

Congress.

HOUSE OF REPRESENTATIVES.

Saturday, November 21.

Debate on the Enrolled Bill concerning the pay of Non-Commissioned Officers & Privates, and enlisting Minors. (Mr. Quincy's Speech Concluded.)

I offer another consideration. The constitution of the United States, declares, in its seventh amendment—"Private property shall not be taken for public use, without just compensation." Now of all the property which the laws of the northern states secure to the people of that country, that which consists in the labor of the minor, & which by our laws is sacred to the guardian, master or parent, is perhaps the most valued and most precious to our mechanics, manufacturers and yeomen. Yet when the gentleman from New York (Mr. Stowe) proposed to secure the wages and bounty of the enlisting minor to those to whom his service belonged, it was rejected—What is this but a palpable violation of this provision of the constitution? What is it but taking private property for public use, without compensation?

But, neither the pecuniary loss, nor yet the violation of the constitution, is the evil I most deprecate. It is the infringement of our moral rights and the inroad which the bill makes in the moral habits of our quarter of the country. I know that gentlemen are very apt to sneer, when they hear any thing said about our religious institutions, or moral habits, in the eastern country. But I will explain what I mean. It is not our religious institution, our sabbaths, our fasts, our thanksgivings, nor yet our schools, colleges and seminaries of education, to which I refer, when I speak of our moral habits. These are but means and precautions. It is certain established principles of life and conduct, which without being noticed in general laws are often the foundation of them, and which always rule and controul our positive institutions. I do not know, for instance, that the extent of the moral tie, which binds the son to the father; or the apprentice to the master, is precisely assigned by any of our laws. Yet the principle, upon which all our laws on this subject rests, is this: That this tie is sacred and inviolate. The law regulates, but, except in case of misconduct never severs it.

I know it is said that in our country, minors are subjected to military duty. And so they are. But this very service is a proof of the position which I maintain. Their obligation to serve, in the militia, is always subject to the paramount authority of the master and the parent.

The law says, it is true, that minors shall be subject to militia duty. But it also permits the father and the master to relieve them from that obligation, at an established price. If either will pay the fine, he may retain the service of the minor, free from the militia duty. What is the consequence of all this? Why, that the minor always remains not free of the will, but subject to the will of his natural or legal guardians. The moral tie is sacred. It is a principle, that, cases of misconduct out of the question, the minor shall never conceive himself capable of escaping from the wholesome and wise control of his master or father. The proposed law cuts athwart this wise principle. It preaches infidelity. It makes every recruiting officer in your country an apostle of perfidy. It says to every vain, thoughtless, discontented or ambitious minor, "Come hither, here is an asylum from your bonds. Here are wages and bounty for disobedience—Only consent to go to Canada—Forget what you owe to nature and your protectors. Go to Canada, and you shall find freedom and glory." Such is the morality of this law.

Take a slave from his master, on any general and novel principle, and there would be an earthquake from the Potomac to the St. Marys. Bribe an apprentice from his master; seduce a son, worth all the slaves Africa ever produced, from his father, we are told it is only a common affair. It will be right when there is a law for it. Such is now the law in France!

Mr. Speaker, I hope what I am now about to say will not be construed into a threat. It is not uttered in that spirit; but only to evince the strength of my convictions concerning the effect of the provisions of this law on the hopes of New England; particularly of Massachusetts. But pass it, and if the legislatures of the injured states, do not come down upon your recruiting officers, with the old laws against kidnapping and man-stealing, they are false to themselves, their prosperity and their country.

Mr. FISK said it was not the first time a disposition had been shewn in that house to shield the British government, no matter how much she might deserve our censure. That a British party existed in our country, and even influenced gentlemen who now heard him, had been confessed by the British minister himself. The great object of this bill was to enable government to carry on the war with vigor while it lasted; and terminate it as soon as it could be done consistent with national honor. Has the gentleman no sympathy for our oppressed seamen?—Let him recall the spirit which pervaded the nation in 1793—and where is the difference between the causes of war now, and that period? The gentleman says, that seven years experience has convinced him, that all the measures of the government are party measures—this is an invective because he has receded from the old doctrine, which our fathers supported, and which also supported them through the trials of the revolution; there was no immorality in calling minors into service in those days; and when we are once more engaged in a war with the same power, and fighting for the same preservation of rights and blessings, which that war established—where now is the immorality of resorting to similar means?

