

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1839.

VOL. 2.

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1839.

NINETEENTH LEGISLATURE.

NO. 44.

SENATE.

REPORT

OF THE

COMMITTEE ON SLAVERY.

[SMITH & ROBINSON,.....Printers to the State.]

STATE OF MAINE.

IN SENATE, March 12, 1839.

This Report was read and laid upon the table, and
Ordered, That 1000 copies of the same be printed for
the use of the Legislature.

WILLIAM TRAFTON, *Secretary*.

REPORT.

STATE OF MAINE.

THE Joint Special Committee to whom was referred sundry petitions in relation to Slavery, praying the Legislature of this State to pass Resolutions, declaring:

1. That Congress has the constitutional power to abolish Slavery, and the Slave trade, in the District of Columbia.

2. That it has the constitutional power to abolish them in the several Territories of the Union where they exist.

3. That it has the constitutional power to prohibit the Slave trade between the several States of the Union.

4. That in regard to all these particulars, Congress ought immediately to exercise that power.

They also pray this body to send a copy of said Resolutions to each of the Senators and Representatives of this State in Congress, to be by them laid before that body—to the Governors of the several States, to be by them laid before their respective Legislatures—and to the President of the United States.

They further pray this body to instruct the Senators and request the Representatives of this State in Congress, to use their utmost influence, for the immediate abolition of Slavery and the Slave trade in the District of Columbia, and in those Territories of the Union where they exist, and also for the immediate prohibition of the Slave trade between the several States.

They also pray this body to protest against the admission of any new State into the Union whose Constitution tolerates domestic Slavery, and against the annexation of Texas to the United States; and to forward a copy of such protest, to each of the Senators and Representatives of this State, in Congress, to be by them laid before that

body—to the Governors of the several States, to be by them laid before their respective Legislatures—and to the President of the United States.

They also pray this body, to instruct the Senators and request the Representatives of this State in Congress, to use their utmost influence to prevent the admission of any new State into the Union whose Constitution tolerates domestic Slavery, and to prevent the annexation of Texas to the United States.

They also pray this body to enact a law, securing to every human being in this State, a trial by Jury in all cases where his liberty is in question.

They also pray that their petitions may be referred to a Select Committee, before whom they may be heard personally or by counsel.

One of the petitions prays especially for the repeal of all laws which make any distinction among the inhabitants of this State on account of color. Your Committee have had the same under consideration, and ask leave to

R E P O R T :

That among the several objects prayed for, the friends or representatives of the petitioners *selected*, and presented the following propositions *only*, for the consideration of your Committee, to wit:

1. That we report a Resolve, that our Senators and Representatives in Congress *be requested* to use their influence to prevent the admission of new States into the Union whose Constitutions tolerate Slavery.

2. That we report a Resolve *to request* our Senators and Representatives in Congress to use their influence to abolish Slavery in the District of Columbia. It may be presumed the petitioners regard these propositions as their strong positions, and least liable to objection, from the fact they withdrew every thing else from the consideration of your Committee. As to the first, your Committee are not aware, that any question to admit any *new State* into the Union, has been pending in Congress, or was expected to be, during its recent session just closed, the petitions having been presented some time before its termination. Although

the petitioners may entertain apprehensions of such an event, at some future day, as the admission of a new State into the Union, whose constitution may tolerate slavery, there is no pretence that there is any immediate danger of such an event at this time, or when the petitions were presented to this Legislature, there being no application to Congress for the admission of any new State, and no belief, as your Committee could learn, that any question of the kind would be raised in Congress during its session, upon which our Senators and Representatives there, could with any propriety act upon the request of the petitioners. This view of the subject, founded on fact, too well known to be doubted, or even controverted by any one, seems to preclude all further consideration of this proposition, as uncalled for at this time, and premature. Could the petitioners be ignorant of these facts? Besides they must know, that the request they seek, could have no influence or effect, if granted, beyond the session of Congress that constitutionally expired on the 4th inst., for the next session of Congress assembles under a new election of its members, several of whom, in our own State, are new members. Without therefore raising any other question, your Committee deem it sufficient, and satisfactory, that any Legislative action on this subject would be ill-timed, and impertinent, manifestly conflicting with a plain sense of duty and obvious propriety.

