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Speech of Mr. Blaine of Maine in Favor of Amending the Federal Constitution by Striking Out the Clause which Prohibits the Taxing of Exports

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"No Tax or Duty shall be laid on articles exported from any State."

[Federal Constitution, Art. I, § ix, ¶ 5.]

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S P E E C H

MR. BLAINE, OF MAINE,

In favor of amending the Federal Constitution by striking out the clause which prohibits the taxing of Exports.

Delivered in the HOUSE OF REPRESENTATIVES, Second Session, Thirty-Eighth Congress,
THURSDAY, MARCH 2d, 1865.

Mr. SPEAKER:

I am aware that it is a very grave step for Congress to propose an amendment to the Constitution of the United States. A change in that "great charter of our rights and liberties" should be made only after the most mature deliberation and under the conviction of an imperious public necessity. There has always been in the American mind a well-founded and justifiable prejudice against tampering with the provisions of our organic law—a prejudice so settled and so strong that it has been overcome in but three instances since the organization of our Government in 1789. I trust and confidently believe that the fourth instance will be found in the adoption of that great amendment in the interest of Impartial Freedom which Congress has so recently submitted to the States for their acceptance or rejection.

I speak now in advocacy of a fifth amendment—one which in my judgment is absolutely essential to the financial success of the Government, and to the commercial, manufacturing, and agricultural prosperity of our country in all future time. It is an amendment which I had the honor to propose during the last session of Congress, and which was embodied in the following resolution adopted by the House on my motion, on the 24th of March, 1864:

Resolved, That the Judiciary Committee be directed to inquire into the expediency of proposing an amendment to the Constitution of the United States by striking out the fifth clause of section nine, article one, which forbids the levying of "a tax or duty on articles exported from any State."

The subject was referred anew, in December last, to the Committee of Ways and Means, and it was expected until very recently that it would be brought before the House for definite action before the expiration of the Thirty-Eighth Congress. The pressure of public measures already on the Calendar seems now to forbid all hope of securing a vote on the proposition during this session; but I cannot allow the occasion to pass without saying a few words in defense and support of the proposed amendment, and of the great change which it contemplates in the future administration of our system of taxation and finance.

The subject of taxing exports—or rather of giving Congress the power to do it—was discussed at great length in the Convention of 1787; and one of the marked errors of subsequent times is the very general belief that the Convention inserted the constitutional prohibition by a very decisive vote. Another erroneous belief, quite as current as the foregoing, is that which attributes the advocacy of the prohibitory clause to the Southern or "staple States," as George Mason termed them, and the opposition thereto to the Northern States. The facts of history do not sustain either of these assumptions, as I shall proceed to show by a record that is undisputed and indisputable.

Any one who will take the pains to peruse the synopsis of the debates of the Constitutional Convention, as given in the Madison Papers, will be struck with the fact that many of the strongest men of that august body—the really far-sighted statesmen among its members—were opposed to the insertion of the clause prohibiting a tax on exports; and of these there were even more conspicuous examples from the South than from the North.

Mr. Madison himself, at one point of the discussion, expressed himself thus:

"As we ought to be governed by national and permanent views, it is a sufficient argument for giving the power over exports that a tax, though it may not be expedient at present, may be so hereafter. A proper regulation of exports may, and probably will, be necessary hereafter, and for the same purposes as the regulation of imports, namely, for revenue, for domestic manufactures, and for procuring equitable regulations of commerce from other nations."

At another stage of the debate on the same important subject, Mr. Madison spoke as follows:

"First, the power of laying taxes on exports is proper in itself and as the States cannot with propriety exercise it separately it ought to be vested in them collectively; secondly, it might with particular advantage be exercised with regard to articles in which America is not rivaled in foreign markets, as tobacco, &c.; thirdly, the southern States being most in danger, and most needing naval protection, could the less complain if the burden should fall somewhat heaviest on them."

Mr. John Dickinson, of Delaware, said that

"The power of taxing exports might be inconvenient at

present, but it must be of dangerous consequence to prohibit it with respect to all articles and forever."

Mr. Gouverneur Morris, of Pennsylvania, in reply to what he regarded as sectional arguments, remarked that

"Local considerations should not impede the general interest. He considered the taxing of exports to be in many cases highly politic. All countries having peculiar articles tax the exportation of them, as France her wines and brandies."

