37TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 58.

SLAVERY IN THE DISTRICT OF COLUMBIA.

[To accompany bill H. R. 351.]

MARCH 12, 1862.—Ordered to be printed.

Mr. CALVERT, from the Committee for the District of Columbia, made the following

MINORITY REPORT.

The undersigned, members of the Committee for the District of Columbia, beg leave to make the following minority report against the passage of the bill reported from the majority of that committee for the abolition of slavery in the District of Columbia:

This proposition has been so frequently rejected by Congress, and has been so thoroughly discussed by the ablest statesmen of the nation, that it would be a useless task for us to attempt to offer any new considerations of the subject, and we therefore adopt, in place of any argument of our own, the following portion of the very able report made to the House of Representatives on the 18th day of May, 1836, by a select committee composed of Messrs. Pinckney of South Carolina, Hamer of Ohio, Pierce of New Hampshire, Hardin of Kentucky, Jarvis of Maine, Owens of Georgia, Muhlenberg of Pennsylvania, Dromgoole of Virginia, and Turrele of New York.

Your committee are instructed to report—

That, in the opinion of this House, Congress ought not to interfere in any way with slavery in the District of Columbia.

1st. Because it would be a violation of the public faith.

To obey this instruction of the House, in the manner pointed out by the resolution, it will be necessary to examine, to some extent, the relations between the federal government and the District of Columbia; the probable objects of the provision in the Constitution, authorizing the cession of the District to the United States; and the consequent expectations which may have been rationally entertained by the States that made the cession as to the exercise by Congress of the powers granted to it over the ceded territory. Before entering upon this examination, however, it may be well to remark that the powers of Congress over this District involved in this discussion are wholly independent of, and derived from a source entirely sepa-

rate from, the general legislative powers granted to Congress by the Constitution. As the legislature of confederated States, the powers of Congress are equal and of universal application throughout all the States, and they were given to Congress before the cession of the District, and were held and exercised independently thereof. This will be made manifest by a brief statement of facts. The first Congress, under the Constitution, assembled on the 4th of March, 1789, and the government provided for by the Constitution was organized on that day. The general powers conferred on the different branches of the federal government were exercised from that day forward; and the Union of the States, under constitutional government, was then perfected and put in practical operation. The cession from Virginia of that portion of the District of Columbia that belonged to her was not made until the 3d of December of that year, nine months after the federal government had been in operation;* and the cession by Maryland of that portion of the District that belonged to her, (and in which the seat of government is in fact located) was not made until the 19th day of December, 1791,† more than two years and nine months after the existence of the government in its present constitutional form. Congress did not, in fact, remove to the District thus ceded, nor did the District thus ceded become practically the seat of government until the year 1800; and the laws of the States by which the District was ceded were declared by an act of Congress of the 16th of July, 1790,‡ to "be in force within the District until the removal of the government to it, and until Congress shall otherwise by law direct."

It appears, then, that the federal government was in operation under the Constitution nearly a year before Congress possessed any power of local legislation over any portion of the District of Columbia, and nearly three years before that power became as extensive as the present bounds of the District, or included that portion of the ten miles square in which the seat of government is in fact located. It also appears that the first act of the federal legislature in reference to its jurisdiction then partly acquired, and partly to be acquired, was to provide for the continuance, in all their force and in every particular within the District, of the laws of the States that made the cession, until December, 1800, a period of nine years after the time when the powers of Congress, as a local legislature for the District, were perfected by the State of Maryland. Nor is this all. By the act of 1790 it was declared, as has been already shown, that the laws of Maryland and Virginia should be the laws of the District, not only "until the time fixed for the removal of the government thereto," but also "until Congress shall otherwise provide by law." No alteration, however, to any considerable extent has yet been made, and the laws of Virginia and Maryland which were in force at the time of their respective cessions, and in force respectively in the

---

* Laws District of Columbia, p. 59. † Laws District of Columbia, p. 64.
‡ Laws United States, vol. ii, p. 113.

portions of the District ceded by each, still continue to be in almost every particular the local laws of the District of Columbia.

