizens of the other states to do with our slaves? Have they any right to interfere with our internal policy?

This is not an object of general concern, for I have already proved that it does not weaken the Union; but admit that it did, will the abolition of slavery strengthen South-Carolina? It can only be cultivated by slaves; the climate, the nature of the soil, ancient habits, forbid it by the whites; experience convinces us of the truth of this. Great-Britain made every attempt to settle Georgia by whites alone and failed, and was compelled at length to introduce slaves; after which, that state increased very rapidly in opulence and importance. If the slaves are emancipated, they will not remain in that country—remove the cultivators of the soil, and the whole of the low country, all the fertile rice and indigo swamps will be deserted, and become a wilderness. What then becomes of its strength? Will such a scheme increase it? Instead of increasing the population of the whites, there will be no whites at all; if the low country is deserted, where will be the commerce, the valuable exports of that country, the large revenue raised from its imports and from the consumption of the rich planters? In a short time the northern and eastern states will supply us with their manufacturers; if you depopulate the rich low country of South-Carolina and Georgia, you will give us a blow which will immediately recoil on yourselves. Suppose 140,000 slaves in those states, which require annually five yards of cloth each, making 700,000 yards at half a dollar a yard, this makes 350,000 dollars, besides the articles of linen, flannel, oznaburgh, blankets, molasses, sugar and rum for the use of the negroes; now, either the eastern and middle states will supply us with all these articles or they will receive the benefit of the impost on them if they are imported from foreign countries. Without the rice swamps of Carolina, Charleston would decay, so would the commerce of that city: this would injure the back country. If you injure the southern states, the injury would reach our northern and eastern brethren; for the states are links of one chain: if we break one the whole must fall to pieces. Thus it is manifest that in proportion to the increase of our agriculture will our wealth be increased; the increase of which will augment that of our sister states, which will either supply us with their commodities, or raise a large revenue upon us, or be the carriers of our produce to foreign markets.

It has been said that the toleration of slavery brings down reproach on America. It only brings reproach on those who tolerate it, and we are ready to bear our share. We know that none but prejudiced and uncandid persons, who have hastily considered the subject and are ignorant of the real situation of the southern states, throw out these insinuations. We found slavery ingrafted in the very policy of the country when we were born, and we are persuaded of the impolicy of removing it; if it be a moral evil, it is like many others which exist in all civilized countries and which the world quietly submits to. Humanity has been a topic of declamation on this subject: that sentiment has different operations on different individuals, and he had it in his power to shew, that humanity first gave origin to the transportation of slaves from Africa into America. Bartholomew de las Casas, bishop of Chiapa, a Spaniard renowned for his humanity and virtues, in order to save the Indians in South America from slavery, prevailed on his monarch to substitute Africans, which were accordingly purchased on the coast of Africa and shipped to the Spanish colonies to work in the mines: this appears in Robertson's history of America, which Mr. Smith quoted. At this day the Spaniards give considerable encouragement to the transportation of slaves into their islands. Mr. Smith read the edict for that purpose.

Another objection is, that slavery vitiates and debases the mind of the owner of this sort of property. Where, said he, is the proof of this allegation? Do the citizens of the southern states exhibit more ferociousness in their manners, more barbarity in their dispositions than those of the

other states? Are crimes more frequently committed there? A proof of the absurdity of this charge may be found in the writings of those who wish to disseminate this mischievous idea, and yet, in their relation of facts, contradict it themselves. They lay down general principles which they take upon credit from others, or which they publish with sinister views, and when they enter into a detail of the history of those states, they upset their own doctrines. Thus, one writer tells us, that the southern citizen who is educated in principles of superiority to the slaves which surround him, has no idea of government, obedience and good order, till he mingles with the hardy and free spirited yeomanry of the north, and that after mixing with them, he will return home with his mind more enlarged, his views more liberalized, and his affections rectified, and become a more generous friend to the rights of human nature: but hear what the eastern traveller is to learn by visiting the enslaved regions of the south: He will see, says the same writer immediately after, industry crowned with affluence, independence, hospitality, liberality of manners; and notwithstanding the prevalence of domestic slavery, he will find the noblest sentiments of freedom and independence to predominate; he will extol their enterprise, art and ingenuity; and will reflect that nature is wise, and that Providence in the distribution of its favors, is not capricious. . . .