The hon. gentleman says the effect of this bill will be to create infidel principles, by weakening the influence of moral ties. It cannot have this effect, when it is recollected, that families look up to parents for support, and not to children. It is far better a child should be taken than a father. The people of New England will not thank the gentleman for speaking of their children in the same sense he does of southern slaves, as property.

Sir, by using such language, the gentleman may light up the torch of discord in the land, from the flames of which he may not be able to escape. We have more causes for war now than we had in 1776. Mr. Fisk took a general view of British aggressions, of imprisonments, of difficulties thrown in the way of negotiating; and of the denial of Erskine's arrangement; and closed by observing that the time was approaching, when such sentiments as the gentleman advocated, would not be received in America.

Mr. D. R. WILLIAMS said if it was possible for him to keep down those feelings of indignation which pressed upon his mind, in what he had now to offer, he would speak with due respect to the orders of the House, and not infringe its privileges. He wished indeed he had not occasion to speak; but, sir, said he, it is my misfortune to be the chairman of the Military Committee, more, Mr. Speaker, by your partiality than by any merit of mine. I am compelled to rise. I have been stigmatised by the gentleman (Mr. Quincy) as the introducer into this House of an atrocious principle. If such language compares with our rules of order, I must pronounce it a libel on myself and throw it back on him who uttered it, as a foul, atrocious libel on the committee. Sir, I came here not disposed to use such language; nothing but extreme injury should extort it from me. I regret that the gentleman had kept the resolve he informed us he had formed; as he could not do so. I would that he had been good enough to spare me from the acrimony of his remarks. Atrocious! The advocate of an atrocious principle! Let the gentleman recur to those who originated this principle; let him go back to the day of the revolution, and damn the memory of the patriots of those times, the fruit of whose labors he so ill deserves to enjoy. The provisions of those days authorised the enlistment of all over the age of sixteen years. Nor does the statement which the gentleman from New York made alter the case, for it there be an increase of population since the revolution, there appears to be a corresponding deterioration of patriotism. The gentleman from Massachusetts admits that a necessity may exist to justify the course proposed by the bill. Well, sir; was there ever a crisis calling on a people for vigorous exertions more awful than that which impends over us now? Now, when a vile spirit of party has gone abroad and distracted the Union? Now, that the state which the gentleman represents is almost in arms against us? And, in such a state of things are we to be told that we are espousing an atrocious principle, because we are seeking for the means to defend our country? The will of the President is the law of the land, says the gentleman. How can he expect his arguments to be attended to, when the first word he utters after taking his seat is to insult and abuse every one opposed to him in opinion. I beg your pardon, Mr. Speaker, I ask that of the House, for the language I am compelled to use; but so long as I am a man, so help me God, when I am told I am actuated by an atrocious principle, I will throw it back in the teeth of the assessor as an atrocious falsehood. Look back on the principle adopted by the friends of that gentleman—I wish I could say who were his friends—I do not call the honest federalist, who is willing to support his country's rights, his friend—even in England, the nation from which he talks of receiving his religion and morality, and I might add, his ideas of our rights—even in that country they do not prevent enlistment of minors—that is, they are not discharged on the ground of minority. I have said before, sir, that we had examples in our own government, drawn not to be sure from the purest times, but which more than covered the whole case. A law was passed in 1798 which authorized the enlistment not only of minors but every description of persons whom the President of the U. S. thought proper to have enlisted—which authorized him to send his recruiting sergeants into every family and take those who suited him best. This was the principle of his friends.

