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number of man

ie, more or less remote, depending upon the
each year. . . .

The question
confronting the
damaging as indifference; still more damaging, however, is fear.

cupies me is the most serious among those now
intellect. In this matter too much oratory is as

Certainly the government that would propose moving firmly toward
this goal—the emancipation of labor—would find itself entangled in a
web of problems. It is easy in such a situation to lose balance and to call
for violence, as the means of cutting the knot; however, it is more worth-
while to prepare a logical solution, even if it should be a slow one. . . .

And the Omnipotent One, who placed this mountain of slavery into
Brazil's path, will inspire her sons with the courage required to remove
it.

Such is my belief and hope.

I am, sir, yours most respectfully, etc.

Tavares Bastos.

10.4. "Slave Property Is as Sacred as Any Other": A Chamber Member Opposes Free-Birth Legislation (1871)

The main solution to the "servile question" which the emperor, Dom Pedro II, decided to pursue in the 1860s was the "liberation of the womb," that is, the freeing of the newborn children of slave women. During the Paraguayan War (1864-1870) the monarchy tried at intervals to prepare the nation for this reform through official speeches and publications, but when it became clear at war's end that the Crown was at last seriously promoting rapid passage of a free-birth law, powerful opposition materialized at once in parliament and in the press. Despite this resistance, Dom Pedro remained committed to free birth and to the other provisions of this legislation, which together were intended to improve Brazil's reputation abroad and to begin the difficult process leading to total abolition. To advance this reform, on March 7, 1871, after months of political maneuvering, the emperor appointed a Conservative Party cabinet headed by Viscount Rio Branco, a noted diplomat and politician from Bahia who was sympathetic to a free-birth law and possessed the talent, prestige, and conservative credentials needed to steer a bill through a reluctant parliament. The long debate on this bill, which began on May 12 and ended with its triumphal passage on September 28, 1871, was one of the most dramatic and hard-fought battles in Brazilian parliamentary history (for a copy of the Free Birth or Rio Branco Law in

English in its final form, see Robert Conrad, *The Destruction of Brazilian Slavery, 1850-1888* [1972], pp. 305-309).

The following excerpts from a speech delivered in the Chamber of Deputies on July 21 by an opponent of this legislation, José Inácio Barros Cobra of Minas Gerais, typifies the strong views held by many of the bill's adversaries. Barros Cobra was especially hostile to the free-birth provision, which he saw as a simple violation of the slaveholder's right to property. Although he claimed that Brazilians were "naturally generous" and that Brazilian slavery was "mild," this legislator, like some of his colleagues, warned the Chamber of Deputies that many of the children who would be freed if the bill was passed would be abandoned or allowed to die because their mothers' masters would not be motivated by a proprietary interest in their survival. The same opinion was expressed by Senator Cristiano Ottoni at about the same time (see Document 2.11).

Source: *Annaes da Camara dos Senhores Deputados* (1871), III, 249-263.

☛ Mr. Barros Cobra: Mr. President, Your Excellency and this chamber should recall that the nation experienced displeasure and tremendous shock when the first word regarding the solution of this grave question was spoken in parliament. (*Hear! Hear!*)

In 1867, for the first time, the Speech from the Throne called the attention of the legislative body to the solution of the great problem of the servile element. At that time, not only the press, but also the opposition in this chamber and in the Senate, rose as one man to reject and condemn the unheard-of irresponsibility with which, at that critical and difficult time, that delicate, complicated, and dangerous question was raised. Both political parties, Conservative and Liberal, . . . employed the same language, and with one voice rejected that rash endeavor.

The government was forced to yield before the clear will of public opinion; not only was no legislative bill initiated in the 1867 session, but likewise the Speech from the Throne of 1868 no longer requested a solution to the servile problem; it limited itself to stating that the matter continued to be the object of serious study on the part of the government.

This form of expression contained in the 1868 Speech from the Throne brought tranquillity to the nation, and this tranquillity was confirmed and consolidated when, on July 16 of that year, the Conservative Party, which during difficult days had so vigorously struggled against the unwise statement of the cabinet of August 3 [1866], was called to power. (*Very good!*)

The country did not believe, gentlemen, that the Conservative Party, whose outstanding past was so well known, would, once it was in power, use language different from that which it employed while in opposition; the country did not even imagine that the ideas of this party, once it reached the heights of power, would undergo such a profound change, so that that controversial and dangerous question could so soon again be brought before this parliament. . . .

