

one; but I do not think it is absolutely necessary to protect their rights; for although there are free negroes in this State, have been and will continue to be, whether the general system of emancipation is adopted or not, these negroes are bound by the laws of the State, and those that become free, will necessarily come under the same regulations and laws that bind those already free. Therefore I shall oppose any amendment or alteration in the report of the committee on the bill of rights, as it is now before the Convention, in this respect. I will vote against the amendment.

Mr. CLARKE. A word merely in reference to the provisions in the bill of Mr. Jacobs'. My own construction was that the Legislature possessed no constitutional power to enslave the free colored population; that the word "disposition" did not give the Legislature the power to enslave them but to dispose of them, preserving them as free colored population. I thought it was an unconstitutional exercise of power for the Legislature to do any such thing; and when the law which would have enslaved them was voted on in our county, I believe it got scarcely any votes. I never heard, in our section of the country, of any one's advocating either the constitutionality or the expediency of the bill. Therefore I do not suppose, so far as I am concerned, that this clause which I offer as an amendment, is open to that construction. It is very plain that as Mr. Lincoln used the term "dispose" in relation to this class of people, he does not regard it in that light at all.

Mr. STIRLING. I do not recollect whether Mr. Lincoln ever used the word "dispose" in that connection; but if he did, he evidently meant to dispose of them consistently with such and such provisions. But the language of the amendment gives to the Legislature the power to dispose of them according to their judgment and discretion.

Mr. CLARKE. It is "as they may deem necessary." I regard the "disposition" as qualified by the fact that they must remain "free colored population." The Legislature can only exercise power over them as free colored population.

One word more with reference to this proviso. It did not exist in the old Constitution of 1776, because there were very few free negroes at that time. That population increased, and it became necessary when the Constitution of 1850 was adopted, to put that class in. A still greater necessity will exist when you largely augment the number of the free colored population by emancipating the negroes, if it should be done. So much for the necessity of a provision.

With respect to the power of the Legislature to reduce them to slavery, it is proposed to incorporate into the bill of rights, this article:

Art. 23. That hereafter, in this State, there

shall be neither slavery, nor involuntary servitude except in punishment of crime whereof the party shall have been duly convicted; and all persons held to service or labor as slaves are hereby declared free.

If that is adopted, no lawyer in the world will say that with such an article in the Constitution, the Legislature would still have power to reduce the free colored population to a state of slavery.

Mr. STIRLING. I do not pretend to say that. I only say that under the Constitution of 1850 the Legislature would have that power; and, after we have wiped out the thing, it is inconsistent to put it back into the Constitution.

Mr. CLARKE. I understand the gentleman to argue that the adoption of this clause into the Constitution would enable the Legislature to enslave the free colored population under this Constitution. I did not think it would; and, if the gentleman admits that, the whole force of his argument is destroyed. But it does give the Legislature the power of colonization, which the gentleman says, if you do not put this in, would be denied to the Legislature—compulsory colonization. Now I desire that the Legislature should have such a power at any rate. I do not pretend to say that I would be in favor of compulsory colonization now; but contingencies may arise; and I do not wish to tie up the Legislature in that respect. I wish this clause inserted with that very view. If you do not put it in, you declare to-day that no free negro shall be colonized from the State of Maryland unless he chooses to go away voluntarily.

Mr. JONES, of Somerset. I would like to inquire of the gentleman of Baltimore city, (Mr. Stirling,) whether, if this provision is not added to the article as proposed, the Legislature of Maryland will have the same power and authority over the free colored population of this State that General Banks exercises in Louisiana over the free colored population there, under the present proclamation of emancipation. If it will be construed that the Legislature will have the same power, I should not object to the phraseology that is used. But I believe it would not impair the force of the article to add this to it, because it would only make it more clear. Instead of the 80,000 free negroes we now have in the State to regulate, there will be under the emancipation policy 180,000 or 190,000. If the experience which General Banks found in Louisiana after a few months trial, should be found to apply to Maryland, upon an experiment with that class of population existing in large numbers, without any constraint or regulation, that they would not work, that they would be employed by nobody except in fitful and occasional periods, a day or two perhaps in the week, or a few hours in the day, so that they become an intolerable nuisance and burden upon the community,