Slavery Overshadowed: Congress Debates Prohibiting the Atlantic Slave Trade to the United States, 1806-1807

Author(s): Matthew E. Mason

Source: Journal of the Early Republic, Vol. 20, No. 1 (Spring, 2000), pp. 59-81

Published by: University of Pennsylvania Press on behalf of the Society for Historians of the Early American Republic

Stable URL: http://www.jstor.org/stable/3124830

Accessed: 20/08/2010 23:21
SLAVERY OVERSHADOWED:
CONGRESS DEBATES PROHIBITING THE ATLANTIC SLAVE TRADE TO THE UNITED STATES, 1806-1807

Matthew E. Mason

In December 1806, as the Ninth Congress of the United States convened in its second session, rumors of a frightful conspiracy in the West circulated about Washington. The reports in the following months implicated Aaron Burr, past vice president of the United States (from 1801 to 1805) but already notorious, in part for killing Alexander Hamilton in a duel, as the leader of the plot. Over the next several weeks, Americans in all regions read with great interest further details of Burr’s alleged plans to stir the southwestern states and territories to fight for independence from the United States, aided by a foreign power such as Great Britain or Spain. At the same time, the press and word of mouth brought tidings of Napoleon’s invasion of Prussia. In the next few months Americans learned of Napoleon’s Berlin Decree, announcing a blockade of Great Britain in retaliation for Britain’s Orders in Council that had first proclaimed a blockade around the Continent.

Congressmen that winter debated bills of great importance, but their words drew less attention than developments in the West and in Europe. One of those bills would prohibit the importation of slaves into the United States after January 1, 1808. This act, signed into law at the end of the
session, had a great impact on American history. Yet Americans in 1806 and 1807 paid little attention to these historic debates, distracted as they were by the doings of Burr and Napoleon. Their distraction tells us more about the nature of early sectionalism and the perception of other dangers in the new Republic than does the rhetoric ringing through the halls of Congress.

William Freehling, in his recent account of the growth of America’s sectional crisis, places the end of the African slave trade near the heart of his interpretation. For Freehling, “no other early action so shaped the later slavery controversy” as did the slave trade proscription. The restriction reduced black population growth in the South, he argues, and thus diminished that section’s representation in the national government. The ban meant that states such as Kentucky and Missouri would face a permanent shortage of slave labor; that Virginia and Maryland would continue to be “whitened” as they exported excess slaves to the Deep South; and that the Old Northwest never would develop a slave system. As a result the Border South would be less committed to slavery than the Deep

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2 See Robinson Slavery in the Structure of American Politics, 301.
South, and the Northwest would not be committed at all. For Freehling, "the closure of the African slave trade was probably the most important slavery legislation Congress ever passed and among the most important American laws on any subject."3

Freehling makes a powerful case for the significance of the effects of the bill, but there is more to it than he recognizes, for the debates leading to its passage themselves reveal the depth of sectional feeling attached to slavery. Yet historians have devoted very little attention to the legislative history of the slave trade ban and even less to responses to the bill outside of Congress. The congressional slave trade disputes of 1806-1807 exposed a dangerous form of American sectionalism and a willingness to tap its rhetoric. There was broad support from all regions for proscribing the slave trade, but the crafting of the measure was riddled with sharp and revealing disputes in which feeling ran high between North and South. What was said in these debates, though not widely scrutinized at the time, foreshadowed the danger of engaging the slavery question.

According to the Constitution, Congress could not prohibit the foreign slave trade before the year 1808, although it could impose a duty of up to ten dollars on each slave imported (Article I, Section 9). This controversial clause provoked emotional arguments during the ratification debates, especially in the North. From Massachusetts to Virginia, advocates of the Constitution who opposed the slave trade looked with hope to this provision: after all, the Articles of Confederation set no date at which Congress could legislate in this area. Antifederalists in antislavery states, on the other hand, worried that congressmen might not proscribe the execrable commerce in 1808, while South Carolina and Georgia feared equally that they would.4

Opponents of the slave trade could not have been encouraged by the course of the debate in the first Congress over whether to tax slave importations. In these early discussions of the slave trade Deep South representatives stood so stubbornly against all barriers that Congress never laid a duty on imported slaves.5 Most state governments, however, restricted or outlawed the traffic between the end of the American Revolution and 1808. Still, the states had no navies to enforce such acts, and smuggling continued apace. Furthermore, state statutes could be rather

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5 Ibid., 204-30.
incomplete: for instance, New York’s laws of 1788 and 1801 forbade imports into the state but left its citizens free to support the slave trade. The significant exceptions among the states to at least a modestly antislavery posture were Georgia and South Carolina. Georgia kept its ports open to African slaves until 1798, seeking only to exclude imports from the West Indies and Spanish Florida—a response to the spectacular slave uprising on St. Domingue. South Carolina proscribed the foreign trade through a series of temporary acts beginning in 1787 but found enforcement to be nearly impossible and reopened its legal slave trade in 1803 at the urging of the governor. Five hours after the passage of this last bill, two large British ships sailed into Charleston harbor to supply—now legally—the insatiable demand for new slaves. South Carolinians imported tens of thousands of new slaves between 1803 and 1807, a number far in excess of the state’s need for labor. The surplus slaves mostly were reshipped to New Orleans or Natchez. With these massive importations into the Deep South and the gaping loopholes in the laws of the other states, it was evident that state legislation could not be relied upon to end the traffic in Africans.

Congress did take some notice of the slave trade before its abolition in 1808. A 1794 law, passed without debate in the wake of the revolution on St. Domingue, made it illegal for Americans to prepare slaving vessels in American ports. An 1800 law prohibited citizens’ participation in the trade aboard slave ships, allowing the United States Navy to participate for the first time in regulating this commerce and adding imprisonment to the monetary fines already in place. South Carolina’s behavior after 1803 scandalized many constituents throughout the nation, and pressure mounted on Congress—often in the form of instructions from state legislatures to their congressional delegations—to act more boldly as 1808 drew near.