Gentlemen, it is true that in this country there exists a point of view that demands a solution to the great problem of slavery. The existence of this opinion is undeniable in the abstract, in principle; fortunately there is not one Brazilian who wishes the permanent preservation of slavery in the Empire; in this sense there is unanimous agreement: the cause of abolition is definitely decided upon.

To the honor of the Brazilian Empire, we do not need to overcome the difficulties, prejudices, and animosities against which the legislators of France and the United States had to struggle; the natural generosity of the Brazilian character, the religious spirit and the principles of morality and civilization decided the theoretical question a long time ago.

But, if we can be proud of the existence of that unanimous opinion in respect to the humanitarian and civilizing idea, there is no doubt that public opinion does not reveal itself equally in favor of the ideas contained in the government's bill, or in favor of the solution that it calls for. . . .

No, gentlemen, this country, which had lulled itself to sleep in the shadow of the total confidence that it had placed in the government, which reposed serenely in the security that the Conservatives inspired; this country, which believed that a cabinet drawn from the Conservative Party, would never forsake the principles and the traditional wisdom of that party, does not want, cannot want, must not want that unwise solution. It is for this reason that, since the presentation of this ill-advised proposal, since the public has become aware of the method set forth in the solution, truly aroused fears, threatened rights, ardent and concerned patriotism, the science of politicians and statesmen, the ordinary wisdom and good sense of the citizens, all have combined and have sprung up to fight and condemn this rash enterprise. (*Very good!*)

When we attempt to solve this great question, we should not be motivated by abstractions, philosophical concepts, or sentimental inspirations, but rather by the high and venerable interests that are associated with it and that constitute the foundations of Brazilian society (*hear! hear!*); much may be said, much may be desired in this regard, but a study and practical knowledge of our circumstances and of what can reasonably be done are what should guide us, in order that we may go

forward securely. (*Hear! Hear!*) Gentlemen, I reflected very serenely about how we might most conveniently solve this important problem, which demands full attention and challenges the deepest meditation. I considered it with total calm, far from my legislative responsibilities, and with my mind uncluttered by other concerns. Momentarily the idea of freeing the womb seemed an acceptable method (to this chamber I confess the feelings of my inner conscience); however, further thought convinced me that this idea, which at first glance is so appealing, is the most dangerous way to go in this country. (*Hear! Hear!*)

History, that great preceptress of experience, shows us that almost all the nations that tried to abolish slavery gradually did not achieve this, but were instead forced to rush headlong and disastrously toward total abolition; this was the experience of England, France, and Portugal herself. A contrary example, such as that of the United States, may be mentioned; but none of those states had a tenth of the slave population which we have, and so cannot constitute an argument in favor of the government's bill. [This is not true; to cite just one example, in 1860 Georgia had a slave population of 462,000, more than any Brazilian province during that country's entire history.]

The illustrious special committee asked in their report: "What reasons do we have to fear that in our country things will go differently from the way they did in countries where, after experiencing the same exaggerated fears, the same transformations were brought about?"

But those countries did not find themselves in circumstances identical to ours; they did not possess the number of slaves that we unfortunately possess, nor was agriculture almost the sole basis of their private and public wealth; nor like us did they have a free population spread out over an immense territory and, in terrifying contrast, a slave population concentrated in the main production centers. These different circumstances call for different ways to cure the evil. (*Hear! Hear!*) . . . Brazil's circumstances in this regard are very special, and we must not lose sight of them.

The servile institution unfortunately appeared as a main element of our social organization, and for three long centuries it sank deep roots into our laws and soil; it represents immense and important capital investments, and almost the only instrument of agricultural labor. Agriculture is practically our only industry, and so almost the only source of our wealth and public revenue, of our prosperity and credit; as a result, the interests associated with slavery are extensive and complex; they are the interests of the entire society that relies upon them.