And he added in another place:

"That the state of our own country would change, and render duties on exports of peculiar raw materials politic in view of encouraging American manufactures."

And he concluded by declaring that "*taxes on exports would be often more proper and easy than taxes on imports,*" and that

"To prohibit it altogether was so radically objectionable that it might cost the whole system the support of some members."

Mr. James Wilson, from the same State, one of the purest and ablest men of the Convention, followed Mr. Morris in support of the same position. He declared himself "decidedly against prohibiting general taxes on exports," and in subsequently debating the question he remarked that

"In favoring the general power over exports he opposed the particular interest of his own State. To deny this power is to take from the common Government half the regulation of trade. It was his opinion that a power over exports might be more effectual than over imports in obtaining beneficial treaties of commerce."

Mr. Rufus King, of Massachusetts, opposed the prohibition as a measure "introducing a weakness which will render common defence more difficult."

But I need not multiply these quotations. I have cited enough to show that this prohibitory clause was not inserted in the Constitution without very serious opposition from many of the leading minds of the Convention. The citations I have made demonstrate also that this opposition was not based on narrow, local, and sectional grounds, but that it sprung from great national considerations, overriding all these. Neither the support nor hostility to the measure was determined by geographical lines. The statesmen from whom I have quoted represented alike the New England States, the Middle States, and the Southern States—the three great divisions then comprising the whole country. So on the other hand, among those who labored to deprive the General Government of all power over exports, we find Gerry of Massachusetts, Langdon of New Hampshire, and Ellsworth of Connecticut, quite as zealous and resolute as Mercer of Maryland, Mason of Virginia, and Rutledge of South Carolina.

When the Convention approached a vote on the question, Mr. Madison perceiving the probability of the prohibitory clause being adopted, attempted to have it amended so that an export tax might be laid by Congress "with the concurrence of two thirds of each House." He stated that he considered this "a lesser evil than total prohibition," and on this proposition the test vote was taken. Eleven States were present; five voted in favor of Mr. Madison's motion

and six against it. Of the six, Virginia was one, and her vote was carried against it by a majority of one in her delegation—it appearing on the record that Mr. Blair, Mr. Mason, and Mr. Randolph voted no, while Gen. Washington and Mr. Madison voted aye. A single member of the Virginia delegation, against the wise and considerate judgment of Washington and Madison, is thus responsible for the vote which deprived Congress of all power over the exports of the country. No important provision in the entire Constitution was adopted by so slight a majority and against the strenuous opposition of leading men.

Thus much, Mr. Speaker, as to the origin of this prohibitory clause, with the circumstances attending its adoption. Stoutly as its introduction was resisted, it has remained in the Constitution without cavil or question from that day to this—a proposition to strike it out never having been submitted in Congress prior to the one I am now discussing. Indeed, the perfect ease with which the national Treasury has been filled from tariff duties, up to the beginning of the present war, continually obviated the necessity of looking to other sources of revenue, and hence very naturally little thought has been given to the immense sum that might be derived from a judicious tax on exports. But Mr. Madison and his distinguished associates, from whom I have quoted, admonished the Convention that the time might come when an export tax would be a necessity, for the triple object of obtaining revenue, of encouraging domestic manufactures, and for procuring equitable treaties of commerce with foreign nations. The period thus anticipated by the wise statesmen of 1787 has arrived, and for the maintenance of our national credit in the trials and crises of the immediate and distant future, there is an absolute necessity that Congress shall have the power to levy a tax on exports.

Of course a wise and cautious discrimination is to be exercised in selecting the articles and commodities that will bear a tax of this character. The general and obvious distinction is to tax such and such only as have no competing product in foreign marts, or at all events such weak competition as will give us the command of the market after the commodity has paid its export dues in this country. As an illustration, take cotton, which is our leading export in time of peace. It is believed with confidence that the American product can pay an export tax of five cents per pound and yet with ease maintain its pre-eminence in the markets of England and the European continent. Our export in a single year has reached three million two hundred thousand bales of five hundred pounds each, and it would rapidly run beyond that figure after peace is restored and the competition of free labor is applied to its production. But if it should never go beyond the quantity named, an export tax of five cents per pound would yield a revenue of *eighty million dollars* from this single article, as any one will see by a moment's calculation.

