36TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 31.

DISTURBED CONDITION OF THE COUNTRY.

JANUARY 14, 1861.—Ordered to be printed and made the special order for Monday, the 21st instant, at 1 o'clock, and continued from day to day until disposed of.

Mr. NELSON, from the select committee of thirty-three, submitted the following

MINORITY REPORT.

The undersigned, a member of the committee of thirty-three, by leave of the House, submits the following as a minority report:

The present attitude of the States of South Carolina, Alabama, Florida, Mississippi, and Georgia, which claim to have seceded, or are adopting measures to secede, from the government of the United States; the fact that every other southern State has assembled its legislature, or has met, or contemplates meeting, in convention; the recent hostile acts at Charleston; the seizure of forts and munitions of war in all, or nearly all, of the Gulf States; the preparations which have been and are being made to place all the southern States on a war footing, and the assemblage of a military force to protect the Capitol, are events of such startling magnitude as to impress every candid mind with the solemn conviction that no ordinary causes have produced results so threatening and momentous. It is the part of true patriotism, as well as of elevated statesmanship, not so much to inquire whether the causes are adequate or inadequate, reasonable or unreasonable, as to devise the means of allaying excitement and restoring the amicable relations which have hitherto existed between the different States of the confederacy. To do this, it is absolutely necessary to consider the grievances which have been alleged, and, whether they are real or unreal, to remove them, if this can be done without any violation of honor or of principle, and, above all, without an infraction of the Constitution. When entire States are in arms against the federal Union, and when they proclaim through their deliberative assemblies that their rights have been or are in danger of being trampled upon, their complaints cannot be regarded as frivolous, if the spirit of fraternity which has hitherto preserved the Union is still to prevail in our national councils and to animate the determinations of the popular will.

Prominent among the reasons which have been authoritatively assigned as producing the unhappy alienation of the sections, are the continued agitation of the slavery question in the northern States, and the recent election of a sectional candidate, upon that sectional question, to the highest office within the gift of the people. The Constitution provides that "no person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom

such service or labor may be due." More effectually to carry out this provision the act of 1793 and the fugitive slave law of 1850 were enacted. The southern States allege that the execution of these statutes has been repeatedly resisted by fraud and violence, and that the most unrelenting hostility has been manifested against them in the unconstitutional enactment by northern legislatures of those statutes which are usually denominated personal liberty bills. Many years prior to this hostile legislation the mails were filled with incendiary publications from northern presses calculated and intended to excite the slaves to insurrection; unhappily, in some instances, producing that result, and still more unhappily, as measures of necessary self-defence, causing the most stringent legislation in the southern States. More recently, a wicked but fruitless attempt, on the part of northern fanatics, was made to excite the slaves of a peaceful and unoffending State to rapine, insurrection, and murder. Following this in quick succession the southern States witnessed the nomination of candidates for the highest offices known to the country, by a party which was created by the slavery agitation, and whose power of cohesion arose from the assertion of the doctrine that slavery should not be extended into any Territory where it does not now exist. Although that party did not in any authoritative form assert its determination to attack the institution of slavery in the States where it exists, but, on the contrary, disavowed such a purpose, yet in the conduct and management of the canvass, speeches and documents were circulated containing the most virulent denunciations of the institution of slavery itself, and giving color to the charge, so widely circulated and generally credited in the south, that the republican party was engaged in an "irrepressible conflict" with slavery and, notwithstanding its professions to the contrary, inflexibly resolved upon its utter extermination. However unjust it may be to misconceive or misrepresent the designs or principles of a political adversary, it cannot be reasonably expected that the people of an entire section of the republic, who have millions at stake, and some of whose homes and firesides have been invaded, should be able to preserve the exact line of discrimination between the disavowal of an inimical purpose and the employment of the most hostile weapons. While the truth of history proclaims that other and different causes have animated the conduct of most of those who are leading the secession movement, it cannot be denied that the great masses who are engaged in it are inspired with a feeling of insecurity and alarm in regard to their domestic institution, and that they have, or sincerely believe they have, just causes of apprehension. Had it been otherwise, they would have avoided commercial disaster and distress, and would shrink with horror from the contemplation of civil war

It is a principle familiar to all our institutions, that the rights of every citizen are entitled to equal protection, and that a dominant majority cannot disregard the interests of a minority, but should govern for the benefit of all. Any adjustment, therefore, of existing differences, in order to be effectual, must, in some degree, be accommodated to various and conflicting opinions. The principles and views of one party cannot be consulted to the utter exclusion of those that may be entertained by other parties. There can be no compromise

without concession, and there should be no concession involving an abandonment of principle. A respectful deference to the opinions of others is as essential in political as in private life. In the nature of things, it will be impossible wholly to banish party ties and associations, and these must be kept steadily in view to secure mutuality of concession.