Almost all the other nations found themselves in quite different circumstances; slavery was localized in the colonies, at great distances, and

therefore its abolition could have no effect upon the metropolises. Even in the United States the difference was great, because also there slavery was localized in the southern states, which made up a small part of the republic; so that the solution to the problem there, if fatal to the South, did not damage the greatness and general prosperity of the republic. Besides, those countries were energetic and rich, with resources sufficient to overcome the crisis, and agriculture was not practically the only source of income; and, most important, none of them chose the least opportune moment, the most critical combination of circumstances, as our government did, to attempt to abolish slavery. (*Hear! Hear!*) . . .

Mr. President, from all the known methods leading toward emancipation, the government's bill selected as the best solution that of liberation of the womb, or, more accurately, the liberation of those born from the date of the law, with indemnification of the masters of those same newborn children, once they have reached the age of eight. Depending upon the masters' choice, this indemnification will be either monetary, that is, in the form of bonds valued at 600\$ each, maturing in thirty years, with a 6 percent annual interest rate, or they will take the form of the freed children's services until the age of twenty-one.

This solution, which the government and the bill's supporters have called the wisest and most agreeable solution, is, I repeat, the most dangerous of them all (*hear! hear!*); and, saying this, I am not guided by reason alone, but also by the example of other nations who were forced to make similar reforms.

In all those nations this measure had to be followed at once by others more decisive, which precipitated the final solution to the crisis. And why should this not be so? Do we not observe that the mere introduction of this proposal has already brought agitation and that, still more important, the enforcement of such a law will arouse false expectations among the slaves, desires for freedom, optimistic feelings of impatience which will become a source of great dangers and, who can predict? of great catastrophes for the society and for the slaveowners. (*Hear! Hear!*)

Do we not see also that, with this measure, we throw open the door to the demands of the impatient propagandists, who will prove ever more difficult to control as they attain more and more concessions? With this step forward, the national and foreign philanthropists will not be satisfied; they will want something more, and their foolishness, along with the certain intensification of the desires and strengthened hopes of the slaves, must lead us along a road that we do not wish to travel.

To me it appears that all these considerations deserve to be measured and evaluated, so that we will not march toward complete national disaster which will entail a threat to our institutions themselves. . . .

ANNO 3º Rio de Janeiro 19 de Agosto de 1871 Nº 101

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Semestre 81000	Semestre 101500
Trimestre 27000	Trimestre 33800

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30. Propaganda against the Free Birth Law of 1871: The Blindfolded Figure Symbolizes Agriculture (*Lavoura*) Menaced by the Hand of the Government Lighting the Powder Keg of the "Servile Element"

Mr. President, Article 2 of the bill now under discussion forsee a situation that constitutes one of the defects of the bill's main idea, which has been pointed out by the opposition: the abandonment of the liberated minors by their patrons.

Mr. *Gama Cerqueira*: Hear! Hear!

Mr. *Barros Cobra*: Doing justice to the generosity and natural humanity of the Brazilian character, I do not expect the law to produce a slaughter of innocent children. But, when the present interests of the masters are not sufficient to prevent a huge mortality among the newborn slaves, it can be seen as obvious that, with this great incentive lacking, the mortality will be much greater.

Concerning abandonment, however, it may be anticipated that it will take place on the greatest imaginable scale; since the promised indemnification is not adequate, as I will demonstrate, and because it is dependent upon many chance events and circumstances, there will be a complete loss of the incentive that otherwise would encourage masters to accept the efforts and burdens involved in rearing and educating the children of the slave women, along with the loss of the latter's services during the time they are burdened with pregnancy and motherhood. The law cannot, must not, rely upon charity, which is certainly a very beautiful thing, but cannot be relied upon when legislating for human beings. And what will the government do, with what methods and resources is it prepared to provide for at least half of the children who are born each year, that is, twenty or thirty thousand, according to the least exaggerated claims? The organizations [intended to care for the children] which are mentioned in Art. 2 have not been established, and when they are they will be a very small remedy compared with what will be needed.

Yet this is not the principal or even the greatest defect which I find in the bill; there are others which I request permission to examine quickly.

Above all, I must point out that the bill, as now conceived, is unconstitutional: 1st, because it disrespects the right to property; 2nd, because it grants political rights to a class which, according to the Constitution, cannot possess them.

However unjust, inhuman, and absurd the domination of one man by another, that is, slavery, may be, it is certain that this condition was legally established by civil law, which created and regulated the master's property right over the slave. Therefore, for good or for evil, slavery became a legal institution among us more than three centuries ago, authorized and protected by law and strengthened by its antiquity, and therefore slave property is as sacred as any other, though illegitimate in principle.