Tobacco and naval stores also afford a large margin for an export tax, owing to the superior quality and quantity of the American production of each article.

Without attempting to weary the House with a parade of statistics, it may be sufficient to state that in the judgment of our best economists the three commodities to which I have referred would jointly yield in time of peace a coin revenue of \$100,000,000, without in any degree impairing their command of the markets where they have always been purchased so readily. Of tobacco alone our export in a single year has exceeded the enormous figure of two hundred million pounds, and a very large proportion of the revenue of France and some other European Governments is derived from the duty laid upon its importation. Might we not, at all events, share with foreign nations the advantage of the enormous tax which this article of luxury will bear, making them pay a moiety into our coffers instead of monopolizing it all for their own? Should petroleum continue to be developed in such immense quantities, without being found elsewhere, it too, will in due time bear a very considerable export tax, as indeed will all articles (without attempting their specific enumeration) whose production is peculiar to this country, or whose quality may be greatly superior to products of similar kind in other countries, or, in the comprehensive phrase of Mr. Madison, "articles in which America is not rivaled in foreign markets."

The fear which has often been expressed that the Congressional power to tax exports might be used to oppress certain sections and to discriminate against particular commodities is manifestly groundless. It is always safe to trust to self-interest in a nation as well as in an individual. The highest national interest in the matter we are discussing is to encourage exports in every honorable and practicable way, and the moment that an export tax should tend to check or decrease exportation that moment it would be abolished or reduced. Of course there must be exportation before revenue can be derived from an export tax, and hence I repeat that the interest which underlies the whole design affords the most absolute guaranty against any oppressive attempt to discriminate against any section or any particular commodity.

Intelligent gentlemen will tell us, however, that Government can just as efficiently collect the tax on any given article through the excise system of our internal revenue as by levying an export tax, and they hence argue against any necessity for the proposed amendment to the Constitution. I take issue upon this point, and I maintain that an excise tax upon raw products intended to be shipped to foreign countries will prove disadvantageous, if not absolutely disastrous, both to the producer and the Government, and that the export tax is far preferable, viewed from any stand-point whatever. Let us analyze the process and effect in the case of cotton, as an example, assuming that it is but fair to apply the same arguments to all other articles of large export.

Practically, an excise tax should be as far removed from the source of production as possible; the more remote the less the burden; the nearer it comes the more oppressive it grows. Government derives to-day a very large revenue from distilled spirits, malt

liquors, and wines; but should an attempt be made to tax the corn, the barley, and the grapes out of which these articles are made the effect would be most disastrous. Tobacco in its manufactured state pays a very large revenue with perfect ease; but if a tax should be laid on the leaf I predict that production would be greatly discouraged and the revenue correspondingly diminished. So, sir, if you lay an excise upon cotton you increase immensely the difficulties of production, and must of necessity diminish the amount produced. The export tax which I have stated cotton would bear amounts to twenty-five dollars per shipping bale, and the attempt to collect that amount by excise tax on each plantation before the cotton could be removed for sale would prove an intolerable burden to the producer. The small farmer, with a crop of only forty bales, would be compelled to raise \$1,000 in coin or lawful money before he could send a pound of his cotton to market; and the large planter, with a thousand bales, would have to make an advance of \$25,000, beside all the cost of production, before he could realize a penny in return. Such a system of taxation would be destructive; it would place the enterprising producer, who most of all deserves the patronage and protection of the Government, under a perpetual mortgage, and would subject him to the exactions and heavy charges of the speculative usurers, who would at once spring up to feast and fatten upon his capital and his industry. The law which would permit that would be reckless of the highest interests of agriculture, commerce, and the general prosperity of the country.

And now, sir, a glance very briefly at the other side. Let cotton be relieved from all excise tax, and let it be bought and sold and freely moved from point to point within our own country, without tax or charge of any kind whatever. Let the planter carry it to market without any hindrance, and when it reaches the point of exportation, having passed from the hands of the producer into the possession of the capitalist or speculator, let the Government, as it is placed on shipboard for transportation to foreign markets, exact its tax of five cents per pound. Collected there and then, it comes from those who are able to pay it, who pay it just on the eve of realizing its return on the other side of the water from the pockets of foreign buyers, and who pay it in a way that does not embarrass or oppress the producer nor tend to decrease production.