Congressional action toward the slave trade ban began December 16, 1805, when Senator Stephen Row Bradley, a Democrat from Vermont, introduced a bill prohibiting the African slave trade after January 1, 1808. This bill only made it to a second reading in the Senate, which postponed


consideration for a year. Undaunted by delay in the Senate, Massachusetts Congressman Barnabas Bidwell pushed for a similar enactment in the House of Representatives in February 1806. He proposed to amend a bill that would tax slave imports by declaring that this tax would be collected only until January 1, 1808, after which the foreign traffic in slaves would be illegal. Virginia’s John Randolph and others raised doubts about the constitutionality of Congress passing such a bill before 1808, so the motion failed in this first session of the Ninth Congress. But during the recess, Bidwell later recalled, “the subject was discussed in the newspapers, and the public sentiment set in favour of my proposition.” This illustrates both the strength of northern opposition to the slave trade, and the sensitivity of northern representatives to “public sentiment.”

When the Congress reconvened, the idea of passing a law before 1808 gained support from the executive branch. In his annual message to Congress on December 2, 1806, President Thomas Jefferson insisted that the legislature could pass a law immediately, to take effect in 1808. The intervening period could be used to warn “expeditions which cannot be completed before that day.” He congratulated the lawmakers that the time finally was approaching at which they could “withdraw the citizens of the United States from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country, have long been eager to proscribe.” Jefferson himself had been waiting for a long time to see the African slave trade to America ended; he had publicly expressed this hope as early as 1774. In contrast to his record on slavery in general, Jefferson proved effective and decisive in his opposition to the international slave trade.

The president’s message prompted a swift response in Congress. Senator Bradley gave notice December 3 that he planned to introduce

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8 Locke, Anti-Slavery in America, 149; Barnabas Bidwell to Marshall Bidwell, Jan. 27, 1830, Barnabas Bidwell Papers (Library of Congress, Washington, DC). Support for Bradley’s bill was inflated by his insistence on a roll call vote. One senator “said he was opposed to the measure he thought it wrong—but as the great opinion of the people was in favor of it he should record his name for it.” “The question,” wrote Senator William Plumer, “prevailed by a large majority. Had not the ayes and nays been required, it’s certain the motion would have been negatived.” Everett S. Brown, ed., William Plumer’s Memorandum of Proceedings in the United States Senate, 1803-1807 (New York, 1969), 353-54. See also Memoirs of John Quincy Adams, Comprising Portions of His Diary from 1795 to 1848, ed. Charles Francis Adams (12 vols., Philadelphia, 1874-77), 1, 378-79.

legislation. The House appointed a committee to discuss this part of the
president’s message. Throughout the second session of the Ninth
Congress, the House and Senate versions of the bill worked through their
respective select committees, through debates in committee of the whole,
and through a conference committee that worked out the differences in the
final versions. The pattern was clear at each step: most people supported
the ban on the African slave trade, but certain provisions of the various
bills provoked sometimes heated controversy. Benjamin Tallmadge of
New York said it best: “Since I have had the honor of a seat in this House,
I can scarcely recollect an instance in which the members seem so
generally to agree in the principles of a bill, and yet differ so widely as to
its details.” The three “details” which created the most controversy were
what to do with blacks brought illegally to America, what the penalty
should be for violating the law, and whether or to what degree the federal
government could regulate the domestic seaborne slave trade. Sectional
lines were drawn most clearly in relation to these points, but the southern
position carried all but the last by gaining the cooperation of at least some
northern representatives.

The problem of how to deal with illegally imported blacks first showed
the depth of sectional differences. Existing state and territorial laws and
previous colonial laws gave Congress no clear guidance in dealing with this
quandary; their proposed solutions varied greatly. Virginia, in particular,
demonstrated confusion, passing a series of laws which first freed, then
exported, then sold people of color who had been imported illegally.
Debate began December 17, 1806, when the bill emerged from a select
committee, stipulating that persons of color imported after the last day of
1807 would be forfeited by the smuggler. James Sloan, a Quaker from
New Jersey, immediately moved that anyone thus forfeited “be entitled to
his or her freedom.” This touched off a firestorm which did not spend its
fury until January.

The strongest of the southerners’ objections was their fear of letting
free blacks loose in the South. Speaker Nathaniel Macon of North Carolina
indicated that smugglers would be most likely to do their business in slave
states, and that Sloan’s idea would render those states’ situation “most

11 Ibid., 232.
12 Ibid., 168; Donnan, ed., Documents, IV, 164-65, 172. The 1798 act to create
Mississippi Territory freed illegally imported slaves. New York’s 1785 slave-trade law
emancipated them, but New Jersey’s in 1786 did not. Compare Robinson, Slavery in the
Structure of American Politics, 313, and Arthur Zilversmit, The First Emancipation: The
deplorable.” Historian Mary Locke has suggested that if southern members really had expected the ban to be effective “they would hardly have been so apprehensive of the disposition to be made of the negroes after forfeiture.” But they were apprehensive, in large measure because they shared President Jefferson’s well-known views on the impossibility of free blacks living alongside whites.\textsuperscript{13}

As he did at many other points in the debates, Georgia’s Peter Early stated the most extreme southern position. “To have among us in any considerable quantity persons of this description,” he declared, “is an evil far greater than slavery itself.” With such a provision in the law, “the whole people [of the white South] will rise up against it,” because “to enforce it would be to turn loose, in the bosom of the country, firebrands that would consume them.” White southerners never would permit a large population of free Africans or West Indians to live amongst them, and the result would be more cruel to the blacks than northerners imagined slavery to be. In such a situation, Early explained, “we must in self-defense—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. . . . Not one of them would be left alive in a year.”\textsuperscript{14}

If the Southern states did not welcome the possibility of a second St. Domingue, neither were they enthusiastic about federal encroachments on local prerogatives. Throughout the debates on how to dispose of illegally imported blacks, southern representatives repeatedly challenged the national government’s constitutional power to interfere with state decisions regarding “negroes.” They insisted that white southerners, who knew better than most congressmen, could best decide questions of disposal of contraband.\textsuperscript{15}