It was well known that when the African slaves were brought to the coast for sale, it was customary to put to death all those who were not sold; the abolition of the slave trade would therefore cause the massacre of the people. The cruel mode of transportation was another motive to this abolition; but it was to be presumed that the merchants would so far attend to their own interests as to preserve the lives and the health of the slaves on the passage: all voyages must be attended with inconveniences, and those from Africa to America not more than others. As to their confinement on board, it was no more than was necessary; as to the smallness of space allotted them, it was more than was allowed to soldiers in a camp; for the measurement of cubical air breathed by the Africans compared with that of soldiers in a camp, was in favor of the former as thirty to seventeen; it was full as much as was allotted in ships of war to seamen who by the laws of England were frequently on their return to their families after a long and dangerous voyage, seized by violence, hurried away by a press-gang, and forced on another voyage more tedious and perilous than the first to a hot and sticky climate, where several hundreds of them were stowed away in the hold of a vessel. In cases of disobedience the Captain had a right, for slight offences, to inflict on them corporal punishment without the intervention of a court martial, and in other cases they were punishable by very severe laws, executed by martial courts established for that purpose. The same may be observed of the soldiers, who were frequently flogged severely for trivial offences, instances have been known of their being put under the care of a surgeon, after receiving a small part of the intended flagellation, to refit them for the residue.

Having thus removed the force of the observations which have been advanced against the toleration of slavery by a misguided and misinformed humanity, I shall only add, that I disapprove of the whole of the report; because it either states some power sufficiently expressed in the constitution which is unnecessary, or it sets forth some power which I am clear Congress don't possess. The concluding paragraph is an extraordinary one. In what mode are the memorialists to be informed of our humane dispositions? Are we to send a special committee to inform them? Or is the Speaker to write them a letter, or the Sergeant at Arms with the mace to wait on them? In short, Mr. Chairman, the whole of this business has been wrong from the beginning to end, and as one false step generally leads to others, so has the hasty commitment of these memorials involved us in all this confusion and embarrassment. I hope therefore if any kind of report is agreed to, it will be something like that proposed by my colleague.

March 22

Mr. Boudinot said, altho' he most heartily approved of many of the arguments and doctrines of his hon. friend from Pennsylvania [*Thomas Scott*], yet he could not go all lengths with him. He thought with him, that our time had been taken up, and great labour had been used in arguments that no wise related to the merits of the question before the committee, but he could not agree that the clause in the constitution relating to the want of power in Congress to prohibit the importation of such persons, as any of the states now existing shall think proper to admit, prior to the year 1808, and authorising a tax or duty on such importation not exceeding 10 dollars for each person, did not extend to negro slaves. Candor required that he should acknowledge, that this was the express design of the constitution, and therefore Congress could not interfere in prohibiting the importation or promoting the emancipation of them prior to that period. *Mr. Boudinot* observed, that he was well informed that the tax or duty of 10 dollars, was provided instead of the 5 per cent. ad valorem, and was so expressly understood by all parties in the convention. That therefore it was the interest and duty of Congress to impose this tax, or it would not be doing justice to the states, or equalizing the duties throughout the Union. If this was not done, Merchants might bring their whole capitals into this branch of trade and save paying any duties whatever. *Mr. Boudinot* had hoped, that the great lengths which the hon. gentleman from Pennsylvania had carried the argument, would have convinced gentlemen in the opposition, of the propriety, if not the necessity of the resolutions on the table. Is it not prudent now, while the design of the framers of the constitution, is well known and while the best information can be obtained, for Congress to declare their sense of it, on points which the gentlemen say involve their great and essential interests, especially when the gentleman from Pennsylvania, gives so different a construction to it, from what the gentlemen from the southward think right. Is it not advantageous to the southern states to have an explicit declaration calming their fears, and preventing unnecessary jealousies on this subject—can there be any foundation for alarm, when Congress expressly declares, that they have no power of interference prior to the year 1808. But gentlemen say that they have been charged with impropriety of conduct, in discovering so much warmth and earnestness, on a subject with which their dearest interests are so intimately connected. That all men are led by interest and they are justified in pursuing the same line of conduct. . . .

