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CONGRESS.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, DEC. 17.

DEBATE

On the bill to prohibit the importation or bringing of slaves into the United States, or the territories thereof, after the thirty first day of December, 1807.

(CONTINUED.)

MR. EARLY. It is not my intention to trespass on the patience of the House, or to press on gentlemen a greater attention to this important bill than they seem willing to give. I believe it is the view of every member of the committee, and all parts of the nation to put an end to this traffic; and I am persuaded I shall be believed by the Committee when I assure them that in framing this bill I had my eye on those provisions which I thought would be best calculated to effect this desirable object. For the present I barely mean to improve a little on the ideas thrown out by the hon. Speaker, which, in my opinion, admit of several most important views.

It is a principle in legislation, as correct as any which has ever prevailed, that to give effect to laws you must not make them repugnant to the passions and wishes of the people among whom they are to operate. How then, in this instance, stands the fact? Do not gentlemen from every quarter of the union prove, on the discussion of every question that has ever arisen in the House, having the most remote bearing on the giving freedom to the Africans in the bosom of our country, that it has excited the deepest sensibility in the breasts of those where slavery exists. And why is this so? It is, because those who from experience know the extent of the evil, believe that the most formidable aspect in which it can present itself, is by making these people free among them. Yes, Sir—though slavery is an evil, regretted by every man in the country—to have among us in any considerable quantity persons of this description is an evil far greater than slavery itself. Does any gentleman want proof of this. I answer that all proof is useless—no fact can be more notorious. With this belief on the minds of the people where slavery exists, and where the importation will take place, if at all, we are about to turn loose in a state of freedom all persons brought in after the passage of this law. I ask gentlemen to reflect & say whether such a law, opposed to the ideas, the passions, the views and the affections of the people of the southern states, can be executed? I tell them no—It is impossible—Why? Because no man will inform—Why? Because to inform will be to lead to an evil which will be deemed greater than the offence of which information is given; because it will be opposed to the principle of self preservation, and to the love of family—No, no man will be disposed to jeopordise his life, and the lives of his countrymen. And if no one dare inform, the whole authority of the government cannot carry the law into effect. The whole people will rise up against it. Why? Because to enforce it would be to turn loose in the bosom of the country firebrands that would consume them. For the best and strongest of all reasons, because men love their own preservation too well to take the steps most fitted to endanger it. This Committee need not now be told that wherever people of color are found in a state of freedom, (I mean in the states where they are found in considerable numbers) they are considered as the instruments of murder, theft and conflagration. Suppose the power of the general government able for a while to enforce such a provision, and to turn loose a few, or even a single cargo of persons of color, what do gentlemen suppose would become of them? Do they suppose the people of those states would permit them to live among them? They are mistaken. We are told it is cruel and disgraceful to keep them in slavery. There is no doubt of it. But would it not be more cruel to place them in a situation where we must in self-defence—gentlemen will understand me—get rid of them in some way. We must either get rid of them, or they of us; there is no alternative; and I leave it to gentlemen to determine which course would be pursued. There can be no doubt on this head. I will speak out; it is not my practice to be mealy mouthed on a subject of importance. Not one of them would be left alive in a year. But I am not disposed on this occasion to stir up those sensibilities which are on almost every question touching this subject so apt to be excited. I feel it, however, my duty candidly to state my views on the subject; and if I have done it in plain language I hope I shall be excused. People in any situation will be governed by the principle of self-preservation; and I beg gentlemen seriously to consider before they take measures which will place us and the people of color in a situation in which we must determine between our own lives and theirs.

MR. J. CLAY. I shall vote against this amendment because I think it goes to destroy the efficacy of the bill. I have uniformly wished that Congress had possessed and exercised at a much earlier period the power of preventing the importation of slaves. But the effect of turning loose this species of property will be peculiarly dangerous. And whether the apprehension entertained be real or chimerical the consequences will be precisely the same. If such be the opinion entertained of turning them loose, to set at large two or three hundred of these persons, ignorant and unacquainted with our language or habits, will in fact be turning loose so many depredators, of the worst kind. Holding no communion with the whites, the morals of their associates will be corrupted, and ideas of freedom, however just in the abstract, will be inculcated, and the probability is that they will excite insurrections. Under this view of the subject, I ask whether any person in the southern country will turn informer? I think not. So far as to the effects of this provision on the southern country. Let us now come nearer home. Suppose there should be an information. The laws in several of the southern states prevent the liberation of a slave, but on condition of his leaving the state. They will consequently migrate to the states where free persons of color are permitted to reside. Now I will ask my colleague, and the gentlemen from the eastern states, whether with this species of population they would wish to increase their numbers? But whatever may be my final opinion on the bill, I believe the committee are not at present prepared to act upon it. I therefore move that they rise.