For their part, northerners objected that by selling any contraband slaves, the federal government would find itself engaged directly in the slave trade. John Smilie of Pennsylvania would “never give his assent” to a bill that forced congressmen to “take upon ourselves the odium of becoming slave traders.” Other northerners pointed to the absurdity of a law by which government officials “condemn the man-stealer” only to become “the receivers of his stolen goods. We punish the criminal, and

\textsuperscript{13} Annals of Congress, 9th Cong., 2d sess., 173; Locke, Anti-Slavery in America, 155; Du Bois, Suppression of the African Slave-Trade, 95-96.
\textsuperscript{14} Annals of Congress, 9th Cong., 2d sess., 174.
\textsuperscript{15} Ibid., 168-69, 171-72, 183, 272.
then step into his place, and complete the crime which he had only begun."16

Some northerners objected to the whole idea of the government confiscating human beings. Barnabas Bidwell of Massachusetts insisted that "the idea of forfeiture" proceeded wholly on a "false principle," namely, "that a property may be had in human beings." By leaving the question solely to the states, the federal government could avoid recognizing property in man. Later, congressmen representing northern states (and one representing Kentucky) said that while they were trying to be sensitive to southern feelings, "they claimed an equal respect for the sentiments and feelings of their constituents, which were so repugnant to slavery that no consideration whatever could induce them to give it their sanction."17 Here, according to these representatives, was a sectional issue in its truest sense: one section of the country completely opposed to the other on the issue of slavery itself, beyond the point of compromise or even "consideration."

Such talk alarmed Early and other southerners, who perceived that in these Yankees' principled objections to confiscation constituted a direct attack on slavery itself. Bidwell was not alone in denying the rights of property in man. Others had said that the Africans in question were "not, by any law, human or divine, the slaves of any master. They are not the lawful property of any owner." The principle behind these objections, declared Early, "went to affect nine-tenths of the property of the Southern States, and might in its effects strike at all the property held in slaves." Southerners stood prepared to respond strenuously to any questions about their rights to property in slaves.18

Congressmen from both sections attempted to move the debate into the realm of practical politics. Contending that forfeiture alone struck sufficiently hard at the economic interests of smugglers, some asserted that if many people of color were allowed to go free, southerners would never aid enforcement by informing on illicit slavers. Massachusetts Federalist Josiah Quincy spoke at length concerning the need to examine the "real,

16 Ibid., 170, 201.
17 Ibid., 221, 265.
practical state of things," and he invited his colleagues to "descend from their high abstract ground," lest, like "the renowned Knight of La Mancha," they allowed their fellow beings to continue in misery and chains while they declaimed on "theoretic impulse."\(^19\)

The dilemma over what to do with illegally imported people of color strained the spirit of practical compromise that had so precariously survived from the Constitutional Convention of 1787. Sometimes "the spirit of '87" was held as a club over opponents' heads, as congressmen from either side proclaimed their own willingness to compromise and wondered why the other section's representatives would not do the same. Similarly unconvincing were expressions of shock that purportedly innocent statements had provoked such outrage from obviously unreasonable men in the other region of the country. For instance, Pennsylvanian John Smilie reacted in horror to Peter Early's forecast that freeing smuggled Africans would provoke the South to civil war. Early retreated, claiming that Smilie had misunderstood him: "I wish to know what has become of common sense? I disclaim the threat of civil war." Although some debaters consistently employed overheated sectional rhetoric, such language alarmed the Congress. At one point, "the Chairman interrupted Mr. Sloan, and said he considered it out of order to allude to different sections of the Union."\(^20\)

Already outnumbered in Congress (despite overrepresentation under the three-fifths clause), southerners required some accommodation from northern representatives in order to pass legislation favorable to their interests. At important moments, they got it. For example, Timothy Pitkin of Connecticut declared that he would not consent to confiscating human beings unless "absolute necessity" required it.\(^21\) Passing a bill to abolish the slave trade constituted such a necessity. On January 7, after the principle of confiscation of contraband Africans had passed by a large majority, Bidwell of Massachusetts moved to amend the bill so that the government would not sell any person thus confiscated. This vote resulted in a 60-60 tie, broken by Speaker Macon of North Carolina, who cast his vote against the amendment. Southerners had carried the matter only with the aid of thirteen northern nays. Eleven of the thirteen northern dissenters

\(^19\) Annals of Congress, 9th Cong., 2d sess., 170, 172-74, 176, 188, 202-03, 221-24. Although Quincy became an increasingly outspoken opponent of slavery late in life, he had little use for "ultra-theories" on the subject as late as the early 1840s. See Robert A. McCaughey, Josiah Quincy, 1772-1864: The Last Federalist (Cambridge, MA, 1974), 203-14.


\(^21\) Ibid., 185.
represented mid-Atlantic states, suggesting the alliance of New England and the South, so evident in the Constitutional Convention as well as in earlier slave trade debates in Congress, did not hold on this occasion.\textsuperscript{22}

The final version of the law that emerged after more committee meetings and input from the Senate represented even further compromise. The seventh section decreed that those who captured a slaver could confiscate the ship but must deliver the human cargo "to such person or persons as shall be appointed by the respective States to receive the same," or to other state government officials if such a person could not be found. This provision could be read both ways: from a northern perspective, the national government would not confiscate these people and thus would not be countenancing property in man; white southerners received assurance that an intrusive federal government would not turn loose thousands of Africans to slaughter or be slaughtered in Dixie. Despite the strong sectional rhetoric, the South had gained a victory with crucial—if limited—northern acquiescence.\textsuperscript{23}

Another momentous issue which Congress debated hotly was that of punishing infractions under the law. Traditionally states affixed fines to their anti-slaving laws, and the original draft of this bill stipulated that the importer would be fined in addition to confiscation of the slave cargo. Once again it was a mid-Atlantic member who dropped the bombshell in the House chamber. On December 18, John Smilie expressed his "surprise to find no penalty attached to one of the highest crimes man could commit." Insisting that any captain of a slave vessel "was guilty of murder," Smilie suggested they define participation in the slave trade as a felony punishable by death.\textsuperscript{24} When a committee report later recommended a punishment of five to ten years imprisonment, northerners quickly went on the offensive. Some speakers echoed Smilie's claim that the traffic was tantamount to murder, and Smilie himself called it "a crime above murder. It is man-stealing added to murder." Benjamin Tallmadge of Connecticut dug into his Bible and quoted Exodus 21:16: "And he that stealth a man and selleth him, or if he be found in his hand, he shall surely be put to

\textsuperscript{22} Ibid., 265-67. For the alliance of New England and the South, see Kaminski, ed., \textit{A Necessary Evil?} 201.