Not the least advantage, Mr. Speaker, in this mode of collecting the tax, is the cheapness with which it can be done. The points of shipment of cotton are so few that you may count them on your fingers; and the tendency, owing to the converging of water courses and railroad lines, is against any increase in the number of these ports. The same officers of customs that are already there to collect your tariff duties can perform the labor of collecting the export duties, without a dollar's additional expense beyond the salaries of a few extra clerks that the increase of business might demand. Compare with this the vast expense of sending an army of excisemen throughout all the cotton and tobacco plantations, and you will find that the



system of export duties would effect a saving of millions to the Government, simply in the mode of collection. And, sir, you could invent no more offensive system of taxation than would be involved in sending your Government agents to every rural home in the planting regions to interrogate the farmer as to the number of bales in his cotton crop, or how many pounds of tobacco he had raised. The officials who should perambulate the country on such errands would acquire in popular opinion as bad a reputation as Dr. Johnson in his dictionary fastened on the English exciseman—"an odious wretch, employed to collect an unjust tax."

The great statesmen whom I have quoted in the earlier portion of my remarks as against the insertion of this prohibitory clause in the Constitution, among other grounds of opposition to it, stated that an export tax might be necessary "for the encouragement of domestic manufactures." Sir, this result would be realized in its fullest extent if cotton should be subjected to an export tax of five cents per pound, leaving that consumed at home free of duty except the excise tax which would be levied upon it in the various forms of its manufacture. With this vast advantage in the raw material we should cease to wrangle here about tariffs, for we could in our home markets undersell the fabrics of Europe, and should soon compete with them in the markets of the world. The export tax, as compared with the excise, would thus prove beneficent to all the interests of our country, stimulating the production of the raw material and developing the manufacturing enterprise of the land in a ratio compared with which the accomplishments of the past would seem tame and inconsiderable.

The amendment which I am advocating, Mr. Speaker, is not a snap judgment against the interests of the southern States, to be hurried through here in the absence of their Representatives for fear their presence might defeat it. If there be any logical truth in the views I have so imperfectly presented, it is the interest of the planting States to have an export tax, and were those States fully represented on this floor to-day I have no hesitation in saying that they would from necessity and self-interest support this amendment. And for this obvious reason, sir: it is evident to every one that when this war is over and the Federal authority firmly reestablished, cotton and other southern products must pay their fair share of the national revenue, and the choice is simply between an excise tax

and an export tax. With such an alternative no one can doubt that the South would choose the export duty as the least burdensome and most advantageous to its peculiar local interests. The industrial system, the financial ease, the vital prosperity of the planting States, would demand an export tax in preference to any other that could be laid on their products by the Federal Government.

In the future of our country, Mr. Speaker, the great task and test of statesmanship will be in the administration of our finances and the wise distribution of the burdens of taxation. We began our career as an independent nation without money, without credit, and with an oppressive load of debt. But a great genius in the person of Hamilton evoked order out of chaos, gave stability to the Government, imparted confidence to the people, and established public credit on so firm a basis that, until the breaking out of this wicked rebellion, we had scarcely known an hour's serious embarrassment to our national Treasury. Unless we are guided by counsels of wisdom we may not be so fortunate in the future as we have been in the past. An immense amount of money will be required to meet the interest on our national debt, to maintain our Army and Navy even on a peace foundation, and to defray the ordinary expenses of civil government. The revenue for these objects may be raised so injudiciously as to cripple and embarrass the commercial and industrial interests of the whole country; or on the other hand the requisite tax may be so equitably distributed and so skillfully assessed that the burden will be inappreciable to the public. Whoever as Secretary of the Treasury shall accomplish the former and avoid the latter result, must be armed with a plenitude of power in the premises. He must have open to him the three great avenues of taxation—the tariff, the excise system, and the duties on exports; and must be empowered to use each in its appropriate place by congressional legislation. At present only two of these modes of taxation are available, and the absence of the third, in the language of an eminent statesman already quoted, "takes from the General Government half the regulation of trade." It is for Congress to say whether the people shall have an opportunity to change the organic law in this important respect, or whether with a blind disregard of the future we shall rush forward, reckless of the financial disasters that may result from a failure to do our duty here.