Guided by these considerations, the undersigned offered in committee, at the commencement of its deliberations, a series of resolutions for the amendment of the Constitution of the United States, in place of which he afterwards submitted other resolutions, similar in principle, but better prepared by an eminent and distinguished statesman and patriot. The latter resolutions will be hereinafter submitted as part of this report, and recommended for the adoption of the House. As they were manifestly framed with the purpose of reconciling the conflicting opinions which prevail, the substance of those which are deemed most important, and some of the reasons for their adoption, will be very briefly stated.

The first article provides for the establishment of a line of thirty-six degrees and thirty minutes, north of which slavery shall be prohibited, and south of which it shall be protected until any Territory shall contain the population requisite for a member of Congress, when, if its form of government be republican, it shall be admitted into the Union, with or without slavery, as the constitution of such new State may provide.

In considering such a line as furnishing the basis of a compromise, it will not be out of place to state, in a very summary manner, the position of parties in the late presidential contest on the subject of slavery in the Territories. The republican party maintained the power and duty of Congress to prohibit it. One portion of the democratic party insisted that it was a proper, and should be an exclusive, subject of legislation for the territorial legislatures while in a territorial condition. Another part of the democratic party, relying upon the authority of the Dred Scott case, as determined by the Supreme Court of the United States, insisted upon the power and duty of Congress to protect slavery, when necessary, by suitable legislation for the Territories, and regarded the doctrine as of vital importance to the south. The constitutional union party, while recognizing the Dred Scott decision, deprecated the slavery agitation, urged that the doctrine of protection was a mere "speculative idea," and alleged that the question of slavery was practically settled in the Territories by the compromise measures of 1850, and the still more imperious laws of nature and climate.

If this is a correct apprehension of the position of parties, the line of thirty-six degrees and thirty minutes is commended to the most favorable consideration, because it is in principle similar to the Missouri compromise line, which gave repose to the country for more than thirty years; because, if the repeal of that line produced dissatisfaction in the north, and occasioned the existence of the republican party, a re-establishment of the same principle of adjustment should remove any ground of complaint on the part of the north against the south; because an amendment of the Constitution is not violative of the doctrine of non-intervention and popular sovereignty, which only relates

to the Constitution as it now is; because such an amendment is necessary in consequence of the decision of the Supreme Court, and because, above all, the people, in their primary meetings in various States which have been held since this proposition was originally submitted, have cordially signified their approval of it as affording a satisfactory basis of settlement. The presentation of this line, in view of the Dred Scott case, involves a concession from the South to the North, and, in any aspect, protection to slave property south of the line is but a fair equivalent for prohibition north of it, and is essential to the quiet and repose of the South.

A persuasive argument in favor of the adoption of the line recommended may be found, in addition to those which have been briefly stated, in the fact that this proposition was, without concert, submitted at an early period of the session by senators and representatives from different States and different sections of the Union; and if, in addition to that line, the resolutions which have been adopted by a majority of the committee had been proposed and should be adopted in the form of constitutional amendments, it is believed that they would be satisfactory to the southern States. The resolution as to New Mexico is not designed to be embraced in this statement.

It would be a source of sincere gratification to the undersigned if he could concur in the opinion expressed by the majority, that the admission of New Mexico as a State will be a final settlement of the territorial question, and quiet the public mind; but he is at present constrained to reach a different conclusion, for the following reasons:

1. New Mexico is not applying for admission into the Union as a State.

2. As the Mexican population largely predominates, it is doubtful whether they have such knowledge of our language and laws as to be familiar with our forms of free government.

3. It is alleged that a population is at present emigrating into New Mexico from Pike's Peak and the northern States, and that by the time a constitution shall be adopted the status of slavery now existing will be changed, and the people will ask for admission as a free State.

4. The early admission of New Mexico as a State might produce a struggle betweeen the north and south as to the occupation of the country, and the bloody scenes which were enacted in Kansas be revived.

5. If New Mexico should be admitted at the next Congress as a free State, the excitement in the south would probably be increased, because it would be regarded as a virtual surrender of the doctrine so strenuously advocated by a large party in the south, that the Territories are the common property of all the States, and open to settlement with slavery.

6. Should the admission of New Mexico be postponed until the people themselves desire to form a State constitution, and should a reasonable time be allowed for a fair and peaceful competition in the settlement of that country, no southern man could reasonably complain if a lawful majority of the people finally resolve to abolish slavery; because it is conceded on all hands that when the people of a Territory have the requisite population, and other good reasons for their exclusion do not

exist, they have the right, when they form their constitution, to come into the Union with or without slavery as they may elect.