\textsuperscript{23} \textit{Annals of Congress}, 9th Cong., 2d sess., 1268-69. It took southern states many years to legislate on contraband slaves, and most of the laws that finally were passed sold them—the exception being Georgia's 1817 law, which allowed them to be sold or delivered to "the Colonization Society to be transported" at the Society's expense. See Du Bois, \textit{Suppression of the African Slave Trade}, 109, 247, 249, 254-55, 274.

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death.” If such a punishment was “Heaven decreed for man-stealers and man-sellers in the days of the Jews,” had that crime “become less heinous in our day, that the same penalty should not be inflicted now?”

Representatives of southern states soon rose to answer this indictment of all persons who had bought or sold slaves. Edward Lloyd of Maryland questioned the applicability of the Mosaic code for the enlightened modern day. North Carolinian James Holland dismissed the “bloody” laws of Moses and suggested that “if that good old book is brought in, many things will be found on the other side. Slavery appears to be tolerated there.” Not yet the full-scale biblical warfare of the later antebellum period, here we see what David Brion Davis has called “initial salvos.”

Southerners tried to rescue the slave trade from such a complete moral stigma, even though they did not try to claim it was a positive good. Lloyd denied that traders were “man-stealers”: “very few of the negroes brought into this country are kidnapped and stolen away.” Three-fourths of them were captives of African wars, “sent abroad on account of the vindictive spirit of those people.” Holland went further, claiming the trade only transferred the slave “from one master to another,” adding that the condition of the slaves “in the Southern States is much superior to that of those in Africa. Who, then, will say that the trade is immoral?” Connecticut Federalist Theodore Dwight responded: “Who empowered us to judge for them [African slaves] as to which is the worse and which the better state? Have these miserable beings ever been consulted on the question of their removal?” Not to be outdone, Peter Early explained that “in the Southern section of the Union,” the slave trade was not “an offense which nature revolts at.” Southerners might “deprecate slavery as an evil; as a political evil, but not as a crime.” Thus the government could expect no southerner to “send a slave trader to his death.”

At the end of the long debate, on December 31, the House voted 63-53 to strike out the clause that inflicted “the punishment of death on owners and master of vessels employed in the slave trade.” The vote was sectional, but not sharply so. The South delivered fifteen of the fifty-three votes in favor of the death penalty, while the North stood almost even with the South in voting to strike it out. The sectional balance was very similar in a vote on the same subject two weeks later. The act ultimately decreed a

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26 Ibid., 236-37, 240. See also David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823* (Ithaca, 1975), chap. 11 (quotation at 531).
fine up to $10,000 and two to four years imprisonment. The hesitance of northern representatives thus helped the South gain another moral victory, and it was not until 1820 that the death penalty was affixed to smuggling foreign slaves into the United States.

The final debate over a provision of the bill again illustrated southerners' deep anxiety that over-reaching northerners would interfere in slave property. On February 12, Peter Early successfully moved an amendment exempting from prohibition the American seaborne interstate slave trade. When the Senate rejected this amendment, John Randolph took the baton from Early and carried the extreme southern position throughout the rest of the debates. The South would defy any measure, he declared, that outlawed the interstate movement of slaves, and "he would begin the example. He would go with his own slaves, and be at the expense of asserting the rights of slaveholders." If the slaveholder suffered any restrictions, he confirmed, they would soon find themselves forbidden from "going from one State to another." This concern with dangerous precedent would inform much of Randolph's continuing battle against prohibiting or regulating the slave trade.

The House decided to insist on its amendment, and the conference committee produced another version, this time forbidding the coastwise internal trade in vessels under forty tons. Early spoke "at length" against the provision, and Randolph objected that it "touched the right of private property," and "it might be made the pretext of universal emancipation." Randolph further predicted that "if ever the time of disunion between the States should arrive, the line of severance would be between the slaveholding and the non-slaveholding States." Nevertheless, by a mostly sectional vote of 63-49, this provision stood. Twelve men from the Upper South, voted for this restriction and only ten northerners voted against it. As with the other votes related to this bill, there was no clear partisan pattern.

The forty-ton prohibition continued to rankle Randolph. The average Atlantic slave vessel in this period bore 158 tons, but the coastal traffic that supplied many points south of Chesapeake Bay relied heavily on vessels under forty tons. Failing to defeat this provision, Randolph proposed an "explanatory act" that would "disclaim and disavow all Constitutional right, title, or authority whatsoever, by any legislative act, in any wise to abridge, modify, or affect the right of property of masters of slaves, not

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28 Ibid., 242-44, 483-84, 1268.
29 Ibid., 484, 527-28.
30 Ibid., 626-27.
imported into the United States” after 1807. This led to “a smart debate,”
in which Randolph even more clearly threatened secession: “if the law
went into force as it was, he doubted whether we should ever see another
southern delegate” on the floor of Congress. He, for one, would say, “if the
Constitution is thus to be violated let us secede, and go home.” “Whatever
might be thought of sedition, of alien, of excise laws,” he thundered, “they
were nothing to this.” He warned that the slave trade bill as it stood would
serve as an “entering wedge” in the abolitionist Yankees’ drive for
emancipation. Pennsylvania’s John Smilie replied that “the subject of
disunion has been so much spoken of lately, that I am afraid it may take
place.” If southerners agreed with Randolph, he wished they would come
forward and say so: “For God’s sake, if they are disposed let them go. We
trusted we were able to take care of ourselves, and he believed a disunion
would prove their destruction.”

