

BUREAU OF FREEDMEN'S AFFAIRS.

[To accompany bill H. R. 1.]

REPORT

OF THE

MINORITY OF THE SELECT COMMITTEE ON EMANCIPATION,

RELATIVE TO THE

Bill to establish a Bureau of Freedmen's Affairs.

JANUARY 20, 1864.—Ordered to be printed.

The minority of the Select Committee on Emancipation submitted their views.

To the honorable the House of Representatives :

The undersigned, a minority of the Select Committee on Emancipation, to whom was recommitted the bill "to establish a bureau of freedmen's affairs," beg leave respectfully to

REPORT :

That a careful examination of the provisions of the bill under consideration has convinced your committee that it not only involves grave and important questions, but likewise a task of great magnitude to overcome the legal and apparently just objections which arise upon a fair scrutiny of its contents. Humanity may be pleaded in favor of the passage of the bill, but great caution will have to be exercised, not only that the plea be well founded, but that no unintentional injustice be perpetrated thereby.

Among the many questions that arise, and which should, in the opinion of your committee, be satisfactorily disposed of before the bill is suffered to become a law, are the following:

1st. Has Congress the legal power to establish a bureau for the purposes contemplated in the bill; and are the matters intended to be legislated upon, within the province of and of a character to make them proper subjects for national legislation?

2d. Has Congress the constitutional power to impose a tax upon the citizens of one State to support the indigent freedmen of another State, no matter how humane and charitable the motive prompting the act?

3d. Will the passage of the bill in question produce the effect intended or

desired? May not results directly opposite from those anticipated by its friends flow from it, and a new system of vassalage, only differing in its appellation with the one hitherto existing between the freedmen and their masters, be inaugurated?

4th. Should not the bureau, if established, be under the control and direction of the Department of the Interior, instead of the War Department?

Your committee are of opinion that Congress has no legal power to carry into effect all the provisions of the contemplated bill. A plea of humanity, policy, or war necessity, may be urged in favor of assuming the power, and a forced construction placed upon the plain letter of the Constitution to sanction the act. But a great stretch of power, and an unwarranted perversion of the language of the fundamental law, will have to be resorted to in this instance to attain this end.

A proposition to establish a bureau of Irishmen's affairs, a bureau of Dutchmen's affairs, or one for the affairs of those of Caucasian descent generally, who are incapable of properly managing or taking care of their own interests by reason of a neglected or deficient education, would, in the opinion of your committee, be looked upon as the vagary of a diseased brain. No one would, for a moment, suppose that it would receive the serious consideration of any Congress; yet, equally strong claims, upon the score of humanity and philanthropy, might be urged with great force in their behalf. Why the freedmen of African descent should become these marked objects of special legislation, to the detriment of the unfortunate whites, your committee fail to comprehend. The freedmen when under the control of their former masters were taught to till the soil, to act as teamsters, boatmen, cooks; and many of them learned the mechanical branches of trade, rendering them not only capable of earning a livelihood, but becoming a source of revenue to their masters. The propriety of incurring an expenditure of money for the sole benefit of the freedmen, and laying a tax upon the labor of the poor and, perhaps, less favored white men to defray it, is very questionable, and, in the opinion of your committee, unwise and unjust, even admitting it to be lawful.

The establishing a bureau on Indian affairs cannot be cited as a precedent for the introduction of the bill on freedmen's affairs. Our relations with the Indians, which caused the establishing of a bureau, differed widely from those now existing between the United States and the freedmen of African descent. The necessity to see that the numerous treaties made with the various Indian tribes were faithfully adhered to, and to facilitate our business relations with them, were among the motives which prompted government to establish a bureau for the purpose, under the provisions of the Constitution. Your committee know of no instance where Congress has undertaken to legislate for the exclusive benefit of the Indians, or of any other class of people. The bill under consideration proposes to make the bureau subordinate to the War Department, and place it under the control of its Secretary. Its purpose is declared to be the adjustment and determination of all questions arising under any present or future law relative to the general superintendence, disposition, and direction of all persons of African descent becoming free by virtue of any proclamation, military rule or order, or by act of the State governments, with power to establish and enforce regulations such as may be deemed proper for the judicious treatment and disposition of freedmen; to assign to them lands for cultivation, to organize and direct their labor, adjust their wages, and receive all returns arising therefrom. The indefiniteness of the bill leaves you committee somewhat at a loss as to the subjects of its jurisdiction, or the method of its operation, but so far as its purposes are foreshadowed by the very general expressions used in the language of the bill, it seems to them liable to very great objections. It is well worthy of consideration whether legislation which is of vital importance to the existence of the nation should be interrupted to give place for the discussion and perfection of such crude and immature plans. No

important interests of the country would suffer by leaving the bill with its originators until they shall have matured an intelligent and well-defined system.

