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Debates in the Virginia Convention, 24 June 1788 (excerpts)

Mr. [Patrick] *Henry*: Among ten thousand implied powers which they may assume, they may, if we be engaged in war, liberate every one of your slaves if they please. And this must and will be done by men, a majority of whom have not a common interest with you. They will therefore have no feeling for your interests. It has been repeatedly said here, that the great object of a national Government, was national defence. That power which is said to be intended for security and safety, may be rendered detestable and oppressive. If you give power to the General Government to provide for the general defence, the means must be commensurate to the end. All the means in the possession of the people must be given to the Government which is intrusted with the public defence. In this State there are 236,000 blacks, and there are many in several other States. But there are few or none in the Northern States, and yet if the Northern States shall be of opinion, that our numbers are numberless, they may call forth every national resource. May Congress not say, that every black man must fight?—Did we not see a little of this last war?—We were not so hard pushed, as to make emancipation general. But acts of Assembly passed, that every slave who would go to the army should be free. Another thing will contribute to bring this event about—slavery is detested—we feel its fatal effects—we deplore it with all the pity of humanity. Let all these considerations, at some future period, press with full force on the minds of Congress. Let that urbanity, which I trust will distinguish America, and the necessity of national defence:— Let all these things operate on their minds. They will search that paper, and see if they have power of manumission.—And have they not, Sir?—Have they not power to provide for the general defence and welfare?—May they not think that these call for the abolition of slavery?—May they not pronounce all slaves free, and will they not be warranted by that power? There is no ambiguous implication, or logical deduction—The paper speaks to the point. They have the power in clear unequivocal terms; and will clearly and certainly exercise it. As much as I deplore slavery, I see that prudence forbids its abolition. I deny that the General Government ought to set them free, because a decided majority of the States have not the ties of sympathy and fellow-feeling for those whose interest would be affected by their emancipation. The majority of Congress is to the North, and the slaves are to the South. In this situation, I see a great deal of the property of the people of Virginia in jeopardy, and their peace and tranquillity gone away. I repeat it again, that it would rejoice my very soul, that every one of my fellow beings was emancipated. As we ought with gratitude to admire that decree of Heaven, which has numbered us among the free, we ought to lament and deplore the necessity of holding our fellow-men in bondage. But is it practicable by any human means, to liberate them, without producing the most dreadful and ruinous consequences? We ought to possess them in the manner we have inherited them from our ancestors, as their manumission is incompatible with the felicity of the country. But we ought to soften, as much as possible, the rigour of their unhappy fate. I know that in a variety of particular instances,

the Legislature listening to complaints, have admitted their emancipation. Let me not dwell on this subject. I will only add, that this, as well as every other property of the people of Virginia, is in jeopardy, and put in the hands of those who have no similarity of situation with us. This is a local matter, and I can see no propriety in subjecting it to Congress. . . .

Governor [Edmund] *Randolph*: That Honorable Gentleman [Patrick Henry], and some others, have insisted that the abolition of slavery will result from it, and at the same time have complained, that it encourages its continuation. The inconsistency proves in some degree, the futility of their arguments. But if it be not conclusive, to satisfy the Committee that there is no danger of enfranchisement taking place, I beg leave to refer them to the paper itself. I hope that there is none here, who considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia; that at the moment they are securing the rights of their citizens, an objection is started that there is a spark of hope, that those unfortunate men now held in bondage, may, by the operation of the General Government, be made *free*. But if any Gentleman be terrified by this apprehension, let him read the system. I ask, and I will ask again and again, till I be answered (not by declamation) where is the part that has a tendency to the abolition of slavery? Is it the clause which says, that “the migration or importation of such persons as any of the States now existing, shall think proper to admit, shall not be prohibited by Congress prior to the year 1808?” This is an exception from the power of regulating commerce, and the restriction is only to continue till 1808. Then Congress can, by the exercise of that power, prevent future importations; but does it affect the existing state of slavery? Were it right here to mention what passed in Convention on the occasion, I might tell you that the Southern States, even South-Carolina herself, conceived this property to be secure by these words. I believe, whatever we may think here, that there was not a Member of the Virginia delegation who had the smallest suspicion of the abolition of slavery. Go to their meaning. Point out the clause where this formidable power of emancipation is inserted. But another clause of the Constitution proves the absurdity of the supposition. The words of the clause are, “No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.” Every one knows that slaves are held to service and labor. And when authority is given to owners of slaves to vindicate their property, can it be supposed they can be deprived of it? If a citizen of this State, in consequence of this clause, can take his runaway slave in Maryland, can it be seriously thought, that after taking him and bringing him home, he could be made free? . . .

Mr. *George Mason*: With respect to commerce and navigation, he [Edmund Randolph] has given it as his opinion, that their regulation, as it now stands, was a *sine qua non* of the Union, and that without it, the States in Convention would never concur. I differ from him. It never was, nor in my opinion ever will be, a *sine qua non* of the Union. I will give you, to the best of my recollection, the history of that affair. This business was discussed at Philadelphia for four months, during which time the subject of commerce and navigation was often under consideration; and I assert, that eight States out of twelve, for more than three months, voted for requiring two-thirds of the members present in each House to pass commercial and navigation laws. True it is, that afterwards it was carried by a majority, as it stands. If I am right, there was a great majority for requiring two-thirds of the States in this business, till a compromise took place between the Northern and Southern States; the Northern States agreeing to the temporary importation of slaves, and the Southern States conceding, in return, that navigation and commercial laws should be on the

footing on which they now stand. If I am mistaken, let me be put right. These are my reasons for saying that this was not a *sine qua non* of their concurrence. The Newfoundland fisheries will require that kind of security which we are now in want of: The Eastern States therefore agreed at length, that treaties should require the consent of two-thirds of the members present in the Senate.

Mr. [James] *Madison*: I was struck with surprise when I heard him [Patrick Henry] express himself alarmed with respect to the emancipation of slaves. Let me ask, if they should even attempt it, if it will not be an usurpation of power? There is no power to warrant it, in that paper. If there be, I know it not. But why should it be done? Says the Honorable Gentlemen for the general welfare—It will infuse strength into our system. Can any Member of this Committee suppose, that it will increase our strength? Can any one believe, that the American Councils will come into a measure which will strip them of their property, discourage, and alienate the affections of, five-thirteenths of the Union. Why was nothing of this sort aimed at before? I believe such an idea never entered into any American breast, nor do I believe it ever will, unless it will enter into the heads of those Gentlemen who substitute unsupported suspicions to reasons. . . .

Mr. [Patrick] *Henry*: The Honorable Gentleman who was up some time ago, exhorts us not to fall into a repetition of the defects of the Confederation. He said we ought not to declare that each State retains every power, jurisdiction and right, which is not expressly delegated, because experience has proved the insertion of such a restriction to be destructive, and mentioned an instance to prove it. That case, Mr. Chairman, appears to me to militate against himself.—Passports would not be given by Congress—and why? Because there was a clause in the Confederation which denied them implied powers. And says he, shall we repeat the error? He asked me where was the power of emancipating slaves. I say it will be implied, unless implication be prohibited. He admits that the power of granting passports will be in the new Congress without the insertion of this restriction—Yet he can shew me nothing like such a power granted in that Constitution. Notwithstanding he admits their right to this power by implication, he says that I am unfair and uncandid in my deduction, that they can emancipate our slaves, though the word emancipation be not mentioned in it. They can exercise power by implication in one instance, as well as in another. Thus by the Gentleman's own argument, they can exercise the power though it be not delegated. . . .

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