With regard to the other proposition, to wit: that we report a Resolve to request our Senators and Representatives in Congress to use their influence to abolish Slavery in the District of Columbia, it might, at first view, appear to some, as reasonable, when considered in the light cast about it by those earnestly engaged in promoting the objects of the petitioners; but a moment's reflection, will satisfy any candid mind, that their request cannot, and ought not to be granted. Your Committee do not propose to go into an elaborate consideration of this subject, as one of a doubtful character, or that needs to be examined and elucidated by an extended Report. It has been too long before the public mind, and is too well understood to require it; nevertheless, it may be incumbent on them

briefly to give some of the reasons which have governed them in coming to the conclusion they have; and in discharge of this duty they would premise, that it is not to be expected that their reasonings or conclusions will satisfy the petitioners, or receive from them much respect; since they have shown so little respect or deference to the opinions of some of the ablest men of our country, who have examined Slavery in all its phases and bearings, with the most profound and earnest attention, and after deliberate and mature consideration, have come to conclusions adverse to the prayer of the petitioners. It would seem, if there is any authority of opinion, or respect for the judgment of others, on this question, of any weight in the minds of the petitioners, they *must* be satisfied, that on the mere question of expediency, waiving every other, their prayer ought not to be granted, when they have the opinions of our most eminent men to that effect; opinions that challenge a respectful deference among our citizens generally, and are only contemned by those more deeply enlightened and profoundly wise on this grave subject. It is true, authorities, *however respectable*, are less entitled to deference on a question, in proportion to our own independent means of knowledge and ability to make up a sound and satisfactory judgment; but on a question of this magnitude, in its bearings on duty in reference to the petitioners, particularly the female part of them, who appear to be much in advance of the male petitioners in numerical strength, it may not be impertinent to name *at least one* of the high authorities alluded to, the Hon. John Q. Adams, whose opinion on the point in question, is known to be adverse to the prayer of the petitioners. He has repeatedly and *recently* declared to the country, in his place, as a member of Congress, that if the question to abolish Slavery in the District of Columbia, was before Congress, for the action of that body, that he should vote against such a measure, impelled, in opposition to his feelings, by high and solemn considerations of duty to his country. The name of Mr. Adams has been particularly mentioned, because it is well known that his impartiality, *at least*, and preeminent qualifications to decide the ques-

tion, and speak with authority, *could not be controverted* by the petitioners themselves, and would be entitled to *their* respectful deference, if they have any respect for any opinion but their own. Your Committee, therefore, do not presume, and may well despair in this view of the case, to offer any thing satisfactory to the petitioners, or deserving of their attention.

Without going into the broad field of objections to the prayer of the petitioners, which has been occupied by others with an ability far transcending any humble effort of your Committee, should they attempt to review the ground, we shall pretty much confine ourselves to the consideration of some objections which have not fallen under the observation of your Committee, and which *appear* to be in point, and of themselves, an ample vindication of their conclusions.

There is one objection to granting the prayer of the petitioners that meets us at the threshold, of so formidable a character, that in the apprehension of your Committee, is insuperable and conclusive. For what do the petitioners ask? They ask us *in fact*, to speak *in the voice of the State* for them, through the medium of State representation, employed only on occasions when the State would express its voice in obedience to a majority of its citizens. Now is it not manifest to the petitioners themselves, that a compliance with their prayer would be a gross misrepresentation of the voice of the State, as indicated by their numerical strength. Acting under our oaths of office, would they ask us to take a course in plain violation of our duty, and palpable disregard of the truth, by speaking in the voice of the State, for an object that we know is not in accordance with that voice? The impropriety of such a request, it would seem, could not escape the notice of the petitioners themselves, who are *so clearsighted* into their own and the duties of others, and who so well understand the duty of Congress on this grave question. How then could they expect of us the preposterous conduct of a legislative falsity? Charity, however, would cast around her mantle and interpose her gentle answer; they have not duly considered, and do not understand

what they ask for. If your Committee have not greatly misapprehended the force of the above objection, our duty in refusing the prayer of the petitioners, is controlling and imperative.

