

MAINE STATE LEGISLATURE

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1844.

AUGUSTA:
WM. R. SMITH & Co., PRINTERS.

1844.

TWENTY-FOURTH LEGISLATURE.

No. 46.]

[HOUSE.

REPORT

OF THE

COMMITTEE ON SLAVERY.

[Wm. R. SMITH & Co....Printers.]



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 1, 1844. }

The Select Committee of the House of Representatives, to which was referred, the petition of Moses Emery and sixty other citizens of Minot and Auburn, praying that the Legislature would petition Congress to abolish slavery in the District of Columbia, and the territories of the United States, and remonstrate against the annexation of Texas to the United States, have had the same under consideration and ask leave to submit the following

REPORT:

Slavery was early introduced into the United States, then colonies of Great Britain, against their consent. In the original draft of the Declaration of Independence, Thomas Jefferson charged the same as a crime against the king of Great Britain. The eminent men who formed the Constitution of the United States, were nearly unanimous against the institution of slavery. While they consented to leave the whole subject of slavery to the several States, as one of the reserved rights, they were very careful to give no sanction to the system as a nation, not even so much as to use the word slave in the Constitution. None of the members of the Convention were more hostile to slavery than the delegations from Maryland and Virginia. Luther Martin, a delegate from Maryland, declared, "that slaves weakened one part of the Union, which the other parts were bound to protect, and that the importation of slaves was inconsistent with the principles of the revolution and dishonorable to the American character." George Mason, a delegate from Virginia, said that "slavery discourages the arts and manufactures;" that "every master of slaves is born a petty tyrant;" that "slaves produce the most pernicious effect on man-

ners ;” and that “they bring the judgment of heaven on a country.” Mr. Madison said, “it was wrong to admit in the Constitution, the idea, that there could be property in man.” Similar sentiments were expressed by Rufus King, Elbridge Gerry, Gouverneur Morris and other members from the North. George Washington the great, was in principle opposed to the permanent continuance of slavery, from motives of humanity. When these men found it was necessary to yield to the slaveholder the power of recapture, they were careful to do it under such form, as would give no national sanction to slavery. They simply provided that, “No person held to service or labor in one State, under the laws thereof, escaping into another, should in consequence of any law or regulation therein, be discharged from such service or labor ; but should be delivered up on claim of the party, to whom such service or labor was due.” If the individual escaping is held to service or labor, by the laws of the State, from which he escapes, it is immaterial whether he is a slave or not ; he cannot be discharged, by any other State or the United States. The whole subject of slavery was left to the States. Having premised thus much, the committee are now prepared to examine the subject of slavery in the District of Columbia.

Pursuant to the Constitution, the District of Columbia was ceded to the United States by Maryland and Virginia, to become the seat of Government. By the several acts of cession on the part of Maryland and Virginia, it was provided “that the jurisdiction of the laws of those States respectively over the persons and property of individuals residing within the limits of the cessions aforesaid, should not cease or determine, until Congress, having accepted the said cessions, should by law provide for the government thereof, under their jurisdiction *in manner provided by the Constitution.*” The necessary implication was, that after Congress had accepted these cessions, and provided by law for the government of said District, the laws of Maryland and Virginia should cease to operate. Congress having so long ago accepted the cessions, and provided for the government of the Territory, the question arises on what basis does slavery therein rest for support ? Not on the laws of Mary-

land and Virginia, they have ceased to operate. By the surrender and acceptance of the cessions, the Maryland and Virginia chains of slavery were knocked off. The inhabitants are all brought under a new government, the framers of which “would not admit in the Constitution the idea that there could be *property* in man.”

To this conclusion, it has been objected that the right to private property could not be abolished by the cessation of the laws of Maryland and Virginia in the District of Columbia; that slaves were private property; and therefore that slavery still exists of right in the District.

This is readily granted as to all those kinds of property which are recognised as such, by the laws of God and nature. Prior to all human laws, God gave man dominion, over the fish of the sea, over the fowls of the air, and over every living thing that moveth upon the earth. He also gave him the earth and commanded him to cultivate it, and promised him the fruits of his labor for food. By the laws of nature and nations, and independent of all human statutes, the man who cultivates the earth and raises fruits therefrom for food, or takes a fish, or reclaims a wild animal, acquires a property therein. When the statute laws of a country cease, the right of property in such things remains. As the right is prior to human statutes, it remains after them. So it was in the District of Columbia. When the laws of Maryland and Virginia ceased there, the right of property in *things* would have continued, without any new enactments by Congress. Not so in the case of *slaves* or *persons*. God never gave one man to another as property. By the laws of nature and nations, all men are free. *Persons* or slaves are held as property only by force of the unjust statutes of men, and when such statutes cease, man no longer holds property in man. As no persons could be held as property prior to the statutes of man, which made them such, none can be held as such, when those statutes cease to operate. By what authority then does man hold property in man in that Territory at the present time?