Such are the relations at present existing between the federal government and the District, so far as local legislation is concerned. The powers of Congress, as the local legislature of the District, were derived from the cessions by Virginia and Maryland, and the special grant of exclusive legislation, and not from the general powers conferred upon it by the Constitution; and these special and local powers, which Congress has now possessed for nearly half a century, have been exercised only to the extent above described, and, from the best information your committee have been able to obtain, to no other or greater extent.

The right of Congress to accept the cession of this territory from the States of Virginia and Maryland is found in the eighth section of the first article of the Constitution of the United States, which gives it power "to exercise exclusive legislation in all cases whatsoever over such District, not exceeding ten miles square, as may by cession of particular States, and the acceptance of Congress, become the seat of government of the United States;" and the purpose for which the cession was to be made and received is declared, in the language of the Constitution itself, "such District as may become the seat of government of the United States." The session, therefore, was to be made for this purpose and for no other; and, as regards its use by the federal government, the object of this provision evidently was simply to authorize Congress to accept the grant and to exercise the powers of legislation therein provided for.

It will be conceded by the committee, for the purpose of this report, that the cession was made in conformity with the power of Congress to receive, and that, therefore, by the cession from Virginia and Maryland, Congress is in possession of the powers which the Constitution intended it should possess over the district intended to be ceded.

This brings us to the inquiry as to the probable objects of the grant of "exclusive legislation in all cases whatsoever" over the territory which was to constitute the seat of government of the United States. In consulting the commentators upon the Constitution, it will be found that the old Congress encountered inconveniences and even dangers from holding their sessions where State legislatures had exclusive local jurisdiction, and where State authorities alone were to be depended on in matters of police and personal protection. Indeed, an adjournment of that Congress from the State of Pennsylvania to New Jersey for a cause of this description, which occurred at the close of the revolutionary war, no doubt contributed greatly to the introduction of this clause into the Constitution of the Union. The proceedings of the old Congress show distinctly that the acquirement of a territory for the seat of the federal legislature, over which it should have exclusive or special jurisdiction, was a favorite idea with that body as early as the year 1783, and that it continued up to the time of the formation of the Constitution. Upon this point your committee will only detain the House with a few of the resolutions

adopted by the old Congress that go to establish it. On the 7th of October, 1783, a resolution was passed "that buildings for the use of Congress be erected on or near the banks of the Delaware,* provided a suitable district can be procured on or near the banks of the said river for a federal town, and that the right of soil, and exclusive, or such other jurisdiction as Congress may direct, shall be vested in the United States." On the 21st of the same month (October, 1783,) another resolution was passed, preceded by a preamble as follows: "Whereas there is reason to expect that the providing buildings for the alternate residence of Congress in two places will be productive of the most salutary effects, by securing the mutual confidence and affections of the States, *Resolved*, That buildings be provided for the use of Congress at or near the lower falls of the Potomac,† or Georgetown, provided a suitable district on the banks of the river can be procured for a federal town, and the right of soil, and an exclusive jurisdiction, or such other as Congress may direct, shall be vested in the United States."

On the 20th of December, 1784, the old Congress passed, among others, the following resolutions:

"*Resolved*, That it is expedient that Congress proceed to take measures for procuring suitable buildings to be erected for their accommodation.

"*Resolved*, That it is inexpedient for Congress at this time to erect public buildings for their accommodation at more than one place."