Without noticing other objections in connexion with this view of the question, or without going farther into the consideration of the subject, your Committee would consider themselves justified in their conclusions to stop here and close their report; but there is one other view of the subject, although a novel one, that strikes your Committee with some force, which they would take leave briefly to present.

Assume the popular voice to be in favor of the abolition measures, and that they had a right *by numbers* to speak in the voice of the State, could they even then with propriety ask the interference of the State, in its Legislative capacity, in promotion of their object? And would it be right to grant their prayer? Let it be borne in mind that Congress possesses *ONLY the powers granted* in the constitution of the United States, and no other or further power whatever, which may be set out in strong relief by contrast with the constitution of this State. For our State constitution is the very reverse in its provisional powers; the people, in their representatives, have *all power not therein expressly limited*. We shall not stop to carry out and prove this view of the State Constitution, because not required by the argument, and merely introduced as an illustration. The question at once arises, *where* is the power of Congress to abolish Slavery, *under any circumstances*, to be found in the Constitution of the United States, *if*, to possess this power, it must be plainly conferred by that instrument. Neither the petitioners nor their counsel have pointed out to your Committee, nor have they been able to find, any section, or clause, conferring such power, nor from which it might be legitimately inferred. The existence of Slavery in the States, is, however, recognised in the Constitution, and provision is made to guard and *secure* the rights of the States in which it exists, in reference to that interest, but *it is without* any provision whatever, express or implied, to abolish it, under any circumstances. Now this Consti-

tution, *as it is*, with a full knowledge, that it contained no power whatever over slavery, to abolish it, was adopted by the States, and by this State, in their **CONVENTIONAL OR LEGISLATIVE CAPACITY**, with all the guaranties of good faith for an honorable, scrupulous observance of it, by each and every State, that its great and imposing sanctions can furnish. Here then the *point is raised, in whatever manner*, (mark the words,) the States expressed their voice in the adoption of the Constitution, *they are bound*, without variableness or shadow of turning, to express *that same voice* under all circumstances, in its support and maintenance. Adopting it, then, in their *conventional or legislative capacity, in the same capacity they must maintain it*, inviolate and unimpaired. In this capacity they cannot in any way, *nor upon any occasion*, disturb its foundation, or injuriously affect its peace, without an infringement of the compact, and a plain breach of good faith. For we are known to the Constitution of the United States *as a State*, being *a party to it* in our capacity of action as a State, and as we are properly and legitimately known, we must respond, and fulfil our obligations. In short, we are bound *by State conventiona obligation*. In the absence then of all power in the Constitution of the U. States to abolish Slavery, it follows to a *moral demonstration*, that it cannot be rightfully done *by a party* to that instrument, acting in reference to it. Hence, *acting in our capacity as a State*, on this question, are we not bound, solemnly bound, to forbear to disturb the foundation of our happy Constitution, or to invade the great interests, *for the security of which our Union* was effected, and cemented by that sacred compact? Even aside from the transcendant interest **WE HAVE** in the preservation of that compact, are we not bound, *as a State*, to fulfil our constitutional obligations with the most scrupulous honor and fidelity? With what propriety, then, can we entertain the prayer of the petitioners, and grant their request, when they fail to show us, and we fail to find *any constitutional power* of Congress over Slavery, with a view to its abolition, *under any circumstances*; nay more, when the *mode of action* sought by them, of all others, is liable to the strongest objections as a plain breach of *State obliga-*

