Debates in the Massachusetts Convention 17–18 January 1788 (excerpts)[1]

January 17

[Article 1, section, 3 paragraph under discussion.]

. . . Mr. [Rufus] KING rose to explain it. There has, says he, been much misconception of this sect[ion]. It is a principle of this constitution, that representation and taxation should go hand in hand. This paragraph states, that the numbers of free persons shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. These persons are the slaves. By this rule is representation and taxation to be apportioned. And it was adopted, because it was the language of all America. According to the confederation, ratified in 1781, the sums for the general welfare and defence, should be apportioned according to the surveyed lands, and improvements thereon, in the several states. But that it hath never been in the power of Congress to follow that rule; the returns from the several states being so very imperfect. . . .

. . . {Hon. Mr. KING. The principle on which this paragraph is founded is, that taxation and representation should go hand in hand. By the Confederation, the apportionment is upon surveyed land, the buildings and improvements. The rule could never be assessed. A new rule has been proposed by Congress, similar to the present rule, which has been adopted by eleven States—all but New Hampshire and Rhode Island.

Mr. [William] WEDGERY objects to the rule, as apprentices are not freemen, but blunders about it. . . .

Mr. [Francis] SHURTLEFF. His difficulty is, our negroes are free, but those of other States are not. But the number of representatives first chosen—

Gen. [Samuel] THOMPSON. The rule is unequal; as we have more children than the luxurious inhabitants of the southern States. Congress will have no impost or excise, but lay the whole tax on polls. We live longer than they live. We live to one hundred; they to forty.

Dr. [John] TAYLOR. If eleven States have agreed to the rule of polls, twelve have agreed to alter the Confederation. So the agreement of eleven States is no reason. . . .

Mr. WEDGERY wants to know whether all white infants are free persons? If they are, we are over-taxed.}

Mr. WIDGERY asked, if a boy of six years of age, was to be considered as a free person?

{Hon. Mr. KING. All persons born free are counted among free persons, to which three-fifths of all persons born or imported slaves, make the census.

Mr. WEDGERY. If Mr. King is right, then we shall pay one-quarter of the debt.

Mr. [Nathaniel] GORHAM. Mr. Wedgery is totally in the wrong. It will lessen our old proportion nearly one-seventh. As eleven States have agreed to this rule, among which was Massachusetts, it is a rule most likely to be adopted. As to representation mentioned—

Col. [Abraham] FULLER. The arguments against the representation are groundless. As the rule of proportion is by numbers, five slaves to three freemen is but equal, for slaves are but chattels.

Hon. Mr. [Francis] DANA. . . . The old rule of apportionment by lands was against this State. Our lands are worth more by the acre. Lands cultivated by slaves are not worth as much as lands cultivated by freemen. Slaves are their masters' moneys, and at their risk, and it would be unjust to tax a slave as much as a freeman. If we think there should be a difference, the only question would be, what difference. The States have agreed, in Convention, on materials, which we have not. The southern States have not half the value of buildings we have, arising from the climate and manner of living. . . .

Mr. SHURTLEFF wants to know whether five smart negro slaves are to be equal to three of our children?}

Mr. KING, in answer, said, all persons born free, were to be considered as freemen; and to make the idea of *taxation by numbers* more intelligible, said, that five Negro children of South-Carolina, are to pay as much tax as the three governours of New-Hampshire, Massachusetts, and Connecticut. . . .

Judge DANA. . . . In reply to the remark of some gentlemen, that the southern states were favoured in this mode of apportionment, by having 5 of their negroes set against 3 persons in the eastern, the honourable judge observed, that the negroes of the southern states, work no longer than when the eye of the driver is on them. Can, asked he, that land flourish like this, which is cultivated by the hands of freemen? And are not *three* of these independent freemen of more real advantage to a state, than *five* of those poor slaves? As a friend to equal taxation, he rejoiced that an opportunity was presented in this Constitution, to change this unjust mode of apportionment: Indeed, concluded he, from a survey of every part of the Constitution, I think it the best that the wisdom of men could suggest.

Mr. [Samuel] NASSON remarked on the statement of the honourable Mr. King, by saying that the honourable gentleman should have gone further, and shewn us the other side of the question. It is a good rule that works both ways—and the gentleman should also have told us, that three of our infants in the cradle, are to be rated as high as five of the working negroes of Virginia. Mr. N. adverted to a statement of Mr. *King*, who had said, that five Negro children of S. Carolina were equally rateable as three governours of New-England, and wished, he said, the Hon. Gentleman had considered this question upon the other side—as it would then appear that this State will pay as great a tax for three children in the cradle, as any of the southern States will for five hearty working Negro men. He hoped, he said, while we were making a new government, we should make it better than the old one: for if we had made a bad bargain before, as had been hinted, it was a reason why we should make a better one now.

{Mr. NASSON thinks both sides should be stated. Mr. King says five of their infant slaves are equal to three of our governors; but three of our infants are equal to five of their healthy strong slaves. Besides, though our climates make us build houses, yet we have to work all summer for winter. Also, the representation is unequal between us and New Hampshire; also, our negroes are all free, and theirs are slaves.}

Mr. RANDAL begged leave to answer a remark of the Hon. Mr. DANA, which he thought reflected on the barrenness of the southern states. He spoke from his own personal knowledge, he said, and he could say, that the land in general in those states was preferable to any he ever saw.