These resolutions by the continental Congress, as to the expediency and necessity for a territory for the seat of the federal government, over which it should have peculiar if not exclusive jurisdiction, are produced to show the origin of the provision in the Constitution upon that subject, and the object for which the acquisition of such a territory was desired. That object, beyond all question, was to secure a seat for the federal government, where the power of self-protection should be ample and complete, and where it might be exercised without collision or conflict with the legislative powers of any of the States, so far as its exercise should be required for the great national purposes for which the peculiar or exclusive jurisdiction was sought to be obtained. The jurisdiction was made exclusive, not as your committee believe, and as they think every considerate citizen will admit, to change the object of the grant of the jurisdiction when it should be made, but to secure that object more effectually by making the federal government independent of State interference and of State protection within the district where it was to be located, and where its deliberations should be held. Had the legislative power of Congress over this District not been made exclusive, one of the great and wise objects intended to be secured, the prevention of conflict between federal and State legislation, would have been necessarily defeated. Every statesman will admit the extreme inconvenience and danger of granting powers of legislation of the same character, and to be exercised within the same territory, (powers of local and municipal legislation,) to two distinct and independent legislative bodies; and the

* Journals of the Old Congress, vol. iv, p. 288. † Journals of the Old Congress, p. 299.

extreme difficulty, if not impossibility, of so defining the portions of power to be exercised by each, as to prevent constant conflict and collision. This must have been the result if any division of the powers of local legislation within the District of Columbia had been made between Congress and the States, by which the territory was ceded to the United States. Congress required all that power which, through all time, would be indispensably necessary for its own protection, and also to render all the departments of the federal government independent of State authority, and entirely dependent on, and obedient to, the federal legislature, and it alone, in all matters of police or municipal legislation. The adoption of the federal Constitution by the people of the several States with this provision in it, shows that the attainment of these objects was considered of paramount importance; and hence, in the judgment of your committee, the power in question was made exclusive.

Assuming the correctness of these premises, the next inquiry is, what expectations were the States by which the District was ceded, as well as their sister States, authorized to entertain as to the exercise by Congress of the legislative powers derived from these cessions? The cessions included not only a portion of the territory of those States, but also a portion of their citizens. To secure the great national objects intended by the cession, the jurisdiction of the States over those citizens, as well as over the territory of the district, was transferred to the federal legislature. This transfer, from the necessity of the case, abridged the rights of the citizens within the territory, who had been formerly entitled to vote for their legislators and other rulers, by subjecting them to a government composed of persons in whose election they were to have no choice. Their governance, however, was confided to those intrusted with the common government of all the States; and when we reflect upon the confidence reposed in Congress by the States that made the transfer, and by the citizens transferred, it accounts at once for the readiness with which the cession was affected. Still, the question recurs, what expectations might reasonably be entertained by the States making the cession, by the other States of the confederacy, so far as their interests were directly or indirectly involved, and by the citizens thus placed under the peculiar care of Congress, as to its exercise of the powers conferred upon it by this cession of territories for a seat of the federal government?

Your committee have no hesitation to say, in answer to this inquiry, that those expectations, by all the parties interested, not only might, but must have been, that Congress would exercise the powers conferred, so far as their exercise should be found necessary for the great national objects of the cession, with strict reference to the accomplishment of those objects; and that all other powers conferred by the cession would be exercised with an equally strict reference to the interests and welfare of the inhabitants of the District—those citizens of two free States who had been made dependent on Congress for their local legislation, for the protection of life, liberty, and property—rights guaranteed by the Constitution to all the citizens of the confederacy—in order that a seat for the federal government, subject to

the exclusive control of Congress, might be granted to it. If these positions are correct, it follows necessarily that the institutions, the customs, the rights, the property, and every other incident pertaining to those citizens, and municipal in its character, which they enjoyed as citizens of the States to which they belonged before the cession of the District, and which did not then and have not yet interfered with the great national rights and privileges intended to be secured by the cession, should have been hitherto, and should be in all time to come, guarded and preserved with the same paternal care and kindness with which the legislatures of the States to which they belonged would have guarded and protected them if they had continued to be intrusted to their respective jurisdictions.

Your committee rely confidently upon this as the great rule for the faithful action of Congress in reference to this subject. They feel assured that no rational man will differ with them. Two questions, then, remain to be considered, to determine whether Congress should or should not attempt to interfere with slavery in the District of Columbia, viz :

1st. Do the great national objects which were intended to be secured to the federal government by the cession of the territory require such action on the part of Congress?