Despite the over-heated rhetoric, little came of such talk. There was no
southern rush to Randolph’s banner of secession, and the explanatory bill
came to nothing. The session ended soon after this climactic debate, and
the slave trade bill became law without Randolph’s qualifier. Later that
year Randolph asked for a committee to reinvestigate the slave trade act,
but even with Randolph in the chair this committee apparently produced
nothing.

How meaningful were the fiery speeches and the sectional votes in
relation to the slave trade bill? Historian Donald Robinson has argued that
“in terms of intersectional politics,” these discussions in 1806-1807
“marked a turning point.” They demonstrated “growing southern unity, and
they showed a marked sectional cleavage.” The spirit of compromise was
obviously far from dead, and southerners had won crucial concessions from
their northern counterparts. Yet northern representatives had warned that
their constituents were growing less eager to compromise on slavery, while
southerners like Early had proved themselves unwilling to accept much
guilt about the peculiar institution. As William Freehling has written about
the “gag rule” debates three decades later: “the slavery issue momentarily
showed its potential to wrench everything national out of shape. The

31 Ibid., 636; The Phenix (Providence, RI), Mar. 14, 1807; Columbia Centinel
(Boston), Mar. 11, 1807; The Balance (Hudson, NY), Mar. 17, 1807; The Republican and
Savannah (GA) Evening Ledger, Mar. 19, 1807. For size of slaving vessels see Tommy
Todd Hamm, “The American Slave Trade with Africa, 1620-1807” (Ph.D. diss., Indiana
University, 1975), 116-17; and Walter E. Minchinton, “The Seaborne Slave Trade of North
moment passed. But the momentary scare prefigured all reasons why
slavery contentions were so dangerous."

Many arguments and issues prominent in later, more famous arguments
were evident in 1806. States rights, biblical and moral arguments about
slavery (with New Englanders now firmly in the antislavery camp), talk of
secession, and concern with setting dangerous precedents rang out in the
halls of Congress more than a decade before the Missouri controversy.
These were familiar and evolving assertions, and they would continue to
evolve for a generation. For instance, there was little talk yet of the
dearness of the Union so characteristic in the 1830s, 1840s, and 1850s;
Smilie, for one, seemed willing to let the South go its own way. Neither did
northerners sing the praises of free labor, as they would in the 1850s. Still,
sectional arguments received further attention and elucidation as they
surfaced in these debates.

The discussion also featured forays into criticism of slavery itself, no
matter how members tried to keep it restricted to the slave trade. This
element of the debates bears further comment. Several historians have
chided their colleagues for failing to distinguish between opposition or
support of the slave trade and opposition or support of slavery.
Southerners, they point out, could easily oppose the slave trade while
supporting and participating in slavery itself. But in 1806-1807 the
southern congressmen proved no better than others at keeping the questions
separate. On December 31, in the midst of one of the most heated debates
on slavery itself, William Ely, a Massachusetts man, tried to refocus
attention on this narrow distinction: "There is no connexion," he said,
"between continuing the trade and [southerners] continuing to hold their
present slaves." Yet the course of the disputes, including the one into
which he attempted to insert this reminder, made it nearly impossible to
condemn the slave trade without discussing the peculiar institution itself.

This was hardly a novel or surprising linkage. As early as 1775
antislavery spokesmen had publicly drawn a connection between abolition
of the slave trade and emancipation. Efforts to sharpen the distinction
between the two came to little in 1783 as Congress considered anti-slave

33 Robinson, *Slavery in the Structure of American Politics*, 337-38; Freehling, *Road
to Disunion*, 334. The debates over the gag rule were similar to the 1806-07 slave trade
fracas in that they were given only passing contemporary notice.

1982), 33; Peter Wallenstein, "Flawed Keepers of the Flame: The Interpreters of George
Mason," *Virginia Magazine of History and Biography*, 102 (Apr. 1994), 247-50; Paul
Finkelman, *Slavery and The Founders: Race and Liberty in the Age of Jefferson* (Armonk,
trade memorials. Throughout the late Federalist period, congressmen tried (unsuccessfully) to keep their debates on restricting the slave trade from touching on the field of slavery. In 1791, despite his opposition to the slave trade, James Madison declined to introduce a petition against the traffic into the House of Representatives, because “animadversions, such as it contains... on the slavery existing in our country, are supposed by the holders of that species of property to lessen the value by weakening the tenure of it.” Sometimes it was northern men who tried to convince their southern colleagues that anti-slave trade petitions should be separated from anti-slavery petitions. But southerners’ awareness of the correlation was kept fresh throughout the 1790s, as abolition societies sent memorials to state legislatures in the South, begging the end of the foreign and domestic commerce in bondmen “as a necessary preliminary to the extirpation of slavery.” When a Philadelphia newspaper reported the introduction of a slave trade bill in December 1806, the headline read, “ABOLITION OF SLAVERY.” When Senator Bradley took credit for introducing the slave trade bill, he referred to it as a “bill to prohibit slavery.”35 Indeed, we might see—as did many white southerners at the time—that the narrowest attacks on the slave trade threatened slavery at least by implication.