MR. SLOAN begged leave to explain in a few words. He had not been understood. He had listened attentively to the gentleman from Georgia, and he was at a loss to know what had dropped from him calculated to excite his warmth; he appealed to the committee if he had not expressed himself in the most conciliatory terms. He had stated the provision under consideration in such a way as to give no offence, and the gentleman would recollect that he had intimated that a further provision might be incorporated in the bill, to send back those persons of color that might be imported in contravention of law.

MR. SMILIE was in favor of the committee rising, as he was confident the bill would not answer in its present shape. He did not, however, pretend to say, that the amendment was the best that could be devised. He doubted whether it was. As the bill stood they were involved in this difficulty.—They must either adopt the amendment offered by the gentleman from New Jersey, or some one like it, or they would not avoid the odium of becoming themselves slave traders. He hoped, therefore, when the committee rose, the House would agree to recommit the bill. Mr. Smilie said he did not wish by any means to increase an evil which was too great already. He perceived one advantage that would attend the amendment. If the opinion of the southern people was such, as the gentleman from Georgia had represented it to be, they would not admit the importation of a single slave. He hoped, however, that the bill would be recommitted, and some effectual provision be introduced. At present he was inclined to think that the best remedy would be to send these people back to the country from which they came.

MR. QUINCEY regretted that a motion had been made for the committee to rise, as he considered it proper, previous to a recommitment of the bill, to ascertain the sense of the House on so important a principle as that contained in the amendment. Believing that they ought to do nothing contrary to the safety and the true interest of any part of the union, and that this provision would have this effect, he was hostile to it, under the impression that it would be altogether ineffectual. He believed there would be found little difficulty in defeating it. What was to prevent the legislature of Georgia, after Congress have declared these people shall be free, considering them as vagabonds, and selling them, for a term of years, or for life, to the highest bidder. Mr. Q. concluded by saying he wished the question to be taken on the amendment, that, after its rejection, the committee to whom the bill should be referred, might direct their minds to a more effectual provision.

MR. MACON (Speaker). The gentleman from Pennsylvania, if he attends to the subject, will perceive that the recommitment of the bill will be of no use, until the principle under discussion shall be first settled. For my part I wish to frame such a law as shall prevent a single slave from being imported. It is objected to this bill that it provides for these persons being sold, and for the U. S. receiving the proceeds. But let us examine this objection. Do not gentlemen recollect that in case a judgment is obtained by the U. S. against an inhabitant of the southern country possessed of slaves, they are liable to sale and the money derived from them to be brought into the Treasury? To rise, without settling this point, will be useless; the committee to whom the bill may be referred will still remain in the dark as to the sense of the House; they will be without any decision to guide them. Let this question then be first decided, and the bill be afterwards recommitted, if any new details are requisite.

I think one of the amendments suggested a good one; if there is any probability of its being executed. But what spirit is it that brings this description of people among us? Not the spirit of philanthropy, but the spirit of interest. And if we send these people back, the same spirit that brought them here will carry them to some other quarter of the globe with the same views. If it shall be prescribed that the U. S. shall carry them back, that is indeed another question. I have no doubt this could be done.

There is, however, another question that presents itself on this same point. How are the U. S. when they get them to Africa to carry them to their own country, if it should not be situated on the sea coast; and if they set them loose, and unarmed among nations who themselves pursue this traffic, they will be again seized, and transported to other countries where they may be sold. I believe the only effectual way to prevent their importation is to impose heavy penalties, in enforcing which the citizens of the union will generally concur. As the bill stands it is, in my opinion, better calculated to have this effect, than it would have with the amendment.

MR. EARLY said before the question was taken on the rising of the committee he wished to offer a word or two by way of explanation. From the observations of a gentleman from Massachusetts he apprehended an expression used by him had been somewhat misunderstood. He alluded to the term "dare." In using this word he had meant to say that the revenue officers and no other persons would dare to inform, because the passions of the people would be opposed to them. He begged that what he had said might be considered in this light and in no other.

While he was up he would add one word. The present objection to the bill seemed to arise from the repugnance of gentlemen to making the United States dealers in slaves. On this point he would ask a single question. How are we to enforce a single penalty of this law without consenting to become dealers in slaves? We have already affixed a penalty of 10,000, of 5,000, and of 500 dollars to certain acts. How are these to be executed but on the real and personal property of individuals; and what are slaves in the southern country but personal property? Without this power, therefore, we might not be able to recover a single dollar.