Does the gentleman say that it was atrocious in 1798 to defend ourselves against the French? but it has become so now seeing the defence we seek is against the English. The gentleman has said we act on an absurd principle, that we have mistaken the means of carrying on the war to effect; we want the moral means. By this I presume he would be understood that the people are opposed to the war, particularly to our land operations. There seems then to be no moral objection to the war on the ocean. And, sir, if it be not immoral to support the war on the ocean, on what possible principle can it be immoral, in the same cause, to support it on the land? The war on both elements is for the same objects; not, as the gentleman says, to rob and plunder in Canada, but, according to the motto of the gallant captain Porter, for "free trade and sailors' rights." Will the gentleman take time to tell us, when he next draws a comparison between the conduct of the East and the South, what are the southern motives for urging the prosecution of the war? Will he tell me that I have brothers or friends impressed in the British service? There is scarcely a man from the whole southern country in that situation. Where do the majority of your sailors come from? From the southern states or from New England? And will the gentleman tell his constituents, when we are laboring to rescue their connections, their friends, their children—when we point the bayonet towards Canada, for the protection of their sailors, our only object is robbing and plunder? Sir, we shall be to all intents and purposes colonists, or we must fight ourselves independent. Is there any one principle of colonization which has not been brought to bear on us by the British government with more vigor than on the island of Jamaica? Colonization has been brought home to every man's habitation! Does not the gentleman know that the British functionaries have refused to release the friends, the children of his brethren, of his constituents? Is not any argument to the contrary worse than false? Sir, a recreant coward or a treacherous traitor has brought a stain on this country which nothing but physical force, a filling the ranks of your army can wipe off. To effect this desirable object the bill has been introduced, to which all this strange and violent opposition is made. Is your recruiting officer ordered by this bill into the work shop of the artisan to seduce his apprentices?

Is he ordered into the houses of your farmers to steal away their sons? No, sir; its object is to prevent collusion and fraud; to prevent depredation, as it has been called, on your ranks. It is sanctioned by precedent; it is enforced by necessity. Under such circumstances individual convenience ought not to preponderate against the general good? We ask not for the sustenance of an atrocious principle, or for the adoption of an immoral law, but for the means to support a just war until we can obtain an honorable peace—as much for the convenience and real benefit of that gentleman and his friends as any in the House. Sir, I hope the House, notwithstanding the terrible picture which has been attempted of the resentment which will be drawn down on your recruiting officers, will not suffer itself to be influenced, much less frightened, by the gent. from the prosecution of its true interest, as at the repeal of the embargo. If you will yield to threats from any quarter, better at once abandon your seats and return to your homes. Let Massachusetts, as the gentleman has threatened, resist the law; I thank God there is yet no point of contact between us, but if she shall, contrary to our mutual interest, array herself against the general government, I for one shall not hesitate to search for the proof that she is only a component part of the Union—not its weakness.

Mr. RANDOLPH.

I have said on a former occasion, and if I were Philip I would employ a man to say it every day, that the people of this country, if ever they lose their liberties, will do it by sacrificing some great principle of free government to temporary convenience, party purposes, caprice or passion. There are certain great principles which if they be not held inviolate at all seasons, and under every circumstance, our liberty is gone. I give them to any one of them up, it is perfectly immaterial what is the character of our sovereign, whether he be King or President, hereditary or elective, we shall be slaves. It is not an elective government that can save us unless we cling, as to our existence, to those great fundamental principles, which are essential to free government; without which liberty is but a name. But I am wandering from the course which I proposed to pursue.