{Mr. RANDAL. Lands in the southern States are as good as ours; if not better. It produces every thing. Mr. Dana is mistaken; but as to the slaves, he is about right. The laboring part of the free men in the southern States can live upon two days' work, as easily as we can upon six. They can work all winter, we cannot.}

Judge DANA rose to set the gentleman right, he said it was not the *quality* of the lands, but the *manner* of tilling it, that he alluded to.

January 18

The 3d par. of the 2d sect, of art. I. still under consideration.

Hon. Mr. [Tristram] DALTON opened the conversation with some remarks on Mr. *Randal*'s positive assertions of the fertility of the southern states—who said from his own observation, and from accounts he had seen, which were better, he could say that the gentleman's remark was not perfectly accurate—the Hon. Gentleman shewed why it was not so, by stating the inconsiderable product of the land; which, though it might in part be owing to the faithlessness and ignorance of the slaves who cultivate it, he said, was in a greater measure owing to the want of *heart* in the soil.

Mr. RANDAL. Mr. President, I rise to make an observation on the suggestion of the Hon. Gentleman from Newbury [Tristram Dalton]. I have, sir, travelled into the southern states, and should be glad to compare our knowledge on the subject together. In Carolina, Mr. President, if they don't get more than 20 or 30 bushels of corn from an acre, they think it a small crop. On the low lands they sometimes get 40. I hope, sir, these great men of eloquence and learning will not try to *make* arguments to make this Constitution go down, right or wrong. An old saying, sir, is, that *a good thing don't need praising*; but, sir, it takes the best men in the state to gloss this Constitution, which they say is the best that human wisdom can invent. In praise of it, we hear the Rev. Clergy, the Judges of the Supreme Court, and the ablest Lawyers, exerting their utmost abilities.—Now, sir, suppose all this artillery turned the other way, and these great men would speak half as much against it, we might complete our business, and go home in 48 hours. Let us, sir, consider we are acting for the *people*, and for ages unborn; let us deal fairly and above board. Every one comes here to discharge his duty to his constituents, and I hope none will be biassed by the best orators; because we are not acting for ourselves: I think Congress ought to have power, such as is for the good of the nation, but what it is, let a more able man than I tell us.

Mr. [Thomas] DAWES said, he was sorry to hear so many objections raised against the paragraph under consideration. He thought them wholly unfounded; that the black inhabitants of the southern states must be considered either as slaves, and as so much property, or in the character of so many free men; if the former, why should they not be wholly represented? Our *own* State laws and Constitution would lead us to consider those blacks as *free men*, and so indeed would our own ideas of natural justice: If then, they are free men, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the Northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with another article in the Constitution, that permits Congress, in the year 1808, wholly to prohibit the importation of slaves, and in

the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular state is left to its own option totally to prohibit the introduction of slaves into its own territories. What could the Convention do more? The members of the Southern States, like ourselves, have *their* prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our Southern brethren consider as property. But we may say, that although slavery is not smitten by an apoplexy, yet it has received a mortal wound and will die of a consumption.

{Mr. DAWES. . . . Though slaves are reckoned five equal to three now, yet in a few years slavery must be abolished, and in the mean time, slaves may be taxed on importation, sixty shillings per head. Slavery will not die of an apoplexy, but of a consumption. . . .

Mr. RANDAL. Sorry to hear it said that after 1808 negroes would be free. If a southern man heard it, he would call us pumpkins.

Mr. WEDGERY objects to Mr. Dana's description of the southern States. Their land is better than ours.

Mr. DANA says he never compared the value of the eastern or southern lands; he compared only the mode of cultivation.

Mr. WEDGERY says if this rule is for an equal poll tax, he has no objection. But for a rule of apportionment, it is unjust, southern land being better than ours. In Virginia, one thousand acres has forty-eight polls; in Massachusetts, a family of six, to fifty acres, makes one hundred and twenty polls to the one thousand acres. In legislation, one southern man with sixty slaves, will have as much influence as thirty-seven freemen in the eastern States.

Mr. [Caleb] STRONG. This mode of census is not new. Our General Court have considered it, and the General Court have agreed. The southern States have their inconveniences; none but negroes can work there; the buildings are worth nothing. . . .

Mr. [James Neal] of Kittery, spoke against the slave trade. We shall all suffer for joining with them, when they allow the slave trade.

Mr. [George] CABOT asks the gentleman from Sharon [Benjamin Randall], whether, in his five hundred miles travel, he saw five thousand people who live as well as five thousand people of the lowest sort here. As to the slave trade, the southern States have the slave trade, and are sovereign States. This Constitution is the best way to get rid of it.

Mr. RANDAL says he believes he has, but is not certain. If they do not, it is their own fault.

Mr. NASSON. Southern States are not poor.}

1 These speeches are compiled from two sources. The text within braces {} is taken from Theophilus Parsons' notes of the Massachusetts Convention debates. The primary sections are taken from the Convention debates published in the *Massachusetts Centinel*.

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