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Debates in the Philadelphia Convention Over the Foreign Slave Trade, 23 July–10 September 1787

Article 1, Section 9, Clause 1: The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

Article V: Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

July 23

Elbridge Gerry moved that the proceedings of the Convention for the establishment of a Natl. Govt. (except the part relating to the Executive), be referred to a Committee to prepare & report a Constitution conformable thereto.

General [Charles Cotesworth] Pinkney reminded the Convention that if the Committee should fail to insert some security to the Southern States agst. an emancipation of slaves, and taxes on exports, he shd. be bound by duty to his State to vote agst. their Report.—The appt. of a Come. as moved by Mr. Gerry. Agd. to nem. con.

August 6

MR. RUTLIDGE delivered in the Report of the Committee of detail as follows: a printed copy being at the same time furnished to each member. . . .

Article VII, section 4. No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.

August 8

Rufus King wished to know what influence the vote just passed was meant have on the succeeding part of the Report, concerning the admission of slaves into the rule of Representation. He could not reconcile his mind to the article if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, & he believed would be so to a great part of the people of America. He had not made a strenuous opposition to it heretofore because he had hoped that this concession would have produced a readiness which had not been manifested, to strengthen the Genl. Govt. and to mark a full confidence in it. The Report under consideration had by the tenor of it, put an end to all these hopes. In two great points the hands of the Legislature were absolutely tied. The importation of slaves could not be prohibited—exports could not be taxed. Is this reasonable? What are the great objects of the Genl. System? 1. defence agst. foreign invasion. 2. agst. internal sedition. Shall all the States then be bound to defend each; & shall each be at liberty to introduce a weakness which will render defence more difficult? Shall one part of the U.S. be bound to defend another part, and that other part be at liberty not only to increase its own danger, but to withhold the compensation for the burden? If slaves are to be imported shall not the exports produced by their labor, supply a revenue the better to enable the Genl. Govt. to defend their Masters?—There was so much inequality & unreasonableness in all this, that the people of the Northern States could never be reconciled to it. No candid man could undertake to justify it to them. He had hoped that some accommodation wd. have taken place on this subject; that at least a time wd. have been limited for the importation of slaves. He never could agree to let them be imported without limitation & then be represented in the Natl. Legislature. Indeed he could so little persuade himself of the rectitude of such a practice, that he was not sure he could assent to it under any circumstances. At all events, either slaves should not be represented, or exports should be taxable.

Roger Sherman regarded the slave-trade as iniquitous; but the point of representation having been Settled after much difficulty & deliberation, he did not think himself bound to make opposition; especially as the present article as amended did not preclude any arrangement whatever on that point in another place of the Report.

James Madison objected to 1 for every 40,000, inhabitants as a perpetual rule. The future increase of population if the Union shd. be permanent, will render the number of Representatives excessive. . . .

Roger Sherman & James Madison moved to insert the words "not exceeding" before the words "1 for every 40,000, which was agreed to nem. con.

Gouverneur Morris moved to insert "free" before the word inhabitants. Much he said would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich & noble cultivation marks the prosperity & happiness of the people, with the misery & poverty which overspread the barren wastes of Va. Maryd. & the other States having slaves. Travel thro' the whole Continent & you behold the prospect continually varying with the appearance & disappearance of slavery. The moment you leave ye. E. Sts. & enter N. York, the effects of the institution become visible, passing thro' the Jerseys & entering Pa. every criterion of superior improvement witnesses the change. Proceed Southwdly & every

step you take thro' ye. great region of slaves presents a desert increasing, with the increasing proportion of these wretched beings.

Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them Citizens and let them vote. Are they property? Why then is no other property included? The Houses in this city [Philada.] are worth more than all the wretched slaves which cover the rice swamps of South Carolina. The admission of slaves into the Representation when fairly explained comes to this: that the inhabitant of Georgia and S. C. who goes to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Govt. instituted for protection of the rights of mankind, than the Citizen of Pa. or N. Jersey who views with a laudable horror, so nefarious a practice. He would add that Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of Aristocracy. And What is the proposed compensation to the Northern States for a sacrifice of every principle of right, of every impulse of humanity. They are to bind themselves to march their militia for the defence of the S. States; for their defence agst those very slaves of whom they complain. They must supply vessels & seamen in case of foreign Attack. The Legislature will have indefinite power to tax them by excises, and duties on imports: both of which will fall heavier on them than on the Southern inhabitants; for the bohea tea used by a Northern freeman, will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag that covers his nakedness. On the other side the Southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay they are to be encouraged to it by an assurance of having their votes in the Natl Govt increased in proportion, and are at the same time to have their exports & their slaves exempt from all contributions for the public service. Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the Genl Govt. can stretch its hand directly into the pockets of the people scattered over so vast a Country. They can only do it through the medium of exports imports & excises. For what then are all these sacrifices to be made? He would sooner submit himself to a tax for paying for all the negroes in the U. States, than saddle posterity with such a Constitution.