This Bill is of the nature of an *ex post facto*—it is more—it tends to exalt the military authority over the civil—it is this or it is nothing. If the section pronounce an ambiguous voice, to be construed according to expediency, then is there so much greater reason to recommend the bill, to reduce it to some shape which shall render it intelligible to the meanest capacity. It goes to alter the nature of a remedy—to impair the obligation of a contract. A man has contracted a debt and his creditors arrest him. He enlists through the grates of a prison, or within the limits of prison bound. The contract between this man and the creditor is varied by the law, because the remedy of the creditor is changed. Let us not have a descent on the cruelty of imprisonment for debt, and of the expediency of introducing other provisions on that subject. That is not the question. It is on a law for exempting a particular class of men from those penalties and provisions which attach to all other classes of society. The military, of all classes in society, that class which we are about to exempt from the general provisions attaching to other classes, is that of which the people of this country have been led by all our writers, by all our authorities, to entertain the most watchful and justly founded jealousy. It is on principles analogous to these, or rather the same, much better enforced, that an opposition was maintained to a law, not dissimilar in its provisions from this, in the winter of 1799-1800.

In the fury and tempest of his passion, my friend from South-Carolina seemed to overlook what I thought he would be one of the last men to forget, that we live under a limited government, possessing restricted powers, which we cannot exceed. Has the constitution, with the most jealous scrutiny, defined the privileges of a member of this House, not permitting us to define our own, and made our principal privilege an exemption from arrest—and do we clothe ourselves with the power of exempting from arrest *ad libitum* a whole class of society—of creating a privileged order?—We are indeed a privileged order—but we are privileged by the constitution. I ask the gentleman from S. Carolina whence he derives the power of creating a privileged order—and shall this assumption of power be attempted in favor of the military, of all other classes? In my opinion, sir, the section to which I have had reference is freighted with mortal consequences. I will suppose a case. Suppose a man had a writ served upon him, and he afterwards enlists; that an escape warrant is taken out against him, and a contest ensues between the recruiting sergeant and the civil officer for this man, and that the civil authority supports its officer by calling out the force at its disposal—What would be the upshot? What is it to lead to? I need not state the consequences. These principles, sir, were urged thirteen years ago; they are urged now in the same place and on the same occasion. I cannot consent, in deference to any gentleman, however great their zeal, to admit that I merely urged them at that time from party views, to put down one description of persons in order to get into their warm births. I cannot consent to such an admission, and therefore cannot give my support to any bill which contains such provisions. I have said this will be an *ex post facto* law. It is so; it operates not only after the right has accrued to the creditor to sue out his writ, but after it is in a course of execution. Let me put another case. Suppose that Congress were to pass a law that every malefactor under the sentence of death, who enlisted in the army, should not have the sentence of the law executed on his body. Have you not as good a right to do that as to pass this law? Would you consent to see a scuffle at the gallows between the civil authority and the military for the body of that wretch? Do you claim a dispensing power over all the laws of the states—to abrogate or suspend them at your pleasure? to annul the sentence of their highest courts of law by supersedeas of a recruiting sergeant?

I will put another case, sir. A son, who is the only support of a widowed and aged mother, in some moment of hilarity, perhaps of intoxication, led astray by the phantom glory, enlists in the army of the United States—I speak of one who is a minor. Although I know that freedom of this country cannot be property in the sense in which a slave

is property, yet I do not think that the mother has a property in the time of that child; that he is under an obligation from which no human law can discharge him—an obligation imposed upon him by the maternal throes that issued him into life—by the nourishment drawn from the parent's breast—by the cherishing hand which fostered him through infancy and infancy. You have not a right to take him—I hope then, sir, that no question will be made of your power.