On the 27th of February, 1801, Congress by statute, declared, that the laws of the State of Virginia as they then existed, should be and continue in force in that part of the District of Columbia,

which was ceded by said State to the United States and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland as they then existed, should continue in force in that part of the said District which was ceded to the United States by that State, and by them accepted as aforesaid. By that statute, Congress established all the slave laws of Maryland and Virginia in their respective portions of the District. If Congress had not re-enacted those slave laws of Maryland and Virginia, there could have been no slavery in fact in the District. The laws of Maryland and Virginia having ceased, if Congress had not established a system of slavery there, all the inhabitants must have been free. The question now arises, whether Congress had any power to establish a system of slavery in that District or any where. If Congress had any power it must be given by the Constitution. This is a government of limited powers. It is not for Congress to assume any power which is not granted. According to the Constitution, "the powers not delegated to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The power to abolish slavery in the States, is not granted to Congress. It is one of the rights reserved. Congress cannot abolish slavery in South Carolina. On the other hand, Congress cannot establish slavery in Maine, or any where else. It is not among the powers of Congress. No power short of the people themselves, can establish a system of slavery.

The powers of Congress are enumerated in the eighth section of the first article of the Constitution, but the power to establish slavery is not among them. "Congress has power to exercise exclusive legislation, in all cases whatsoever, over the District of Columbia." Will it be pretended that Congress can establish slavery, under the power of exclusive legislation? We think not. The legislative power of Congress over the District is *exclusive*, but not *unlimited*. This Legislature has the power of exclusive legislation for the State, in all cases, where the power has not been granted to Congress. But that power is limited. Neither the Legislature nor Congress can establish slavery in Maine. The power is not granted in the Constitution. There is no doubt that

the power of legislation over the District of Columbia is subject to many limitations. Congress cannot pass a bill of attainder or ex post facto law to operate within the District. They cannot grant a title of nobility, or establish an aristocracy in the District. These and many other things are expressly prohibited. Congress cannot establish slavery in the District. That power has never been granted. The exercise of it by Congress, would defeat the general design of the Constitution. That instrument was adopted in order "to secure the blessings of liberty." And can it be supposed, that in order "to secure the blessings of liberty," Congress was authorized to establish a system of slavery? The idea is absurd.

In order to try the question a little further, we will suppose, that Congress had never attempted to re-enact the slave laws of Maryland and Virginia. Then all the inhabitants of the District would be free. Suppose now Congress, in attempting to establish a system of slavery, should ordain and declare that the white race should become slaves to the black race, or that the former masters and their posterity, should become the property of those who were formerly their slaves, and their posterity respectively; is there a slaveholder in the land, who would admit, that Congress had not exceeded their powers? There is nothing in the Constitution, which makes any distinction in color. There is nothing which authorizes Congress to keep one man in slavery rather than another, always excepting their power over fugitives from service or labor, that escape from any of the States. Can it be possible, that Madison, who would not admit into the Constitution the idea that there could be property in man, signed a Constitution, which authorized Congress to establish a system of domestic slavery at the seat of government? The committee think not. The committee do not find that the Supreme Court have ever directly settled the question, whether Congress had power to enact slave laws for the District of Columbia or not. Believing as they do, that such laws are unconstitutional, they think that Congress ought immediately to repeal them. And as they find that the Supreme Court has decided, that the acts of Congress, when legislating for the District of Columbia, are national laws, they think it is suitable and proper that this Legisla-

ture should call upon Congress to repeal the slave laws in said District.

When Florida was ceded to the United States by Spain, Congress acquired the power of exclusive legislation over that Territory. All the foregoing reasoning applies, to show that Congress have no power to continue in force a system of slavery in that country. Your committee think, that Congress should repeal all the slave laws in Florida, forthwith, because they are convinced, that all such laws are in violation of the Constitution. They further think it suitable and proper for this Legislature to ask Congress to repeal the slave laws of Florida; or in other words, to abolish slavery in that Territory, and that it should be done before it is admitted into the Union as a State. There is no other territory belonging to the United States, in which slavery exists, under the authority of Congress.

The committee are aware that at this time there is a strong party in favor of the annexation of Texas, and for that reason, it seems highly proper that this Legislature should express an opinion on that subject.

They do not find that the power to acquire foreign territory, by cession, purchase, or otherwise, is among the powers granted to the national government. It is therefore among the powers reserved to the people. This view of the subject is strengthened by the consideration, that provision was made in the Articles of Confederation, for the annexation of foreign territory. If the framers of the Constitution had intended to grant this power, it would not have been omitted in the enumeration of powers.