Slavery and the slave trade inextricably were linked in the minds of later antebellum Americans as well. As he fought for the freedom of the Amistad captives in 1840, John Quincy Adams claimed it was “impossible to separate the discussion upon the African slave-trade from the moral and political aspects of slavery.” Southern fire-eaters of the 1850s and 1860s understood the linkage too. William Lowndes Yancey of Alabama called for a repeal of federal slave trade laws, not to reopen the traffic but to purge from the statutes any “federal legislation branding slavery by implication as immoral.” Indeed, the 1806-1807 controversies paralleled many other early national and antebellum sectional donnybrooks in which debates over issues technically divorced from the morality of slavery spilled over into that dangerous territory. These slave trade debates, then, clearly belong to the unfolding drama of the politics of slavery.36

36 Adams, ed., Memoirs of John Quincy Adams, X, 450. See also J. Mills Thornton III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge, 1978), 375-76. Confederate leaders also were keenly aware of the “stigma” that the slave trade prohibition placed on slavery. See Drew Gilpin Faust, The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South (Baton Rouge, 1988), 74-75; Freehling, Road to Disunion, 455, 458; Linda K. Kerber, Federalists in Dissent: Imagery and Ideology in
But what of the impact of these debates beyond the chambers of Congress? Did the forcefulness of the legislators’ speeches seem important to contemporaries? Did they provoke the kind of response among the country’s leaders and in the public at large that was witnessed in the famous Missouri crisis “fire bell in the night”? Although the slave trade bill claimed much time in Congress, sometimes taking the whole day’s business, it seemed oddly unimportant to legislators and other government officials outside of their time on the floor of Congress. President Jefferson wrote little in reaction to the debates, although he did rejoice in the bill’s passage. The president’s correspondence during this period was dominated instead by foreign affairs, especially reports of Aaron Burr’s conspiracy.37

It is hard to find evidence that members of the Ninth Congress considered the slave trade debates a central event in the history of that Congress. Some scattered references to the bill appear in their writings. Vermont Senator Bradley boasted of his involvement in the bill. At least two other congressmen remembered the bill years later as an important milestone in their careers, but they did not remark on the heat of the debates. In 1829 Henry Clay recalled “with great satisfaction” in an address to the American Colonization Society, that it had been his “happy lot” to vote for a law that “terminated, we may hope forever, in the United States, a disgraceful traffic, which drew after it a train of enormities surpassing in magnitude, darkness, and duration, any that ever sprang from any trade pushed by the enterprise or cupidity of man.” After all, the law was a necessary part of the whitening of America to which the colonizationists were devoted. When Barnabas Bidwell, then living in Canada, read Clay’s address, he sent a copy of it to his son, remarking that “with Mr. Clay, I feel some satisfaction in recollecting the part I took on that subject.” And yet when legislators wrote to their constituents about the session’s business at the time, they wrote about the slave trade bill just as they wrote about other things they had accomplished; again, the only matter that received extraordinary attention was the Burr conspiracy.38

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37 Alexandria (VA) Daily Advertiser, Jan. 1, 9, 1807; Newport (RI) Mercury, Jan 17, 1807; Columbia Centinel, Feb. 21, 28, 1807; The Balance, Mar. 17, 1807. This conclusion is based on a search of The Writings of Thomas Jefferson, ed. Andrew A. Lipscomb (20 vols., Washington, DC, 1903), XI, 127-83, entries from Dec. 1806 to Mar. 1807.

SLAVERY OVERSHADOWED

What is striking about most participants’ papers is their silence on the subject of the slave trade bill.39 When dealing with events of this time period, their manuscripts dwell—like Jefferson’s—on foreign policy and the Burr conspiracy. Clearly Napoleonic escapades in Europe and Burr’s outrages along the frontier seemed more noteworthy for officers in the federal government than the rhetorical fireworks of congressmen in Washington, no matter how portentous the subject.

The slave trade bill did receive notice in the newspapers. A few papers featured editorials on the subject. One Boston editor decried the inconsistency of the unfinished bill that would have punished slave importers with death while selling contraband to be “added to the stock of slaves of the State!” Was not “the Receiver, in this case, as bad as the Thief?” Also critical of Congress (although apparently more out of habit than reaction to this bill) was the correspondent of a Hudson, New York, sheet, who used the slave bill, with its endless debates and committee referrals, chiefly as an example of congressional buffoonery. This same writer later decried Congress’s “waste” of time on the bill, and mockingly dismissed “Friend Sloan’s” emotional appeals. A third northern editor celebrated upon passage of the act, along with British abolition of the slave trade in the same month: “Thus...should the nations of the earth contend—who can do the most good, and the earliest. Divine emulation!”40

Many presses during these months aimed their contempt not at members of Congress but at South Carolina. In 1806 and 1807, when the legislature of that state kept the infernal commerce open, editors north of Charleston wrung their hands. The editor of the National Intelligencer in Washington led the way, complaining in 1806 that “our hopes are again blasted by the decision of the senate of South-Carolina.” In 1807, the same source declared that “the Senate of South-Carolina have inflicted another deep wound on the national character” by keeping the commerce alive. Papers everywhere reprinted these editorials.41

39 Josiah Quincy Papers; David Rogerson Williams Papers; Papers of Andrew Gregg, 1749-1830, in Gregg Collection, 1716-1916; John Randolph of Roanoke Papers; Samuel Smith Family Papers; Stephen Row Bradley Papers, in Henry A. Willard II Collection; George Michael Bedinger Papers; Nathaniel Macon Papers; Benjamin Tallmadge Papers; Manuscript Division, Library of Congress. See also Adams, ed., Memoirs of John Quincy Adams, I, 444-66; and Brown, ed., William Plumer’s Memorandum, 519-643, for evidence of how especially Burr dominated the Senate’s attention in those months.
40 Columbia Centinel, Dec. 31, 1806; The Balance, Feb. 17, Mar. 17, 1807; The Phenix, Apr. 17, 1807.
41 Daily National Intelligencer reprinted in The Maryland Gazette (Annapolis), Jan. 9, 1806; National Intelligencer and Washington (DC) Advertiser, Jan. 7, 1807; The Aurora,
The Federalist Charleston Courier led a spirited response. In January 1806, the editor noted that “for a considerable length of time past,” many northern papers had denounced Charleston’s participation in the slave trade. Now the senators who voted for the continuance thereof were presented as “horrid monsters in human shape.” He expected New England to be critical, “but that the Marylanders and Virginians should be among the number is certainly very ridiculous.” It was, the editor charged, Carolina’s purchase of African rather than Virginia slaves that truly “grieves them”—their new inability to profit from banishing “all their cut-throat scoundrels, who have been reprieved from the gallows.” By July when it was clear that “the hue and cry” against Charleston slavers had come as close as Raleigh, North Carolina, the editor resumed his theme. With their northern neighbors as with the Virginians, “it is neither the general impolicy nor the immorality of the trade which galls their withers; but, as it prevents them from smuggling their own villains into our state.” There was a worse “reason for their howling—it is a deep and sinister attempt to dissolve the affections and union of the people of the different states” by alienating the rest of America from South Carolina’s “manners, customs, and laws.”