Jonathan Dayton 2ded. the motion. He did it he said that his sentiments on the subject might appear whatever might be the fate of the amendment.

Roger Sherman. did not regard the admission of the Negroes into the ratio of representation, as liable to such insuperable objections. It was the freemen of the Southn. States who were in fact to be represented according to the taxes paid by them, and the Negroes are only included in the Estimate of the taxes. This was his idea of the matter.

Charles Pinckney, considered the fisheries & the Western frontier as more burdensome to the U. S. than the slaves. He thought this could be demonstrated if the occasion were a proper one.

James Wilson. thought the motion premature. An agreement to the clause would be no bar to the object of it.

Question On motion to insert "free" before "inhabitants."

N. H. no. Mas. no. Ct. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. (1 to 10).

August 21

Luther Martin, proposed to vary the sect: 4. art VII so as to allow a prohibition or tax on the importation of slaves. 1. As five slaves are to be counted as 3 free men in the apportionment of Representatives; such a clause wd. leave an encouragement to this trafic. 2 slaves weakened one part of the Union which the other parts were bound to protect: the privilege of importing them was therefore unreasonable—3. it was inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution.

John Rutledge did not see how the importation of slaves could be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from the obligation to protect the Southern against them.—Religion & humanity had nothing to do with this question—Interest alone is the governing principle with Nations—The true question at present is whether the Southn. States shall or shall not be parties to the Union. If the Northern States consult their interest, they will not oppose the increase of Slaves which will increase the commodities of which they will become the carriers.

Oliver Ellsworth was for leaving the clause as it stands. let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves—What enriches a part enriches the whole, and the States are the best judges of their particular interest. The old confederation had not meddled with this point, and he did not see any greater necessity for bringing it within the policy of the new one:

Charles Pinkney. South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly & watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, S. Carolina may perhaps by degrees do of herself what is wished, as Virginia & Maryland have already done.

August 22

Art. VII sect 4. resumed. *Mr. Sherman* was for leaving the clause as it stands. He disapproved of the slave trade: yet as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, & as it was expedient to have as few objections as possible to the proposed scheme of Government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the U. S. & that the good sense of the several States would probably by degrees compleat it. He urged on the Convention the necessity of despatching its business.

George Mason. This infernal trafic originated in the avarice of British Merchants. The British Govt. constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the Enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves, as it did by the Tories. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the Commissioners sent to Virginia, to arm the

servants & slaves, in case other means of obtaining its submission should fail. Maryland & Virginia he said had already prohibited the importation of slaves expressly. N. Carolina had done the same in substance. All this would be in vain if S. Carolina & Georgia be at liberty to import. The Western people are already calling out for slaves for their new lands; and will fill that Country with slaves if they can be got thro' S. Carolina & Georgia. Slavery discourages arts & manufactures. The poor despise labor when performed by slaves. They prevent the immigration of Whites, who really enrich & strengthen a Country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a Country. As nations can not be rewarded or punished in the next world they must be in this. By an inevitable chain of causes & effects providence punishes national sins, by national calamities. He lamented that some of our Eastern brethren had from a lust of gain embarked in this nefarious traffic. As to the States being in possession of the Right to import, this was the case with many other rights, now to be properly given up. He held it essential in every point of view, that the Genl. Govt. should have power to prevent the increase of slavery.

Oliver Elsworth. As he had never owned a slave could not judge of the effects of slavery on character. He said however that if it was to be considered in a moral light we ought to go farther and free those already in the Country.—As slaves also multiply so fast in Virginia & Maryland that it is cheaper to raise than import them, whilst in the sickly rice swamps foreign supplies are necessary, if we go no farther than is urged, we shall be unjust towards S. Carolina & Georgia—Let us not intermeddle. As population increases; poor laborers will be so plenty as to render slaves useless. Slavery in time will not be a speck in our Country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts. As to the danger of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.

Charles Pinkney—If slavery be wrong, it is justified by the example of all the world. He cited the case of Greece Rome & other antient States; the sanction given by France England, Holland & other modern States. In all ages one half of mankind have been slaves. If the S. States were let alone they will probably of themselves stop importations. He wd. himself as a Citizen of S. Carolina vote for it. An attempt to take away the right as proposed will produce serious objections to the Constitution which he wished to see adopted.