The law cannot impose upon the present generation the expiation of

a guilt which was not its own, and in which the state itself is an accomplice. It is enough to remember that the present owner of a slave was not the owner in the past and may not be in the future; he found this property established in the society into which he was born, and he obtained that property by purchase, trade, or inheritance, by some means, that is, for legally acquiring property. Therefore, this property is as sacred as any other, and to deprive the owner of it is a violent and evil act.

Appreciating the truth of these principles, the Speech from the Throne always called for respect for property as an essential condition for slavery reform; in its preamble to the bill, the government makes that guarantee, and the illustrious committee, straying from the realms of philosophy and religion to deny this principle, at last recognized it in chapters 8 and 14 of its written evaluation, and proclaimed the need for indemnification, *without which, it says, to suddenly wrest the slave from the master would be an act of unqualified violence.*

However, once the fact is accepted that slavery is legal, if not legitimate, equally legal is the right to ownership over the present slaves, as well as ownership of the slave womb and the children who may emerge from that womb. Our national law, the Portuguese as well as the Brazilian, always honored and acknowledged the Roman principle *partus sequitur ventrem*, and it was constantly and uniformly respected by the legal wisdom of our courts. Therefore the fruit of the slave womb belongs to the owner of that womb as legally as the offspring of any animal in his possession. However much this conclusion may offend our humanitarian feelings, it is undeniably logical and in conformity with law.

It is claimed that the right to unborn slaves does not yet exist because it is not confirmed by current possession. But, gentlemen, if in reality the material fact of birth and the effective and true possession of the fruit of the womb have not yet come into being, there is undeniably an acquired right to that fruit which is as valid as that of a tree's owner to the fruit that that tree may produce; there is a perfect identity of conditions.

However, the government's bill attacks and disregards this right, proclaiming the freedom of children of slave women born from the date of the law, and thereby expropriating from the citizen that which is legally in his possession, without prior compensation in compliance with the Constitution.

In fact, gentlemen, the bill refers to indemnification, but, whether it means monetary indemnification or indemnification through the services of the person freed, I look upon both of them as unreal and in no way sufficient. (*Hear! Hear!*)

Concerning monetary indemnification, we see that the child's master is not given an equivalent amount of money, or an amount over which he has full and free enjoyment and the right of disposition; he is to receive merely a thirty-year bond which represents nothing more than nominal capital and cannot be regarded as real indemnification, not even for the expenses of rearing the children.

Mr. *Gama Cerqueira*: Hear! Hear! It amounts to 36\$ a year, while in many places a doctor's visit costs more than that.

Mr. *Barros Cobra*: Aside from the fact that, in the final analysis, the indemnification is reduced to 1:080\$000 paid in thirty annual installments of 36\$, an amount which, if we consider the long period over which the payments are to be made, is equal to a slave's labor for two or three years, if indeed that much.

Passing on to an analysis of indemnification through services, supposing that a patron chooses it, . . . what does he receive? In the name of indemnification, he receives exactly the thing that he would obtain from his slave anyway, and for which he has a right to be indemnified.

The slave born of a slave woman, who belongs to her master in virtue of principles sanctified in civil legislation, represents capital and is an instrument of labor; however, it is understood that the value of the slave is precisely dependent upon the services that he can perform (*hear! hear!*); nobody would want an unused slave for the mere joy of possessing him. The capital here is represented by the instrument of labor, whose value is in direct proportion to the greater or lesser usefulness which as such he can render; in just the same way that the price of a slave is more or less, depending upon his capacity and fitness for work.

This being the case, which seems to me undeniable, it is entirely obvious that the intention here is to indemnify the masters with the identical thing that belongs to them by law, and which they cannot be deprived of without receiving full compensation. There is, however, a single difference: they are granted the use of the individual for thirteen years, a usufruct which, according to law, would otherwise belong to them for as long as the slave might live. It seems to me, therefore, that the right to property, sanctified and guaranteed by the Constitution of the Empire, which cannot be taken from the citizen of Brazil without prior indemnification, is in this case confiscated without any indemnification whatsoever, or with a false indemnification, which amounts to the same thing. . . .