This editor heaped contumely on more than just his near neighbors. Reacting to stories of Charleston’s “thieves,” he replied that the epithet might as well be applied “to the pure, the immaculate, and demure Philadelphians, and some other of the northern cities, where they are bellowing out, humanity! humanity! Oh! the rights of dear insulted nature!” For despite northern laws, it was “a fact known to every citizen of Charleston, that where there is one ship belonging to this port, employed in the slave trade, there are three vessels from the northern states.” Furthermore, to thus condemn Carolinians “is certainly neither the way to show their good sense nor their wish to harmonize the feelings of the people in the different states.” Juxtaposing this editor’s position with Congressman Smilie’s reply to John Randolph leaves us with a picture of the South in 1806-1807 more concerned than the North about Union.

The Federalist Charleston Courier took especial offense to Jefferson’s role in encouraging slave trade restriction. Despite the sacred compact


42 Charleston (SC) Courier, Jan. 22, July 12, 1806.

43 Ibid., July 10, 1806. A modern estimate shows that a somewhat smaller proportion, but still a majority of slave ships delivering to Charleston were not owned by natives of the place. Hamm, “American Slave Trade with Africa,” 98-102.
made in 1787, "Lucius" denounced "MR. JEFFERSON," who "wantonly, officiously, and unconstitutionally obtrudes on Congress, a recommendation in December, 1806, to legislate on this subject!!" Any act of Congress before "the first of Jan. 1808," "Lucius" explained, was "absolutely null and void." Therefore Jefferson "ought to have bottled up this frothy effusion of his morality and philanthropy."

"Lucius" was hardly alone in trying to use slave trade issues for partisan purposes, no matter how nonpartisan the sectional votes in Congress had been. A Federalist editor in Boston urged that, while they were at the task of reducing population flow into the South, Congress ought to repeal the three-fifths clause. "This would be a real amendment of the Constitution—an amendment loudly called for, by JUSTICE, and the principles of EQUAL REPRESENTATION; and would be perfectly in unison with the late recommendation of MR. JEFFERSON to abolish the Slave Trade!" A Federalist paper in Maryland condemned Jefferson for shamefully neglecting "the general welfare" while Congress went "groping" after "the African trade" and other trivialities.

Influential Republican editor, Benjamin Franklin Bache, who hated all things English, warned Americans to beware Great Britain's moves towards abolition of the slave trade. "We wish we could say," he wrote in an unconvincing phrase, "that the measure there was taken up with the same benevolent sincerity that it is pursued here" as led by Jefferson. But the "hypocritical" British regime was using the issue to keep Englishmen "blinded to the equally galling slavery which that enemy to all liberty was forging for themselves and other white slaves of the oligarchy of Great Britain." Labor in the West Indies, he claimed, was now to be supplied by Asian imports under the euphemism of "free labourers," which would produce a mortality rate "ten times more dreadful" on those islands because of the change from "the hardy, robust and unsusceptible African" to the frail "Asiatic." In short, "the tragic farce of [British] abolition is of the blackest hypocrisy."

All these editorial fulminations notwithstanding, what impresses the reader of the newspaper coverage of the 1806-1807 slave trade bill is its relative paucity. Several papers did print the debates at some length, a few

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44 Charleston Courier, Jan. 15, 1807.
45 Columbia Centinel, Dec. 24, 1806; Frederick-Town (MD) Herald, Jan. 24, 1807.
On the three-fifths rule, see Albert F. Simpson, "The Political Significance of Slave Representation, 1787-1821," Journal of Southern History, 7 (Aug. 1941), 315-42; and Kerber, Federalists in Dissent, chap. 2.
46 The Aurora, Dec. 23, 1806.
with small commentaries. Others published merely abbreviated reports or summaries. Other congressional debates—such as the one concerning a trade embargo against Britain—claimed much more copy in some papers than did the slave trade debates. Many printed the law soon after its passage. Some found room to print the act (which took up on average about three newspaper columns) only after a long delay, or never at all despite printing other national laws. A couple of newspapers did not even mention the bill.\footnote{Coverage may be found in: \textit{Daily National Intelligencer}, Mar. 6, 1807; \textit{The Republican and Savannah Evening Ledger}, Mar. 26, 1807; \textit{Newport (RI) Mercury}, Mar. 28, 1807; \textit{Connecticut Journal}, Apr. 9, 1807; \textit{Virginia Argus}, Apr. 14, 1807; \textit{New-Hampshire Gazette}, Oct. 20, 1807. The following showed scant interest: \textit{The Republican and Savannah Evening Ledger}; \textit{Newport Mercury}; \textit{Columbia Centinel}; \textit{United States Gazette} (Philadelphia); \textit{American and Commercial Daily Advertiser} (Baltimore); \textit{Connecticut Gazette}; \textit{Alexandria Daily Advertiser}; \textit{Daily National Intelligencer}; \textit{Connecticut Journal} (New Haven); \textit{New-Hampshire Gazette} (Portsmouth); \textit{Boston Gazette}; \textit{Virginia Argus}; \textit{The Aurora}; \textit{Spirit of the Press} (Philadelphia); \textit{The Aurora}; \textit{The Cumberland Register} (Carlisle, PA); \textit{Boston Courier}.}