The question was then put—when the House divided on the committe rising—Ayes 41—Noes 46.

MR. COOK hoped the amendment of the gentleman from New Jersey would not prevail, the object of which would be to let loose a set of banditti, in hostility to the whole country; and if the amendment were introduced he did not believe it could be carried into effect. Whether some other regulation might not be introduced, was another question. At present he should give his hearty negative to the amendment.

The question was then taken on the amendment, which was disagreed to, only 19 members rising in its favor.

MR. BEDINGER moved to strike out the following words in the first section, after the word "color," 'with intent to keep, sell, or dispose of such negro, mulatto or person of color, as a slave.' Mr. B. said his object was to prohibit persons of color from being brought into the U. S. no matter what the intention was, with which they were introduced. Should this amendment be agreed to, his view was to offer another, imposing a penalty of one thousand dollars, for every person thus imported.

MR. MACON said he had no objection to making the law as strong as possible, but when this subject was before under consideration, some objection had been made to a like provision then proposed, and it was observed that vessels trading to the East Indies were frequently compelled to avail themselves of the assistance of persons of color. He did not wish to throw any impediment in the way of a fair trade, although if such a provision were not objected to by mercantile men, he should have no objection to it whatever.

MR. BEDINGER said he had been induced to make the motion, from fatal experience. The laws of the state he represented, required persons introducing slaves, to take an oath that they did not intend to sell them, and yet they often did sell them; and when told that in doing so they had violated the law, they had replied that they did not originally intend it, but were driven to it by their necessities.

MR. EARLY had no objection to making this provision as extensive as gentlemen could wish, and to agreeing to a proper amendment after it had been contemplated in all its bearings on the other parts of the bill; he wished to know if such an amendment should be made, whether Mellimelli, or any person of color could come to the U. S. He doubted whether any of the Barbary powers would, under such a provision, be permitted to send an ambassador. For his own part he should have no objection to this, as he did not wish to see here any more Mellimelli's.

MR. ALSTON said he was in favor of such an amendment, as without it the bill would not be efficacious. The objection of the gentleman from Georgia did not apply. The description of persons referred to as proper to be excepted, could not be said to be *imported*, a term whose meaning only embraced those who were brought in by others. If the bill should be permitted to remain in its present shape, he would ask how the intention of an importer was to be ascertained, and whether if oath were made, that it was the intention not to sell them or treat them as slaves, the revenue officers would not be obliged to admit the importation. He therefore thought some such provision as had been mentioned necessary; but whether this was the precise one, he was not at present prepared to say; he thought it best for the committee to rise.

MR. EARLY thought some alteration in the wording of the section highly necessary. He believed it might be so altered as to guard not only against the apprehended evil, but likewise against one still greater than the bringing slaves into the southern country. He alluded to the introduction of persons of color from the West India Islands, who under the existing laws were not considered slaves. To afford an opportunity to mature some such amendment he moved that the committee should rise.

MR. ELY said there was another circumstance which rendered it necessary for the committee to rise; there was another evil which required cure; according to two of the sections of the bill, the cargo was to be forfeited, if it should be brought into a state where there was no slavery. What would the effect be there? it would be a question whether they would be thereby manumited? They were as liable to be brought into Massachusetts where slavery was not permitted, as into any other state; and if sold in Massachusetts he wished to know what effect would ensue? If they were about to adopt a system of slavery in that state, he hoped neither the gentlemen from the north or the south would be in favor of the provision, as it would be in direct contravention of one of the principles of her constitution. For this reason among others he thought the subject required serious consideration, and that it was adviseable for the committee to rise, that the bill might go to a select committee for further investigation.

The question was then taken on the rising of the committee, which was carried without a division and leave granted them by the House to sit again.

THURSDAY, DECEMBER 18.

The consideration of the bill was resumed in committee of the whole—Mr. VARNUM in the chair.

After a few remarks from different gentlemen, on the amendment of Mr. Bedinger, and a like provision, suggested by Mr. Early, which he said he would offer in case the former should be negatived, the question was taken on Mr. Bedinger's amendment, which was not agreed to—Ayes 22.

MR. EARLY said the 4th section required one or two small amendments. He accordingly moved to add, after the word "color"—"unless previously sold under a sentence of condemnation by a court having competent jurisdiction."—As the bill stood, there might be some doubt, whether the forfeiture would not attach to a sale subsequent to that consequent on condemnation.