But when gentlemen attempt to justify this unnatural traffic, or to prove the lawfulness of slavery, they should advert to the genius of our government and the principles of the revolution. By the declaration of Congress in 1775, setting forth the causes and necessity of taking up arms, they say, "If it was possible for men who exercise their reason to believe that the divine author of our existence, intended a part of the human race to hold an absolute property in, and an unbounded power over others, marked out by his infinite goodness and wisdom, as the objects of a legal domination never rightfully resistible however severe and oppressive, the inhabitants of these Colonies, might at least require from the parliament of Great-Britain, some evidence that this dreadful authority over them, had been granted to that body." And by the declaration of Independence in 1776, Congress declare, "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

This then is the language of America in the day of distress. *Mr. Chairman*, I would not be understood, to contend the right of Congress at this time to prohibit the importation of slaves, whatever might have been the principles of the revolution or the genius of the government, by

the present constitution we are clearly and positively restrained till the year 1808, and I am sure that no gentleman in this committee would have the most distant wish to wound this instrument of our connection.

But there is a wide difference between justifying this ungenerous traffick and supporting a claim to property, vested at the time of the constitution, and guaranteed thereby. Besides it would be inhumanity itself to turn these unhappy people loose to murder each other or to perish for want of the necessaries of life. I never was an advocate for so extravagant a conduct.

Many arguments were pointed against the danger of our emancipating these slaves, or even holding up an idea that we had a power so to do—and much time was taken up to disprove this right in Congress. As no claim of this kind is contended for, but the resolutions already passed expressly contradict it, I shall make no farther observations on them. . . .

The gentleman last up (Mr. Smith) said that it was now acknowledged, that one of the memorials had asked something contrary to the Constitution. I have never acknowledged this. The language is, that Congress would go to “the very verge of the Constitution” to accomplish the business; but there is no request to exceed it.

Thomas Scott (Pa.) observed that the subject before the committee had agitated the minds of many civilized nations, for a number of years: therefore what is said, and more particularly what is finally done in Congress at this time, will in some degree form the political character of America on the subject of slavery. What is said will form the characters of the speakers, and what is done will in a degree form the character of the American people on this subject.

Sir, said Mr. Scott, I perceive that most of the arguments advanced on this occasion, have gone against the emancipation of such as are already slaves in America: but this question is not before the committee; the report under consideration involves no such idea; it is granted on all hands that Congress have no authority to intermeddle in that business; and I believe that the several states, with whom this authority really rests, will from time to time make such advances in the premises, as justice to the master and slave, the dictates of humanity, sound policy, and the state of society, will require or admit: and here I rest contented. The arguments, therefore, which have been urged on this point, merit no answer.

An advocate for slavery, in its fullest latitude, at this age of the world, and on the floor of the American Congress too, is, with me, a phenomenon in politics; yet such advocates have appeared, and many arguments have been advanced on that head, to all which I will answer only by calling upon this committee, and upon every person who has heard them, to believe them if they can! With me they defy, yea, mock all belief.

Sir, the question before the committee is not, what will Congress do with respect to the African slave trade? but, what have Congress authority to do? If this is a question at all to be examined, and on which we are to come to any resolutions expressive of the powers of Congress, I think we ought to express those powers fully; and inasmuch as we have already agreed upon certain things that Congress cannot do, and some that may constitutionally be done, I think it may be well to proceed to a full declaration of all the powers of Congress relative to the subject. I think this declaration might contribute considerably to prevent the necessity of exercising those powers; and I believe those powers, when examined, will not only extend to a retention of the proposition immediately under consideration, but much farther.

Sir, it is said Congress can in no wise interfere with the African slave trade, because there is a clause in the constitution that says the migration or importation of persons, &c. shall not be prohibited by Congress prior to, &c. but a tax or duty may be laid on each, &c. and it is argued that

person, here, means African slave: if it does, I believe it is the first place it ever did, and therefore can by no means admit it; nor can I think it satisfactory to be told that there was an understanding between the northern and southern members, in the national convention, on this subject. When we are considering our constitutional powers, we must judge of them by the face of the instrument under which we sit, and not by the certain understandings that the framers of that instrument may be supposed to have had of each other, and which never transpired. In a word, sir, I think it a very poor compliment to the convention, to suppose they couched the idea of an African slave under the term person; and at any rate, the constitution was in no degree obligatory until ratified by a certain number of state conventions, who I presume cannot be supposed to be acquainted with this understanding in the national convention, and consequently must have ratified it upon its own merits, as apparent on its face. I had the honor of a seat in one of those conventions, and gave my assent to its ratification on those principles: I did then, I do now, and ever shall consider of the powers of Congress by the expression of the constitution, in the same latitude I should do was the constitution a thousand years old, and every man in the convention that formed it in his grave; which I can easily conceive might, in the course of providence, have been the case before ever a Congress met under the constitution, and in that case I believe we should not now have found ourselves at a loss for want of contemporary witnesses or expositors.