Your committee will make no argument upon so plain a proposition. No individual within their knowledge, not even the most deluded fanatic, has ever asked, or attempted to justify, a measure of this description upon such a pretext. The security and independence of Congress, from the moment of its removal to this District to the present hour, have been as perfect as the framers of the Constitution could have desired. No intimation has ever been heard that the existence of slavery in the District of Columbia has ever produced the slightest danger or inconvenience either to the interests or to the officers of the federal government within it. Surely, then, Congress cannot be called upon to interfere with that institution within the District as one of its duties growing out of the national objects connected with the cession ; and if such interference is demanded from it, the demand must grow out of its relations to the District as a local legislature. This brings the committee to the remaining question.

2d. Would the States of Maryland and Virginia, if the cession of this territory to the federal government had not been made, from anything which has been shown to Congress, be induced to interfere with or abolish the institution of domestic slavery within it?

At the time of the cession from those States slavery existed in every portion of their territory, in the same degree and subject to the same laws and regulations by which it was authorized and regulated in the territory ceded to the federal government. It still exists in those States, without any material variation or modification of their laws respecting it. As those States, then, have not abolished it within the territories remaining under their jurisdiction, is it reasonable to suppose that they would have abolished it in the territory comprising the District, had they continued to retain their original jurisdiction

over it? Can any reason whatever be given for the abolition of slavery in this particular District which does not apply with equal force to every other slaveholding section of the country? Can any cause be shown why the States of Maryland and Virginia would have abolished, or would now abolish, slavery in this District, had it continued to form a part of those States, respectively, which would not have warranted or produced general abolition throughout those States? Most unquestionably not. As those States, then, have not abolished slavery in the residue of their territory, it is evident that they would not have abolished it in the District of Columbia, if it had continued subject to their action. It follows conclusively, therefore, that Congress, as the local legislature of the District, and acting independently of the national considerations connected with its powers over it, is bound, for the preservation of the public faith and the rights of all the parties interested, to act upon the same reasons and to exercise the same paternal regard which would have governed the States by which the District was ceded to the federal government. And it is unnecessary to add that Congress has acted wisely in treating the institutions found in existence at the time of the cession as the institutions of the people of the District; in continuing their laws and customs, as the laws and customs to which they had been used, and which should never be altered or interfered with, except where the people themselves may be desirous of a change.

Your committee must go further, and express their full conviction that any interference by Congress with the private interests or rights of the citizens of this District, without their consent, would be a breach of the faith reposed in the federal government by the States that made the cession, and as violent an infraction of private rights as it would have been if those States themselves, supposing their jurisdiction had remained unimpaired over their territory, had abolished slavery within those portions of their respective limits, and had continued its existence, upon its present basis, in every other portion of them. And surely there is no citizen, in any quarter of the country, who has the smallest regard for our laws and institutions, State and national, or for equal justice, and an equality of rights and privileges among citizens entitled to it, who would attempt to justify such an outrage on the part of those States. The question then is, Are the citizens of the District desirous of a change themselves? Has any request or movement been made by them that would justify an interference with their private rights on the part of Congress? None whatever. The citizens of the District not only have not solicited any action on the part of Congress, but it is well known that they earnestly deprecate such action, and regard with abhorrence the efforts that are made by others, who have no interest whatever in the District, to effect it. It is impossible, therefore, that any such interference on the part of Congress could be justified, or even palliated, on the ground that it was sought or desired by those who are alone interested in the subject. If, therefore, Congress were to interfere with this description of property against the consent of the people of the District, your committee feel bound to say that it would

be as gross a breach of public faith, and as outrageous an infraction of private rights, as it would have been if such interference had been committed by the States of which the District was formerly a part, supposing that it never had been ceded to the United States.

