

The Slave Trade.

Senator Mazyek, of South Carolina, has lately introduced the following resolutions into the legislature of that State:

Resolved, That the Constitution of the United States contains no grant of power to regulate, prevent or restrict commerce among foreign nations; and, therefore, all Acts of Congress, purporting to prohibit or interfere with the slave trade, between foreign countries, are unconstitutional, and have no rightful force or effect.

Resolved, That the Act of Congress declaring the slave trade to be piracy, if it be understood as affirming that it is piracy in the nature of things and in the sense of the Constitution, affirms what it is not true; and, inasmuch as it purports and intends to convert into piracy, what is not so in the nature of things, and in the sense of the Constitution, the said Act is unconstitutional, null and void.

These resolutions coming up for debate, under the special order, Senator Mazyek said:

Mr. President:—Of the powers delegated by the Constitution to the Government of the United States, there are but three by which the right to prohibit any description of trade can be inferred. One is the power given to Congress to regulate commerce with foreign States; another is the power to punish piracy and other offences committed on the high seas; and the third is that provision of the Constitution which, as it relates in express terms exclusively to the importation of Slaves into the United States, has no application to the matter now before us. The power of the Government of the United States to define piracy and to punish it as a felony, I will proceed to notice when I consider the second resolution, and I will now come at once, Mr. President, to the question of the power of Congress to regulate commerce with foreign nations.

The plain interpretation of the constitution appears to me to be the delegation to the Government of the United States, of the power to regulate the commerce between the United States and foreign nations. If therefore, we assume that the power to regulate includes the power to prohibit, it would confer on the Government the power to prohibit the slave trade between the United States and a foreign country. But the resolutions introduced into this body do not say that it is unconstitutional to prohibit by acts of the General Government, the slave trade between our own States and any other nation, they only assert the fact that it is not constitutional, nor within the province of Congress, to prohibit that traffic between two foreign countries.

No commentator upon the constitution of the United States, so far as I have discovered, seems to have taken up the question as to how far the power conferred upon our Government to regulate commerce between these states and a foreign nation includes the right to interfere in the commerce carried on between two other countries, distinct from our own. Justice Story, however, does touch indirectly on this feature of the question, when, after stating his reasons to show that the power to regulate commerce included navigation, he sums up by saying: "This power the constitution extends to commerce with foreign nations, and among the several States, with the Indian tribes. In regard to foreign nations, it is universally admitted that the words comprehend every species of commercial intercourse. No sort of trade or intercourse can be carried on between this country and another, to which it does not extend."

So that Justice Story plainly understood this delegated power to refer only to the commerce between the United States and foreign countries, and not to the commerce between two foreign nations. Now, there are acts of Congress which purpose to interfere with the slave trade as carried on between foreign countries; and we have at the present moment, a case waiting for trial in this district, in which the officers and crew of a vessel are charged with carrying on the traffic in slaves between the coast of Africa and the Island of Cuba. It is the constitutionality of such acts alone, that is denied in the resolutions before the Senate.

Mr. President, in my humble judgment it is a grave question, and one that is open to serious doubt, whether the power to regulate commerce includes the power to prohibit any branch of trade whatever. But that is a point left undisturbed by these resolutions, which simply declare that the power to regulate commerce does not extend to commerce between two foreign nations, and, therefore cannot include the prohibition of the slave trade between two foreign nations.—While, therefore, I myself entertain grave doubts as to the right of Congress to infer the power to prohibit any trade from the constitutional power to regulate commerce between our own and any other country, I shall suffer that feature of the question to pass unnoticed at this time, and shall confine myself to the position that such power does not include the right to regulate commerce between foreign nations, and that, when the Congress of the United States assumes to pass acts that interfere with any traffic carried on between foreign countries, it assumes an authority it has no title to exercise, and commits an act of usurpation for which it has no constitutional justification.

I shall now proceed, Mr. President, to briefly consider the second resolution before us, which denies the right of Congress to make any act an act of piracy, which was not clearly embraced as such in the words or the sense of the Constitution.—When the Constitution of this State was adopted, the slave was as legitimate as the trade in wool, in coffee, or tobacco. It was a legitimate and an innocent trade, recognized as such by all men; and if the power delegated to Congress to regulate commerce, is to be interpreted into the right to make it an act of piracy now to carry on that particular trade between any countries whatever, then must Congress surely have the right, at its option, to make the trade in coffee, wool or tobacco an act of piracy likewise. When the Constitution was adopted, it was well understood what constituted the crime of piracy. It was robbing on the high seas. The Constitution, it is true, conferred on Congress the power to define piracy. There must be, doubtless, some certain rule or line, for the purposes of legal prosecution, to distinguish what is robbery on the high seas, and it was proper that Congress should have the right to point out what acts of violence and robbery should come within the definition of that offence.

But the power to define, is one thing—the power to create, another. Can it be imagined or pretended that, under the power to define piracy, it was intended to confer on the Government the power to declare any act an act of piracy? If Congress really possessed the power to make the slave trade between Africa and Cuba Piracy, it would have the same power to make the same trade piracy when carried on between Louisiana and Virginia, by way of the sea. If it has the right to declare it an act of piracy to convey slaves between the African and Cuban coasts, what is to deprive it of a similar right in relation to the transport of slaves between Chesapeake bay and Mississippi? I am utterly at a loss to perceive how any person can point

out a distinction between the two cases.—and not only does the exercise of this power imply the power to make the slave trade, when carried on by sea between the States, an act of piracy; but it implies also the right to declare the trade in cotton an act of piracy, whenever that article is put into a ship in our ports, and carried over the high seas to any other port in the world.

Let it always be borne in mind, Sir, that we have a right to consider the slave trade as innocent and legitimate as any other trade. It was more so when the Constitution of these States was adopted than it is now. If we concede this, and also admit that Congress has the power to declare this innocent and legitimate trade piracy, then must we yield to Congress an unlimited power, an absolute despotism over the nation. Then must we hold, that as soon as a citizen steps into a ship and sails forth on the high seas, he is at the mercy of Congress that can at its will convert any act into piracy and make a felon of him. For, Sir, if we once concede to the Government of the United States, the powers that are disputed and denied in the resolutions now before us, then we acknowledge that, under the Constitution, its power over all men and all things on the high seas, is unlimited. With these remarks, Sir, I submit the resolutions to the decision of the Senate.

Senator BRYAN. *Mr. President*:—I have no observations to offer at this time on the merits of the resolutions now before us; but I am of the opinion that the Senate is not now ready for the question on their adoption, and I therefore propose that the further consideration of the special order be postponed to a future day, to be named at the convenience of the Senate.

Senator B. H. WILSON:—The question involved in the resolutions before us is one of no little importance, involving, as it does, our relations with the Federal Government. I prefer that the resolutions should take the regular course, and I therefore move their reference to the Committee on Federal Relations.