Mr. President, I will now turn to an examination and evaluation of the bill's main provision, always assuming that the law may be carried out without serious disturbances and disorders which are unfortunately much to be feared. The bill imposes upon the masters the obligation to

rear and care for the children of their slave women until they are eight years old. I will not consider the problem of how this obligation will be enforced, and how compliance will be regulated. I will examine it from another angle.

It is known that, thanks to the generous and humane character of the Brazilians, slavery among us is so mild that the condition of our slaves is greatly preferable to that of the working classes of some European countries; on the largest agricultural establishments, order and subordination are maintained entirely by means of a prudent system of constant and severe discipline, in which careful preventive measures ordinarily make repression unnecessary. Once the proposed law is enforced, that system cannot be maintained, and it will be seriously and dangerously undermined by the simultaneous existence in those establishments of slave parents and free children, not as an exceptional or accidental situation, but as a regular and permanent reality, and by the unavoidable meddling of the authorities responsible for enforcement of the law. This situation will awaken in those who remain slaves a dangerous impatience and a terrible hopelessness which must shatter all ties of subordination and respect for their masters. . . .

And how should the patrons deal with the freed persons who remain on their properties? If they are required to rear and educate them and to treat them as free persons, this will bring great problems and cannot be achieved, since the discipline of the slaves will be upset by this new element remaining among them, irritating them because of their status and arousing insubordination among them, particularly if the authorities must enforce compliance with that responsibility and interfere for that purpose on those establishments. On the other hand, if the freed people must continue to live on their patrons' agricultural establishments in conditions identical to those of the slaves, brought up, treated, and maintained in perfect equality, they will become an inconvenience and a permanent danger, they will react, provoke disorders, and how can this be avoided or prevented?

Furthermore, these freed people, who will remain in the houses or on the establishments of their patrons, receiving the same status and treatment as the slaves, living among the latter and bound to them by family ties, at the age of twenty-one will enter into society infected with all the vices of slavery, ignorant, brutalized, despising work, with no education whatsoever, with no comprehension of human dignity, which only freedom awakens. What future is being prepared for our society which thirty years after the law goes into effect will annually receive into its bosom at least 30,000 freedmen, 30,000 new citizens—illiterate, emerging from a brutalizing captivity—but *ingênuos* nevertheless, possessing, that is,

full political rights. Will this not be a cause of anarchy, a permanent source of grave perils and tremendous misfortunes? . . .

Public order, security, the peace and tranquillity of families, conditions even more sacred than the right to property, will obviously be upset and constantly threatened; and the government will lack even minimum resources to protect and reassure them. We, those who live in the large cities, normally have around us a large free population, which reduces our fears. We are protected by the government and by the armed forces, who are quick to come to our aid at the smallest disturbance; but those who live on the agricultural estates in the backlands of the Empire, which is as large as Europe, find themselves in a different situation; there families exist made up of three or four people, who live among hundreds of slaves in places far from any center of population. (*Hear! Hear!*).

Gentlemen, continuous or gradual emancipation by indirect methods, aside from being the easiest way, is also the one which will serve us best for the accomplishment of this most important reform. . . . To endeavor by means of a well-synthesized system of indirect measures, to aid and encourage private initiative, to facilitate manumissions, to establish an emancipation fund as large as possible, and meanwhile to undertake a careful and complete census of the slave population, to encourage and favor agriculture, to provide for a substitute of slave labor by free labor; this is our great mission, a difficult one obviously, but more meritorious than raising the banner of the slaves' redemption above the ruin and destruction of the nation. (*Hear! hear!*) By the wise and continuous application of this combination of measures, in less than twenty years, without threatening public order, without a significant setback to our wealth and production, the abolition of slavery could be achieved, because by then the slaves will be diminished [by deaths and emancipation] to a third of their present number. . . .

I thank the Chamber for the attention with which it has honored me, and ask your pardon for having abused your patience for so long. (*Very good; very good.*)

The speaker is complimented by many of the honorable deputies.

10.5. "As If It Were a Crime to Be Born" A Mulatto Senator Passionately Defends the Free-Birth Law (1871)

On September 5, 1871, near the end of the long debate on the Rio Branco Law, Dr. Francisco Salles Torres-Homem, a political writer, out-