The bill reported by the majority to amend the fugitive slave law is chiefly objectionable because of the trouble, expense, and delay which would attend a trial by jury before a federal judge. In some of the States the owner would be compelled to travel five hundred miles before he would reach that officer of the law; and although Congress may not possess the power to impose duties upon the State judges, it cannot be reasonably doubted that, if the trial were authorized also before them, they would not refuse to exercise the authority conferred, and that their decisions would be impartial. Such a trial would probably be conducted in the vicinage where the master and person claimed as a slave would be both known, and where the latter, especially, would have a better opportunity to procure witnesses. The fifth article of the amendments to the Constitution, herewith submitted, provides for compensation to the owners in cases where the arrest of a fugitive is prevented by violence, and where he is rescued by force, and such an amendment is earnestly urged as tending to prevent those scenes of riot and bloodshed which have too frequently occurred.

The resolutions reported by a majority of the committee in regard to the inter-State slave trade, slavery in the District of Columbia, and in the public property in the slave States, are of a highly pacific character, and will tend to remove apprehensions which exist in the South as to aggressions in these respects on the part of the North. But the undersigned entertains great doubts as to whether merely declaratory resolutions will be satisfactory to any of the southern States. So far as he has been informed as to the expression of public sentiment, it is widely, if not universally, a prevailing opinion that the result of the late Presidential election, as well as other well known causes already indicated, make it necessary that any remedial measures which are adopted should not be given in the form of congressional resolves, which may be rescinded at pleasure, but should have the solemn sanction of constitutional guarantees that will be regarded as of permanent duration.

Of this character is the resolution reported by a majority of the committee, which, in effect, provides that slavery shall not be abolished in any State where it now exists without the assent of all the States. This resolution, if fairly construed, must be regarded as removing the real and greatest apprehension which exists in the southern mind. It may not be improper to repeat that—whether rightfully or wrongfully—the opinion has obtained an extensive credence in the south that, as the republican party has succeeded in achieving a political triumph upon the avowed principle that slavery thall not be extended into territory now free, its next step will be to carry the "irrepressible conflict" into the States and abolish it there. The prompt disavowal of such an object, and the willingness to incorporate into the Constitution an amendment which must allay the most alarming cause of distrust, should be regarded as evincing a spirit of conciliation, and frankly accepted as the earnest manifestation of a desire to restore that peace and harmony which have so long and so happily prevailed. If it is right and proper to offer this as a constitutional amendment, upon what principle is it that the other constitutional amendments

which are provided for in the accompanying resolutions can be legitimately refused? The topics embraced in them have been a fruitful source of irritating controversy in times past, and, as the cardinal objects of every patriot should be to banish the slavery agitation from the halls of Congress, and restore the amicable relations which existed in the happier days of the republic, no satisfactory reason can be perceived why the additional amendments should not be conceded by the justice, forbearance, and moderation of the North.

The resolutions recommending to the States which have enacted them a repeal of their personal liberty laws; to all the States the enactment of laws for the suppression of mobs and the protection of travellers, and against all attempts at the invasion of other States, although not obligatory upon the States, will, doubtless, be received in the spirit of conciliation which prompted them, and result in the removal of those serious and aggravating causes of irritation.

When so much has been accomplished by the committee, a reasonable hope may be entertained that Congress can and will use every effort in its power to produce what has hitherto, on more occasions than one, been unsuccessfully attempted—a final settlement of the slavery question; and, to this end, the undersigned most respectfully recommends the adoption of the resolutions herewith submitted.

THOMAS A. R. NELSON.

JOINT RESOLUTION accompanying the minority report of Mr. Nelson, proposing certain amendments to the Constitution of the United States.

Whereas serious and alarming dissensions have arisen between the northern and southern States concerning the rights and security of the rights of the slaveholding States, and especially their rights in the common territory of the United States; and whereas it is eminently desirable and proper that those dissensions, which now threaten the very existence of this Union, should be permanently quieted and settled by constitutional provisions, which shall do equal justice to all sections, and thereby restore to the people that peace and good will which ought to prevail between all the citizens of the United States: Therefore—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both houses concurring, That the following articles be, and are hereby, proposed and submitted as amendments to the Constitution of the United States, which shall be valid to all intents and purposes as part of said Constitution, when ratified by conventions of three-fourths of the several States.