Sir, I acknowledge that, by this clause of the constitution, Congress is denied the power of prohibiting the migration or importation of persons, but may impose a tax or duty; and, I say, as well on the white as black person. But, sir, some certain inadmissible qualities may be adherent to persons which, from the necessity of things, must and will amount to an exclusion even of the persons themselves, such as plague or pestilential disease; suppose the inhabitants of a neighbouring island were infected with such a disease, and some one state in the union, from motives of enmity to this country, and with design to depopulate it, should pass a law authorising and encouraging the migration or importation of those persons with this infectious quality adherent to them, and that Congress had timely notice of this nefarious business, would an interference be unconstitutional? I think not, sir.

Suppose a state, from enmity as before expressed, and with a design to destroy the union, should set about introducing some hundred thousand alien enemies, with their arms and accoutrements, and Congress had timely notice, would not the enmity, the arms and accoutrements of those persons, be readily granted inadmissible qualities, and amount to an exclusion of the persons? I think it would be granted: and if the importation was not prevented, I should be more inclined to impute it to want of physical than constitutional power. In consistency with this mode of reasoning, I believe if Congress should at any time be of opinion that a state of slavery, being attached to a person, was a quality altogether inadmissible into America, they would not be barred (by this clause of the constitution) of prohibiting that baneful quality: I believe as in the first case the plague, and in the second the enmity and arms, so in the third the state of slavery, may (notwithstanding any thing in this clause) be declared by Congress, qualities, conditions or adherents, or what you please to call them, which, whilst attached to any person, the person himself cannot be admitted. So much for this clause of the constitution.

But, sir, by another clause, Congress have power to regulate trade, &c. Under this head, not only the proposition now under consideration, but any other, or further regulations, which to Congress may seem expedient, are fully and clearly in their power: Nay, sir, if those wretched Africans are to be considered as property, as some gentlemen would have it, and consequently as subjects of trade and commerce, they and their masters so far lose the benefits of their personality,

that Congress may at pleasure declare them contraband goods, and so prohibit the trade altogether.

Again, sir, Congress have power to establish a rule of naturalization. Under this head, it is clear that this rule is at the arbitrary will of Congress, and that they may, whenever they please, declare (by law) that every person, whether black, white, blue or red, who from foreign parts can only get his or her foot on the American shore, within the territory of the United States, shall to all intents and purposes be not only free persons, but free citizens. This doctrine is clearly and fully proved by the bill on the subject of naturalization, which was read this morning; in which bill it is provided, as a part of the conditions of naturalization, that he shall be a free white person, plainly implying that if this provision had not been made, the black man slave, as well as the white man free, could have availed himself of that law by fulfilling the conditions thereof.

Moreover, sir, Congress have power to define and punish piracies and felonies on the high seas. Under this head no doubt Congress may, when they please, declare by law, that an American going to the coast of Africa and there receiving on board of any vessel any person in chains and fetters of iron, or bound with cords, or in any manner under confinement, or without his or her own free will and consent, certified as Congress may direct, and carrying such person to any other part of the world (whether sold as a slave or not) is guilty of piracy and felony on the high seas, and on conviction shall suffer death accordingly without benefit of clergy; and Congress may perhaps go as far **with** respect to foreigners who may land persons within the territory of the United States on any other terms than what they may please to proscribe.

So much as to the powers of Congress I consent that the world should know; I consent those people in the gallery (about whom so much has been said) should know that there is at least one member on this floor who believes that Congress have ample powers to do all they have asked respecting the African slave trade; nor do I doubt but Congress will (whenever necessity and polity dictates the measure) exercise those powers, and I believe that the importation of one cargo of slaves would go far towards inducing such laws as I have mentioned: but I believe also, sir, that this necessity is not like to happen, the states will severally, I think, do what is right in the premises. If the question was, what will Congress now do on this subject? there is not a gentleman from the southern states more ready to say they will do nothing than I am; I think there is no necessity of acting; but as it is what is their powers? I would wish those powers, if expressed at all, to be fully expressed.

As much of the time of the committee has been spent on this subject, and perhaps we are past the proper place to bring forward any new propositions, I shall content myself with voting for the retention of the proposition before you until we come into the house, when something more expressive of the full powers of Congress will doubtless be brought forward.