With the return of peace, the subject for which the bill is introduced loses, in the opinion of your committee, all affinity to the War Department, and should be turned over to the Department of the Interior, or some other co-ordinate branch of the government. Unless, therefore, the framers of the bill look to this war as the permanent and normal condition of the country, the powers intended to be granted should be attached to some other department.

The system of government for freedmen proposed in the bill embraces the essential features of the administration of justice over a large portion of the resident population, and affects directly the rights and interests of all in subjects now protected by judicial action, the administration of which is secured by constitutional enactments. Yet it is destitute of the machinery necessary to secure the regular administration of justice, while the system is most likely to fall under the control of political retainers and partisans.

If these freedmen of African descent are still slaves, and the government have inherited or taken by conquest the position of their masters, they are of course liable to be separated from the free population, have their tasks assigned them, and their wages controlled and established by the representatives of their masters; but if the Presidential proclamation has had any effect, and if they are freedmen in anything else but in name, in the opinion of your committee, the Constitution of the United States and of the several States prescribes that jurisdiction over most of the subjects mentioned in the bill shall be vested in the judiciary.

The only well-defined portion of the bill is that which limits the appointment to one principal commissioner, his immediate assistant, and a single assistant for each of the several States. Besides these, clerks are to be appointed at the head of the bureau in the city of Washington, without any limitation as to number, except that they are restricted to two in a class, but without any limitation as to the number of classes. In the several States there is to be one commissioner to each State, but as many superintendents and clerks as are necessary, which necessity, of course, depends entirely upon the opinion of the head of the department, and their compensation is to be fixed by the same authority. It appears also depending entirely upon the necessity existing in his mind whether the number of such local clerks or superintendents shall equal or exceed the number of overseers formerly in use upon slave plantations, and whether the power of disposing and directing these freedmen, organizing and controlling their labor, assigning them lands, adjusting their wages, and receiving the proceeds therefrom, and of arbitrating and settling their difficulties, as provided by the bill, may not revive most of the odious features of slavery without its name. Under the provisions of the bill, the freedman may be as effectually stripped of the proceeds of his labor to build up the fortunes of an avaricious superintendent, as though he were under the control of a master, without enjoying the benefits of the protection and support the system of slavery affords.

Large sections of rebel slave territory have been brought within the military power of our government, and it is highly probable that still larger portions of such territory will be added thereto. Your committee cannot conceive of any reason why this vast domain, paid for by the blood of white men, should be set apart for the sole benefit of the freedmen of African descent, to the exclusion of all others, and leased for an unlimited time, thereby preventing its occupation, except by them, at least for a long time to come. It seems to your committee incomprehensible, nay extremely unjust.

The bill proposes to give to each petty superintendent the determination of all questions relating to the disposition and direction of all persons of African descent becoming free under any proclamation, military rule or order, or by any act of the State governments, with power to establish and enforce regulations

such as may be deemed proper for the judicious treatment and disposition of such freedmen, and with power to assign lands, &c. An institution like this, which assumes the functions of the judiciary over a large portion of the population, and combines with it the domestic management of the master over the personal and household matters of the freedman, cannot be carried out without spreading a net-work of officials over all the conquered States, as numerous as the slave masters whom this system supersedes.

Could this at once be made a self-sustaining system, to be supported by the labor which it controls and directs, and for whose benefit it is intended to act, there might be a semblance of propriety and justice in its proposed inauguration. But if it is to be converted into a grand almshouse department, whereby the labor and property of the white population of the country is to be taxed to support the pauper labor of the freedmen and mendicant officials of the country, its operations cannot be too closely scrutinized.

The government have as yet been rather unfortunate in their efforts in behalf of the freed slaves, and it seems to your committee to be very desirable that legislation upon this subject, if it can be done legally, should be confined to the absolute existing wants of the country. After the transition state through which we are now passing shall have ended, and the character and position of this class of our population shall have become better defined, the rights of the government to the title of the confiscated property determined by competent authority, it will be time enough to initiate a system adapted to their wants and capacities, and calculated for their protection and humane treatment.

Respectfully submitted.

MARTIN KALBFLEISCH,
ANTHONY L. KNAPP,

Minority of Select Committee on Emancipation.

WASHINGTON, *January 18, 1864.*