If it were quite clear, that the national government could annex foreign territory to the United States without a violation of the Constitution, the committee would feel bound to recommend to this Legislature to protest against the annexation of Texas.

That country is cursed with the "nefarious institution of domestic slavery," which in the before recited language of George Mason, a southern man, "discourages arts and manufactures, and brings the judgment of heaven on a country."

It is evident, that the annexation of Texas is designed as a

means of delaying the approaching day of universal emancipation in the United States. If Texas should be annexed to this country, and carved out into two or three new States, and those States should be admitted into the Union, and slavery with them, the power of slavery would be greatly increased, and the day of universal emancipation in the country, might be delayed a century or more. The slaveholding States have an unequal advantage over the free States by the Constitution, which they do not appear to be willing to yield. While the slaveholding States continue to insist upon representation for their property, the free States ought not to consent to the annexation of any foreign territory in which slavery exists, nor to the admission of any more slaveholding States into the Union.

The system of slavery appears to be gradually crumbling away. The census of 1840, shows a large diminution of slaves in two of the States. Emancipation will be gradual, but certain. The people of the free States can do nothing to abolish slavery in the States, and they ought not to consent to any thing that will have a tendency to increase the power of slavery, or prolong its existence in the country. Your committee believe that the annexation of Texas would increase the power of slavery in this country, delay the day of emancipation, and have a tendency still longer to deprive the free States of their equal right of representation on the basis of the free population of the Union.

In accordance with these views, the committee submit the following Resolves.

JABEZ C. WOODMAN,
SAMUEL B. MORISON,
PHINEHAS BARNES,
CYRUS PIERCE,
ELLIS B. MACKENZIE,
RICHARD MERRILL,
RUFUS BUCK.



STATE OF MAINE.

RESOLVES concerning Slavery in the District of Columbia and in Florida.

RESOLVED, That as the representatives of a free
2 State we will abide by the compromises of the Con-
3 stitution of the United States, however unequal, while
4 they continue to be the supreme law of the land, and
5 we call upon our brethren of the States, in which
6 Slavery exists, to do the same.

RESOLVED, That the Government of the United
2 States is one of limited and definite powers, as mark-
3 ed out in the Constitution, and we do not find among
4 them, the power to establish or sustain a system of
5 slavery in the District of Columbia or in Florida.

RESOLVED, as the sense of this Legislature, that
2 although, the power to continue in force a system of
3 slavery within the several States was reserved to the
4 States themselves, the *National* Government is a gov-
5 ernment of liberty, and that, in view of the compro-
6 mises of the Constitution, Congress ought immediate-
7 ly to repeal so much of the act of the 27th of Febru-
8 ary, 1801, entitled "An act concerning the District of
9 Columbia," as purports to re-enact and continue in

10 force the slave laws of Maryland and Virginia within
11 that District, and that slavery in Florida ought to be
12 abolished forthwith by Congress.

RESOLVED, That the Governor be requested to trans-
2 mit a copy of the foregoing resolves to each of the
3 Senators and Representatives of this State in the Con-
4 gress of the United States.

RESOLVED, That the Governor be requested to trans-
2 mit a copy of the same resolves to the Executive of
3 the United States and of the several States.

STATE OF MAINE.

RESOLVES concerning the annexation of Texas.

RESOLVED, That the power to unite an independent
2 foreign State with the United States is not among the
3 powers delegated to the general government by the
4 Constitution of the United States.

RESOLVED, That the State of Maine, faithful to the
2 compact between the people of the United States,
3 according to the plain meaning and intent, in which
4 it was understood and acceded to by them, is sincere-
5 ly anxious for its preservation. But that it is deter-
6 mined, as it doubts not the other States are, not to
7 submit to undelegated powers in any body of men on
8 earth. That the project of the annexation of Texas,
9 if successful, will tend to drive these States into a
10 dissolution of the Union, and will furnish new calum-
11 nies against republican governments, by exposing the
12 gross contradiction of a people professing to be free,
13 and yet seeking to extend and perpetuate the subjec-
14 tion of their fellowmen to slavery.

RESOLVED, That the Governor be requested to trans-
2 mit a copy of the foregoing Resolves to each of the

3 Senators and Representatives of this State, in Con-
4 gress.

RESOLVED, That the Governor be requested to trans-
2 mit a copy of the same resolves to the Executive of
3 the United States, and of the several States.



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 2, 1844. }

ORDERED: That 400 copies of the foregoing Report and Resolves, be printed for the use of the Legislature.

WM. T. JOHNSON, *Clerk.*