tion. Upon this view of the question *alone*, which your Committee have rather in brief suggested, than attempted to carry out and present in full relief, may we not well doubt our right of action? Without adverting to other views that crowd upon our attention, and which have been ably set forth by others, your Committee are of opinion that all action on this question *as a State, is constitutionally barred* the petitioners, and is not the medium through which their cause can be rightfully prosecuted. This might be further illustrated by its striking analogy to the corporate action and responsibilities of companies, and town communities, showing them strictly holden to their corporate engagements, without *fallering*, when as individuals they may have become opposed to their corporate obligations. As individuals, they are not known or recognized in their corporate engagements, and cannot be held to respond in fulfilment of them. They are therefore free, as individuals, to exchange their feelings and views, and to co-operate in any lawful manner to produce a change, and effect their object, but they cannot in their *corporate capacity* undertake this, or in any way assail their corporate obligations, without a manifest departure from honor and good faith. It is to be remembered, the Constitution of the United States was not adopted by *the popular voice*, as we elect our Governor in this State. *As citizens*, we are not parties to it, but *as a State*. How far, then, as citizens, we may be free to act on this question of Slavery, and in what manner, it is not the province of your Committee to inquire. But this we do not hesitate to assert, that in our opinion it is *incumbent* on the petitioners, if they would achieve their end through the political action of our institutions, to show that the question of abolition is *pre-eminently a political one, and indented with our constitutional political duties.* And until they do this, they must expect, in their present mode of operation, by seeking the political action of the State, to receive an unfavorable report upon their petitions, as a proper rebuke upon political abolition movements.

In the foregoing remarks, we have attempted, briefly, in our own feeble manner, to show that Congress has no

constitutional power whatever to abolish Slavery, under any circumstances; we mean of course to be understood as embracing *the whole ground*, the District of Columbia as well as the States.

From the decided manner in which your Committee feel it their duty to express their views in opposition to *political* abolitional movements, it might be inferred by some who do not stop to discriminate, that we are unfriendly to the cause itself, the abolition of Slavery in this country; we therefore feel it due to ourselves, to say a few words to prevent a misapprehension of our views on this subject, and to disabuse the public from any erroneous impressions that might be entertained of our opinions. We trust there are but few, if any persons, in this State, *in favor* of Slavery. We believe there is not one in either branch of the Legislature, who would do any thing to promote or perpetuate it, or who would not most sincerely deprecate its extension, especially in the United States. We all regard it as an evil, a most lamentable evil, inflicting a deep wound upon our free institutions, but we differ *essentially* as to the remedy's being within the sphere of our political duties. On the abstract question, there is but one common sentiment pervading our whole community, for all deplore, as we trust, *in truth* deplore, the sufferings and privations of the Slave. The feelings of humanity in the cause of the Slave, we trust, are not confined to the few who choose to exhibit them in a course that is generally disapproved by the citizens of Maine, if not condemned as most injudicious and blameworthy. But perhaps it may be said, the Abolitionists, that is, those by way of eminence distinguished by that name, do not arrogate to themselves to be the exclusive friends of humanity, but only *exclusive in wisdom*, as to the best mode of operations for the extinction of Slavery. It may be so, but the Slave, thus far, by more closely riveted chains, and his miseries greatly aggravated and increased, as your Committee have reason to believe, has but little cause to felicitate himself on the *practical effect* of the measures of his abolition friends.

It is not, however, the Slave alone, who has cause to deprecate the intervention, and fear the consequences of

the abolition movements of the day, but to every American citizen they have become alarming and portentous, who feels, as he should, the value, the *inestimable* value of our happy Constitution, that sacred compact of the States, made under the most solemn and impressive sense of obligation, to be preserved inviolate, and transmitted unimpaired to our latest posterity; sealed as it were with the blood of our patriot fathers, and *sacred as their memories*; carrying with it the highest sanctions that can affect any people on the face of the earth, *in the enjoyment of our civil and religious institutions*, without a parallel in their blessings already bestowed, and without a conception, **EVEN BY US**, of the glory and happiness they are yet destined to confer on unborn generations, **THROUGH THEIR PRESERVATION.**

The subject is prolific with thought, and engrossing, but we feel it due to forbear, and offer our views with no other claims than unpretending plain common sense. Your Committee, therefore, in conclusion, ask leave to *Report*, that legislation is inexpedient.

J. G. PERKINS, Chairman.