ARTICLE 1. In all the territory of the United States now held or hereafter acquired, situate north of latitude thirty-six degrees and thirty minutes, slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory south of said line of latitude slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress, but shall be protected as property by all the departments of the territorial government during

its continuance; and when any Territory, north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress, according to the then federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States, with or without slavery, as the constitution of such new State may provide.

ART. 2. Congress shall have no power to abolish slavery in places under its exclusive jurisdiction, and situate within the limits of States that permit the holding of slaves.

ART. 3. Congress shall have no power to abolish slavery within the District of Columbia so long as it exists in the adjoining States of Virginia and Maryland, or either, nor without the consent of the inhabitants, nor without just compensation first made to such owners of slaves as do not consent to such abolishment. Nor shall Congress at any time prohibit officers of the federal government or members of Congress, whose duties require them to be in said District, from bringing with them their slaves and holding them as such during the time their duties may require them to remain there, and afterwards taking them from the District.

ART. 4. Congress shall have no power to prohibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are by law permitted to be held, whether that transportation be by land, navigable rivers, or by the sea.

ART. 5. That in addition to the provisions of the third paragraph of the second section of the fourth article of the Constitution of the United States, Congress shall have power to provide by law, and it shall be its duty so to provide, that the United States shall pay to the owner who shall apply for it the full value of his fugitive slave, in all cases, when the marshal, or other officer, whose duty it was to arrest said fugitive, was prevented from so doing by violence or intimidation, or when, after arrest, said fugitive was rescued by force, and the owner thereby prevented and obstructed in the pursuit of his remedy for the recovery of his fugitive slave, under the said clause of the Constitution and the laws made in pursuance thereof. And in all such cases, when the United States shall pay for such fugitive, they shall have the right, in their own name, to sue the county, city, or town, in which said violence, intimidation, or rescue was committed, and to recover from it, with interest and damages, the amount paid by them for said fugitive slave. And the said county, city, or town, after it has paid said amount to the United States, may, for its indemnity, sue and recover from the wrong-doers, or rescuers, by whom the owner was prevented from the recovery of his fugitive slave, in like manner as the owner himself might have sued and recovered.

ART. 6. No future amendment of the Constitution shall affect the five preceding articles, nor the third paragraph of the second section of the first article of the Constitution, nor the third paragraph of the second section of the fourth article of said Constitution; and no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted.

And whereas, also, besides those causes of dissension embraced in the foregoing amendments proposed to the Constitution of the United States, there are others which come within the jurisdiction of Congress, and may be remedied by its legislative power; and whereas it is the desire of Congress, as far as its power will extend, to remove all just cause for the popular discontent and agitation which now disturb the peace of the country and threaten the stability of its institutions: Therefore—

1. *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the laws now in force for the recovery of fugitive slaves are in strict pursuance of the plain and mandatory provisions of the Constitution, and have been sanctioned as valid and constitutional by the judgment of the Supreme Court of the United States; that the slaveholding States are entitled to the faithful observance and execution of those laws, and that they ought not to be repealed or so modified or changed as to impair their efficiency; and that laws ought to be made for the punishment of those who attempt, by rescue of the slave or other illegal means, to hinder or defeat the due execution of said laws.

2. That all State laws which conflict with the fugitive slave acts, or any other constitutional acts of Congress, or which in their operation impede, hinder, or delay the free course and due execution of any of said acts, are null and void by the plain provisions of the Constitution of the United States. Yet those State laws, void as they are, have given color to practices and led to consequences which have obstructed the due administration and execution of acts of Congress, and especially the acts for the delivery of fugitive slaves, and have thereby contributed much to the discord and commotion now prevailing. Congress, therefore, in the present perilous juncture, does not deem it improper, respectfully and earnestly, to recommend the repeal of those laws to the several States which have enacted them, or such legislative corrections or explanations of them as may prevent their being used or perverted to such mischievous purposes.

3. That the act of the eighteenth of September, eighteen hundred and fifty, commonly called the fugitive slave law, ought to be so amended as to make the fee of the commissioner mentioned in the eighth section of the act equal in amount, in the cases decided by him, whether his decision be in favor of or against the claimant. And to avoid misconstruction, the last clause of the fifth section of said act, which authorizes the person holding a warrant for the arrest or detention of a fugitive slave to summon to his aid the posse comitatus, and which declares it to be the duty of all good citizens to assist him in its execution, ought to be so amended as to expressly limit the authority and duty to cases in which there shall be resistance, or danger of resistance or rescue.

4. That the laws for the suppression of the African slave trade, and especially those prohibiting the importation of slaves into the United States, ought to be made effectual, and ought to be thoroughly executed, and all further enactments necessary to those ends ought to be promptly made.