AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 5: The Jacksonian Era—Democratic Rights/Free Speech/Congressional Debates on Free Speech and Slavery

The Petition Controversy (1836)[1]

Abolitionist petitions to Congress caused a free speech debate. These petitions urged Congress to abolish slavery in the District of Columbia or move toward abolition elsewhere. Many southern representatives believed abolitionist petitions were insulting and should not be received. Many northerners insisted that all citizens had a right to petition Congress. If Congress thought the request unwise or unconstitutional, the proper response was not to enact the proposed legislation. In 1837, the House of Representatives voted to receive abolitionist petitions, but then ignore them. The resolution declared, "That all petitions, memorials, resolutions, propositions, or papers, relating in any way, or to any extent whatever to the subject of slavery, or the abolition of slavery, shall, without being either printed or referred, be laid upon the table, and that no further action whatever shall be had thereon." Former president, now Representative, John Quincy Adams, declared that this resolution was "a direct violation of the constitution of the United States . . . and the rights of my constituents." For seven years, Adams and other northern Whigs fought against what became known as the gag rule. They were successful. In 1844, Congress voted to treat anti-slavery petitions as other petitions.

When reading the following materials, consider why this constitutional debate arose. Why did such southern representatives as John C. Calhoun think an important difference existed between refusing to receive a petition and denying the petition's request? Why did other Congressman think the right to petition Congress included the right to have Congress receive the petition? What do you believe were the actual stakes in this debate?

SENATOR THOMAS MORRIS (Democrat, Ohio)

Mr. MORRIS presented several petitions from citizens of Ohio, one of which was signed by ladies, praying for the abolition of slavery in the District of Columbia, and moved to refer them to the Committee on the District of Columbia.

SENATOR JOHN C. CALHOUN (Independent, South Carolina)

Mr. CALHOUN asked that the question should first be taken on receiving the petition. . . . He demanded it on the part of the State he represented, because one half of the Union was deeply slandered in these petitions. He demanded it, because the subject was not within the power of Congress. He demanded it that agitation on the subject might cease, for agitation must be the inevitable consequence of continuing to receive them. He saw in these petitions that eleven of the States of the Union were grossly slandered, and no man could put his hand on his heart and say otherwise. . . .

. . . He demanded the preliminary question as to receiving these petitions, because he was averse to an agitation which would sunder this Union. Sir, (said he,) we fear not these incendiary pamphlets in the South. The South was too well aware of what is due to itself to permit the circulation of those pamphlets. It was agitation here that they feared, because it would compel the southern press to discuss

[1] *Congressional Globe*, 24th Cong., 1st Sess. (1836), 77–83; *Register of Debates in Congress,* 24th Cong., 1st Sess. (1836), 2316.

the question in the very presence of the slaves, who were induced to believe that there was a powerful party at the North read to assist them. He objected to receiving these petitions, because the country was deeply agitated by them: because they were sundering the bonds which held this Union together. As a lover of the Union, he objected to receiving them: nay, they must cease, or the southern people never can be satisfied. And how (asked Mr. C.) will you put a stop to them? By receiving these petitions and laying them on the table. No, no. The Abolitionists understood this too well. Nothing would stop them but a stern refusal, by closing the doors to them, and refusing to receive them.

SENATOR MORRIS

The question now is, have these petitioners the right to be heard by this body, who possess primary, complete, and exclusive legislation upon this subject. This right, he said, was secured to them in the most ample manner by the provisions of the Constitution itself. That instrument deprives the Congress of all power to make any law to abridge this right, the Constitution recognizing the right as original and inherent, and does not, in the slightest degree, permit Congress to interfere with it as a right. Upon this constitutional provision the petitioners have placed their feet as upon a rock, which cannot be moved. . . . He said, if the right of petitioning Congress was deemed of so much importance as to be declared by the Constitution a right which the Congress should not abridge, with what propriety, then, shall one branch of Congress undertake to declare that petitions shall not be received, on the ground that the object which the petitioners seek to obtain is not in the power of Congress to grant, or that the words used by the petitioners are such as ought not to be heard. He would ask gentlemen, if this was not abridging the right of petition; if Congress could prescribe the matter and form in which petitions should be presented, he thought there was at once an end to the right of petitioning. . . .

SENATOR ALEXANDER PORTER (Anti-Jacksonian, Louisiana)

. . . No man could value more highly than he did the right of the people peacefully to assemble and petition for a redress of grievances. It was a right which his vote should always sustain. But he should be glad to know how the motion of the gentleman from South Carolina, or the vote he was about to give on it, could be considered as restraining the right of petition. Did not the same power which conferred on petitions, also confer on Congress the right to reject them, if, on examination, their prayer should be found unreasonable and unjust? And if they had this right, had they not also the right to say so at once?

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SENATOR SILAS WRIGHT (Democrat, New York)

. . . Without discussing the question, he thought every Senator would concede that a general impression prevailing among our whole people, of every portion of the Union, that the right to petition Congress in respectful terms and a respectful manner was one of the broadest rights secured by the Constitution. Refuse it upon the broad principle as relating to this subject, and these malignant agitators will seize upon the act to draw themselves and their cause the public sympathy. They will represent themselves as having been denied their constitutional rights, and as being the subjects of unjust and unreasonable persecution; and, once able to occupy that ground plausibly, they will become vastly more dangerous than they can ever make themselves by any efforts of their own.

Mr. W. said, it appeared to him that a unanimous expression of the Senate, if that could be secured, was of the greatest importance, as being much more calculated to allay excitement in every portion of the country, than any peculiar form of expression which might be preferred by any sectional interest. Under this impression, he had hoped that the liberal and patriotic proposition of his friend from Pennsylvania [James Buchanan] would have been adopted by universal consent; and these petitions, and all others upon the same subject, if not clearly unexceptional in their language and manner, would be

received, be permitted to be read at the Clerk's table if desired, and then that the prayer of each would be promptly rejected, without one word of debate, and by the vote of every Senator. . . .

SENATOR CALHOUN

. . . If, as the gentleman said, he petition was to be immediately rejected, why receive it at all. Would the gentleman say that a refusal to receive the petition would press in the slightest degree on the constitutional right of the people peacefully to assemble and petition for a redress of grievances? If the gentleman had made up his mind to reject the petition, he could have no insuperable objection to refuse to receive it. . . .

SENATOR JOHN QUINCY ADAMS (Anti-Jacksonian, Massachusetts)

. . . [H]e wished [the petitions] referred to a committee which would make a report that would satisfy the petitioners that their prayer ought not to be granted. He begged of those who could command a majority in the House, and who were unwilling as he was to make the abolition question a stumbling block, to take a course which would treat the petitions with respect; to examine and present with the utmost force the reasons which would justify the House in not granting the prayer of the petitioners.

He believed that to be the best course to effect the desired object. He believed it to be the true course to let error be tolerated, to grant freedom of speech, and freedom of the press, and apply reason to put it down. . . .