MR. BIDWELL said, in case the committee should disagree to this amendment, he would move to strike out that part of the section which declared that persons of color imported into the U. S. should be forfeited.

The debate that ensued turned principally on the expediency of agreeing to this amendment, which was supported by Mr. Bidwell, and opposed by Mr. Early.

MR. BIDWELL observed that there were strong objections against the forfeiture of persons of color imported into the U. S. As the bill stood the forfeiture was to be followed by a sale of these persons as property, as slaves. On this point there was a great diversity in the laws and habits of the respective states; to avoid an interference with which it appeared to him most advisable to do away the forfeiture, leaving their disposition to the provisions of the laws of the several states. If this part of the section should be struck out, those laws would operate on this point.

There would, he said, be a serious difficulty in adopting the principle of forfeiture accompanied with a sale. In some of the states, the idea of such a species of property was excluded by their constitutions; in those states there could be no such thing as a slave. It was true, that the constitutions and laws of such states did not go the length of interfering with the laws of other states, where slavery was permitted. If fugitives from them sought an asylum in the state of Massachusetts, for instance, they were faithfully restored under the provisions of the constitution of the U. S. Neither did the laws of Massachusetts interfere with travellers passing through it with slaves; but so far as it respected persons coming to reside in the state, they were manumitted as a matter of course. He believed that no contract for their sale within the state would be of any validity; nor did he believe any power had been given to the U. S. to render such sale valid. If there were such a power, its tendency would be to introduce into that state persons, contrary to its laws. If such a sale were valid, it would interfere with those laws; and if not valid, it would be a perfect nullity, and the provision be thus altogether inoperative. It was admitted that there was no probability of such an importation into states where slavery was not allowed; yet such a thing might take place; and Congress ought not to legislate under the idea that it would not take place. Mr. B. said he also felt repugnant to this provision, because it gave to the U. S. the price of this species of plunder, and carried it into the public treasury—thus substituting the U. S. in the place of the first owners. His wish was that the U. S. should themselves decline giving their legal sanction to any such sale, by leaving the business altogether to the several state authorities. This difficulty might be entirely avoided by striking out the forfeiture of persons, confining the penalty to a forfeiture of the ships, and imposing a fine on the owners. If this part of the bill should be struck out, other measures of prevention, in case they should be thought necessary, might be provided.

MR. EARLY observed that this motion could only be viewed as an old thing offered in a new shape, intended to have the same effect as the motion offered the preceding day declaring persons of color imported into the U. S. free. He thought it betrayed great inconsistency. Those who advocated it had yesterday supported an amendment, which by declaring all such persons free, went directly to interfere with the laws of states where slavery was permitted; to day they gravely maintained the inexpediency of any such interference whatever. The great difficulty insisted upon was that the operation of this law in states where slavery was not permitted would contravene the existing laws by forfeiting the imported slaves. But this difficulty had no solidity in it; it was altogether ideal; as from the nature of things the case of an importation in such states could not occur; at all events it was among the most improbable events in nature. It could not therefore be conceived that the present opposition to this provision of the bill was founded on the avowed ground; it must be bottomed on some other. As to the assumption that it would be an infraction of principle on the part of the U. S. to be concerned in any act which would involve a transfer of this description of persons, how did gentlemen, who felt these scruples, reconcile their objections with the act imposing a direct tax, in the collection of which slaves were considered as property, and were sold for its satisfaction in cases of default? How could they get over the difficulty which arose from the execution of laws imposing fines and penalties in the southern states, under which slaves were sold as property? If it were still said that this was a violation of principle, it must be allowed that it was a violation which had been practised from the infancy of the government.

Mr. Early concluded by observing that he had no objection so to modify the bill as to get over this ideal objection, to do which he had penned an amendment, the purport of which was so to alter the bill as to provide that the owner and master of ships in which slaves should be imported should each pay ——— dollars; and that such ships should be forfeited in states not permitting slavery.

On agreeing to this amendment, the House divided—Ayes 33—Noes 42.

MR. BIDWELL then offered his amendment, on which as well as on the other provisions of the bill generally further debate arose, in which Messrs. Quincy, D. R. Williams, Sloan, Kelly, Alston and Early, for various reasons assigned by them, opposed the amendment.

It was said that it would be highly inexpedient to agree to the amendment, for striking out the provision in the bill, until a substitute was offered for it, on which the propriety of striking out must depend: that without such substitute two great evils would follow; that in states not permitting slavery no pro-