Notwithstanding the variable coverage of this bill, there was one constant: in every paper, it was overshadowed by Europe and Burr. North, South, East, and West newspaper readers found plentiful information on Burr’s and Napoleon’s doings. Editors devoted roughly four times the space to Burr, and five times the space to Napoleon, that the slave trade debates occupied. Even in Washington, Burr took top billing far in advance of the sectional rhetoric reverberating in the halls of the Capitol. The editor of the \textit{National Intelligencer} summed up the state of the press nationwide from December 1806 to March 1807, when he wrote that “the great importance of the intelligence from the westward, has superceded much miscellaneous matter, as well as Congressional proceedings.” There is no evidence that the slave trade debates ever crowded out either of these other events.\footnote{This conclusion is based on a sample of twenty-one dates between Dec. 1806 and Mar. 1807 (as well as two from July 1806) in three newspapers from very different regions and with very different purposes: \textit{The Balance, Daily National Intelligencer}, and \textit{Charleston Courier}. The total columns devoted to the respective stories in those 23 editions are: Napoleon, 57 columns; Burr, 44; slave trade, 11.}

That European affairs should have received so much attention is not terribly surprising. After the First Congress, foreign affairs dominated the national deliberations throughout the early national period. This was due in large measure to the importance of foreign commerce to America’s economy.\footnote{Robinson, \textit{Slavery in the Structure of American Politics}, 250-51.} The European counter-blockades announced in 1806-1807...
further buffeted American commerce, demonstrating just how difficult it was for America to keep trade flowing during the European war. The struggle between Great Britain and France also became so inextricably tied to American partisan identities that affinities for England or France became ready indicators of American ideological persuasion. In a larger sense, the behavior of the great European powers was of intense interest to Americans concerned about the survival of their fragile republican experiment in a world of dangerous empires. The sense of the possibility of direct threat to America itself is evident in the fact that fortifying American ports and harbors was so earnestly discussed in Congress and the press at the same time as the slave trade bill.

Yet alongside the news from Europe was the newsprint devoted to informing Americans about the Burr conspiracy. One compelling reason for Burr’s dominance was that the affair sold copies like nothing else. Editor Bache in Philadelphia, for instance, received a letter in January from Nashville, Tennessee, saying that his “publications on Burr’s conspiracy have reached this place, and are universally admired, there never was such a demand for the Aurora, in this town, as it has been for some days past.” Many westerners, exceedingly anxious to distance themselves from any association with conspirators like Burr, paid close attention to the way eastern newspapers treated the West. “Savvy westerners,” David Waldstreicher has written, were “quite sensitive to the impressions and perceptions of themselves held back east and the consequences of negative portrayals,” especially since the national government’s headquarters were in the East.50

From a newsman’s perspective, Burr clearly made a better story than the slave trade debates. Although the latter took some unexpected turns, it was hardly a surprise that Congress was debating the issue; since 1787 Americans had anticipated that. The Burr story also had the elements of great drama: celebrity, intrigue, and possible foreign connections. Those foreign connections—featuring either the Spanish, British, French, or some combination—tied the Burr hearsay to the prevailing fears of the threat to America from abroad. Moreover, the rumors had something for editors on about any place on the American political spectrum. The gossip proved malleable enough to implicate both Federalists (it was rightly rumored that many of Burr’s supporters were Federalist types) and Republicans (after all, hadn’t Burr served as Jefferson’s vice president?).51

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50 The Aurora, Jan. 24, 1807; Waldstreicher, In the Midst of Perpetual Fetes, 275-78 (quotation at 277).
51 I am indebted to Bruce Guthrie of the University of Maryland, a former
More than simple sensationalism explains the imbalance in the coverage, however. A western country united behind Burr and backed by Spain was a more salient menace than what congressmen said in the House of Representatives, no matter how bold their suggestions of disunion. The western settlements of North America apparently seemed more poised for secession than a South which would not follow John Randolph’s call to leave the Congress—a call he himself did not heed. Neither did Americans yet feel the resonance of Randolph’s prediction—so prescient from our perspective—that any rupture of the Union would come along the North-South divide. Burr’s conspiracy touched a present danger on American minds since the 1780s: the threat that a foreign power in the West might exploit the grievances of a frontier population whose loyalties were suspect. Historian Peter S. Onuf argues that before 1815, American citizens saw “foreign manipulation of the ‘clashing jurisdictions and jarring interests’ of widely dispersed and doubtfully loyal frontier settlements” as “the clearest and most present danger to the union.” It was only in a second generation that slavery became the prime threat to the federal union. The actions of Burr in the West and the European powers in the Napoleonic conflict can thus be seen as two heads of the same hydra that many Americans saw threatening their Republic.

Although the slave trade debates of 1806-1807 did not hold an important place in the history of the Ninth Congress, they mark a milestone in the development of America’s sectional divide. The grandiloquence of the legislators caused precious little alarm beyond the old House chamber. Yet the expressions used in the debates featured a development and exposition of previous ideas that foreshadowed a later sectional breakdown that would one day command everybody’s attention. The increasingly cohesive sectional sentiments revealed in speeches and votes demonstrated the danger of discussing human bondage in the United States Congress. It is clear that Americans did not agree and were not apathetic about slavery and the African slave trade. Northern and southern representatives seemed keenly aware of how deeply their constituents cared about the issues they

Newspaperman himself, for the point on the newspaperman’s perspective. For the wide variety of rumors floating amongst even those with relatively good information on the Burr affair, see Thomas Perkins Abernethy, The Burr Conspiracy (New York, 1954).

52 Talk of secession was not novel enough to attract extraordinary attention in the early national period. See Simpson, “The Political Significance of Slave Representation,” 327.

were discussing, and they kept an eye on how their actions would play in their home states. Finally, in discussing the slave trade both sides knew that they were really discussing slavery itself. Americans cared about slavery, pro or con, before the Missouri Controversy; but they interpreted the relative importance of manifestations of sectionalism in light of what they perceived as the greater present danger, and not through the lens of the Civil War.