I put another case, said Mr. R. Although an apprentice and a minor are not property in the sense in which a slave is property, there is a class of men unlucky in certain parts of our country, in Philadelphia for instance—I mean that class called Redemptors, who were sold but yesterday in the market of that city. Is the gentleman who represents that district (Mr. Minor) willing that they shall absolve themselves from their contract by enlisting in the army? If he is I am. A Redemptor, sold in Philadelphia, for a term of years, bought in the market as fairly as any other commodity—I say fairly, because bought with his own consent, & as he believes for his own advantage—such a person if tempted to enlist, will unquestionably prefer the pay and emolument of a soldier in your army to his present situation.—With regard to apprentices, I very much fear, sir, those who enlist will be the greater part of that description for whom their masters advertise six cents reward, and for whom all persons from harboring them. I remember, when a boy to have seen a series of prints by H. Smith, called "The Progress of Industry and Idleness." The gradations were not more regular than natural. The one ends with wealth, honor, an eligible matrimonial connection with the daughter of his master, who whom he had been admitted into partnership; the other is brought up by the gibbet. Their names were Thomas Idle and William Goodchild. I believe, sir, that more of the Idle than of the Goodchilds will be list under this law—and I sincerely hope they will; for I very much fear that even William Goodchild, after he is gone through the discipline of a camp for five years, will be utterly unfit for any other species of employment. This is not all; there are other considerations, which I do not wish to touch, which I should have supposed would have brought themselves home to the bosom of every gentleman in this House. Personal indisposition has prevented my attendance in this House, and I did not hear of this bill until last night. It was then mentioned to me by one who is fast in the old faith, and has often brought the House to a recollection of good old principles—and I did hope that they would this day have received more strenuous aid from that quarter than they have. I hope the house will refuse to pass the bill, if it were only to shew that there is some one act of the administration of 1799-1800, which the present possessors of power have not copied from their statute book.—There remains only this and the eight per cent loan—and we are saved from the latter only by the infractions of that non-importation law, which we imperiously refused at the last session to repeal. It is the infraction of this law which has poured money into our coffers and saved us from the disgrace of an eight per cent loan. There is another part of this bill which strikes me as being inexpedient, but as I do not wish to touch considerations of expediency with those of great and vital principles, I shall wave any thing on that head.

Whether, as respects the regular army, enlistments are to be procured more readily by an increase of pay or bounty, I leave to those more skilled in military affairs than myself to determine. But it strikes me, that it is not by an increase of pay that you will obtain any addition to the number of recruits. Those who enlist in the army do it not with a view to the pay, but to the bounty. Take away that, and I venture to say you may tread the pay and hardly get men to enlist. I am confident you would not if you doubled the pay. How far it is politic in a government like that of the United States, to cherish military establishments by high bounties, will properly be a subject of discussion when the bill is recommended to a committee of the whole House, as I trust it will be; but it always appeared to me that if you wish to perpetuate any establishment to rivet it on a nation, you ought to make it as "respectable" and lucrative as possible. What is the reason that any particular class or profession in society has held its ground against all opposition? It has been the "respectability" of the calling, the lucrativeness of it. If you could never get rid of the army when it was neither lucrative or respectable, do you expect ever to get rid of it when it is more lucrative and respectable—when the whole youth of the country is embodied in it, and there is scarcely a family that has not an interest in keeping it up? My eyes were caught last night by a paragraph in a newspaper announcing the trial of a deserter. It was there stated that this infamous practice had become so common as to endanger the safety of the nation. Will that practice be diminished by an increase of the pay of the soldiers? The man who was condemned to death was one who had repeatedly enlisted for the purpose probably of obtaining the bounty. When, in the Roman Republic—and we have been taught by my friend on the right to refer to the ancients—the army became not only a part but the whole of the constitution, was the army ever affected, in point of number or power, by the immense donatives, the vast increase of pay and bounty given by the emperors? From the moment you make the army what I see gentlemen desirous of making it, the great lucrative & respectable profession of the country; when you train the ranks of law and of medicine—and in that respect perhaps spare human life if not human blood—we have a new order of society, a new constitution.

It appears to me, sir, if this bill be not recommended and does not undergo alteration it will end in collisions of authority between the state and federal governments. I would ask by what right can the federal government undertake to dispense with the law of a state in a case of contract between two citizens of the same state? I would ask, with deference and submission, whether the state courts will feel themselves bound by this law? In some cases they may; but in a majority of the state I trust they will not. And notwithstanding what the gentleman from South-Carolina has said on the subject of the conduct of Massachusetts, it is a matter of notoriety that the opposition of Virginia and Kentucky did put an end to Mr. Adams' war. We took our stand, sir, and on principles for which I have been attempting this day most feebly to contend, we triumphed.