General [Charles Cotesworth] Pinkney declared it to be his firm opinion that if himself & all his colleagues were to sign the Constitution & use their personal influence, it would be of no avail towards obtaining the assent of their Constituents. S. Carolina & Georgia cannot do without slaves. As to Virginia she will gain by stopping the importations. Her slaves will rise in value, & she has more than she wants. It would be unequal to require S. C. & Georgia to confederate on such unequal terms. He said the Royal assent before the Revolution had never been refused to S. Carolina as to Virginia. He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more produce to employ the carrying trade; The more consumption also, and the more of this, the more of revenue for the common treasury. He admitted it to be reasonable that slaves should be dutied like other imports, but should consider a rejection of the clause as an exclusion of S. Carola from the Union.

Abraham Baldwin had conceived national objects alone to be before the Convention, not such as like the present were of a local nature. Georgia was decided on this point. That State has always

hitherto supposed a Genl Governmt to be the pursuit of the central States who wished to have a vortex for every thing—that her distance would preclude her from equal advantage—& that she could not prudently purchase it by yielding national powers. From this it might be understood in what light she would view an attempt to abridge one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil. As one ground for this conjecture, he took notice of the sect of which he said was a respectable class of people, who carried their ethics beyond the mere *equality of men*, extending their humanity to the claims of the whole animal creation.

James Wilson observed that if S. C. & Georgia were themselves disposed to get rid of the importation of slaves in a short time as had been suggested, they would never refuse to Unite because the importation might be prohibited. As the Section now stands all articles imported are to be taxed. Slaves alone are exempt. This is in fact a bounty on that article.

Elbridge Gerry thought we had nothing to do with the conduct of the States as to Slaves, but ought to be careful not to give any sanction to it.

John Dickenson considered it as inadmissible on every principle of honor & safety that the importation of slaves should be authorized to the States by the Constitution. The true question was whether the national happiness would be promoted or impeded by the importation, and this question ought to be left to the National Govt. not to the States particularly interested. If Engd. & France permit slavery, slaves are at the same time excluded from both those Kingdoms. Greece and Rome were made unhappy by their slaves. He could not believe that the Southn. States would refuse to confederate on the account apprehended; especially as the power was not likely to be immediately exercised by the Genl. Government.

Hugh Williamson stated the law of N. Carolina on the subject, to wit that it did not directly prohibit the importation of slaves. It imposed a duty of £5. on each slave imported from Africa. £10. on each from elsewhere, & £50 on each from a State licensing manumission. He thought the S. States could not be members of the Union if the clause should be rejected, and that it was wrong to force any thing down, not absolutely necessary, and which any State must disagree to.

Rufus King thought the subject should be considered in a political light only. If two States will not agree to the Constitution as stated on one side, he could affirm with equal belief on the other, that great & equal opposition would be experienced from the other States. He remarked on the exemption of slaves from duty whilst every other import was subjected to it, as an inequality that could not fail to strike the commercial sagacity of the Northn. & middle States.

John Langdon was strenuous for giving the power to the Genl. Govt. He cd. not with a good conscience leave it with the States who could then go on with the traffic, without being restrained by the opinions here given that they will themselves cease to import slaves.

General [Charles Cotesworth] Pinkney thought himself bound to declare candidly that he did not think S. Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he thought right & wch. wd. remove one difficulty that had been started.

John Rutledge. If the Convention thinks that N. C; S. C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest. He was strenuous agst. striking out the Section, and seconded the motion of Genl. Pinkney for a commitment.

Gouverneur Morris wished the whole subject to be committed including the clauses relating to taxes on exports & to a navigation act. These things may form a bargain among the Northern & Southern States.

Pierce Butler declared that he never would agree to the power of taxing exports.

Roger Sherman said it was better to let the S. States import slaves than to part with them, if they made that a sine qua non. He was opposed to a tax on slaves imported as making the matter worse, because it implied they were *property*. He acknowledged that if the power of prohibiting the importation should be given to the Genl. Government that it would be exercised. He thought it would be its duty to exercise the power.

George Read was for the commitment provided the clause concerning taxes on exports should also be committed.

Roger Sherman observed that that clause had been agreed to & therefore could not committed.

Edmund Randolph was for committing in order that some middle ground might, if possible, be found. He could never agree to the clause as it stands. He wd. sooner risk the constitution—He dwelt on the dilemma to which the Convention was exposed. By agreeing to the clause, it would revolt the Quakers, the Methodists, and many others in the States having no slaves. On the other hand, two States might be lost to the Union. Let us then, he said, try the chance of a commitment.

On the question for committing the remaining part of Sect 4 & 5. of art: 7. N. H. no. Mas. abst. Cont. ay N. J. ay Pa. no. Del. no Maryland ay. Va ay. N. C. ay S. C. ay. Geo. ay. [Ayes—7; noes—3; absent—1.]

August 24

The honorable *William Livingston*, from the Committee of Eleven, to whom were referred the two remaining clauses of the 4th. Sect & the 5 & 6 Sect: of the 7th. art: delivered in the following Report:

"Strike out so much of the 4th Sect: as was referred to the Committee and insert—"The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800, but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports. . . ."

August 25

General [Charles Cotesworth] Pinkney moved to strike out the words "the year eighteen hundred" as the year limiting the importation of slaves, and to insert the words "the year eighteen hundred and eight"

Nathaniel Ghorum 2ded. The motion

James Madison. Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the National character than to say nothing about it in the Constitution.

On the motion; which passed in the affirmative.

N—H—ay. Mas. Ay—Ct. ay. N. J. no. Pa. no. Del—no. Md. Ay. Va. No. N—C. ay. S—C. ay. Geo. Ay. [Ayes—7; noes—4.]

Gouverneur Morris was for making the clause read at once, “importation of slaves into N. Carolina, S—Carolina & Georgia”. Shall not be prohibited &c. This he said would be most fair and would avoid the ambiguity by which, under the power with regard to naturalization, the liberty reserved to the States might be defeated. He wished it to be known also that this part of the Constitution was a compliance with those States. If the change of language however should be objected to by the members from those States, he should not urge it.

George Mason was not against using the term “slaves” but agst naming N—C—S—C. & Georgia, lest it should give offence to the people of those States.

Roger Sherman liked a description better than the terms proposed, which had been declined by the old Congs & were not pleasing to some people. Mr. Clymer concurred with Mr. Sherman

Hugh Williamson said that both in opinion & practice he was, against slavery; but thought it more in favor of humanity, from a view of all circumstances, to let in S—C & Georgia on those terms, than to exclude them from the Union—

Gouverneur Morris withdrew his motion.

John Dickenson wished the clause to be confined to the States which had not themselves prohibited the importation of slaves, and for that purpose moved to amend the clause so as to read “The importation of slaves into such of the States as shall permit the same shall not be prohibited by the Legislature of the U—S—until the year 1808”.—which was disagreed to nem: cont:

The first part of the report was then agreed to, amended as follows. “The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.”

N. H. Mas. Con. Md. N. C. S. C: Geo: ay

N. J. Pa. Del. Virga no

[Ayes—7; noes—4.]

Abraham Baldwin in order to restrain & more explicitly define “the average duty” moved to strike out of the 2d. part the words “average of the duties laid on imports” and insert “common impost on articles not enumerated” which was agreed to nem: cont:

Roger Sherman was agst. This 2d part, as acknowledging men to be property, by taxing them as such under the character of slaves,

Rufus King & *John Langdon* considered this as the price of the 1st part.

General [Charles Cotesworth] Pinkney admitted that it was so.

George Mason. Not to tax, will be equivalent to a bounty on the importation of slaves.

Nathaniel Ghorum thought that Mr. Sherman should consider the duty, not as implying that slaves are property, but as a discouragement to the importation of them.

Gouverneur Morris remarked that as the clause now stands it implies that the Legislature may tax freemen imported.

Roger Sherman in answer to Mr. Ghorum observed that the smallness of the duty shewed revenue to be the object, not the discouragement of the importation.

James Madison thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandise, consumed. &c

George Mason (in answr. To Govr. Morris) the provision as it stands was necessary for the case of Convicts in order to prevent the introduction of them.

It was finally agreed nem: contrad: to make the clause read "but a tax or duty may be imposed on such importation not exceeding ten dollars for each person", and then the 2d. part as amended was agreed to.

September 10

[When the Convention finished its considerations, of the method of amending the Constitution, John Rutledge proposed an additional clause prohibiting an amendment altering the prohibition on Congress' ban on the foreign slave trade before 1808 or setting a limit on the amount of tax to be laid on slave importations.]

John Rutledge said he never could agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property and prejudiced against it. In order to obviate this objection, these words were added to the proposition: "provided that no amendments which may be made prior to the year 1808, shall in any manner affect the 4 & 5 sections of the VII article."

On the question, N. H. divd. Mas. ay. Ct. ay. N. J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo ay (9 to 1, with 1 divided).

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