Your committee will here anticipate an objection which may be urged against this reasoning and these conclusions. They have shown that the powers of Congress over this District divide themselves into two classes, national and local; that in reference to the former, the action of Congress should be governed by the interests of the whole country, so far as they are connected with the branches of the federal government located within the District; that in reference to the latter, its powers are, and its action should be, those of a local and municipal legislature, extending its paternal care and protection over the citizens dependent upon, and subjected to, this branch of its authority; that in the exercise of its powers, the safest stand in reference to slavery is, what would the States to which the District originally belonged, and of which its citizens were originally citizens, have done in case their jurisdiction had never been transferred to Congress; and that those States would certainly not have interfered with the institution of slavery in the District had the power to do so remained with them. The objection anticipated is that the States in question have pursued an unwise policy as to themselves, and that their having done so should not have bound Congress, as the local legislature of the District, to a similar policy in relation to its government. To this, however, your committee consider it perfectly conclusive to reply, that under our institutions, that people is the best governed which is governed most in accordance with its own habits, interests, and wishes; that the policy hitherto pursued by Congress, in reference to slavery within the District, your committee have every reason to believe has been in perfect conformity with the wishes and interests of the citizens concerned; and that it will be time enough for Congress, acting as the local legislature of the District, and in that capacity bound to consult the governed, as the regulators of its action, to move in any matter relating to their private interests and rights when they themselves shall ask such movement.

There is another consideration connected with this part of the argument which your committee think worthy of attention. It is this: that there is no law in the District prohibiting the master from manumitting his slaves, which he may do at his own discretion, and without incurring any responsibility whatever. Certain it is that no such law has been passed by Congress. The citizens of the district, therefore, have no necessity for the aid of Congress, should they wish the abolition of slavery among them. They have only to exercise an existing right, and their wish will be accomplished. Can there be more decisive evidence, then, that they do not wish the abolition of slavery than that it continues to exist among them? Or can any one desire more conclusive proof that any attempt by Congress to effect this object by the force of law would be an interference with the rights of private property, against the wishes and consent of those concerned, and for none of the purposes for which

Congress is authorized by the Constitution to take private property for public use?

Hence, your committee believe they have proved, beyond the power of contradiction, that an interference by Congress with slavery in the District of Columbia would be a violation of the public faith—of the faith reposed in Congress by the States which ceded the territory to the federal government, so far as the rights and interests of those citizens residing within the ceded territory are concerned.

Your committee will now consider this proposition in reference to the interests of the States of Maryland and Virginia. They were slaveholding States at the time they made their cession, and they are so still. They entirely surround this District, from which they are only separated upon all sides by imaginary lines. They made the cession for the great national objects which have been already pointed out, and they made it from motives of patriotism alone, and without any compensation from the federal government for the surrender of jurisdiction over commanding positions in both States. The surrender was made for purposes deemed sufficiently important, by all the original States, to be provided for in the Constitution of the United States; and it was made in conformity with that provision of the Constitution. It is surely unnecessary, after this statement of facts, to undertake to show that those patriotic States made this cession for purposes of good to the Union, and consequently to themselves, and not for purposes of evil to themselves, and consequently to the Union; and that the government of the United States accepted the cession for the same good, and not for evil purposes.

If, then, it can be demonstrated that the abolition of slavery in the District of Columbia would produce evil, and not good, to the States that made the cession, the conclusion is inevitable that such an act on the part of Congress would be a violation of the faith reposed in it by those States. To all to whom this is not perfectly palpable without an argument, the following considerations are presented:

It has been already said that the States of Maryland and Virginia surround the District. It has also been shown that, in reference to slavery within the District, the relations of Congress are entirely those of a local legislature, and that its action therefore, in this capacity, should be governed by the same reasons which would have governed those States themselves in relation to this subject, if their jurisdiction over this territory had never been surrendered. Let us suppose, then, that this jurisdiction had never been surrendered by Maryland and Virginia, and that it was now proposed that they should abolish slavery, and relinquish all power of legislation over free blacks within the portions of those States which constitute the District of Columbia, retaining their respective institutions of slavery in all the remaining portions of their territory. Who is there that would not be amazed at the folly of such an act? Who does not see that such a step would necessarily produce discontent and insurrections in the remaining portions of those States? Who does not perceive that under such circumstances the District would constitute at once a neutral ground, upon which hosts of free blacks, fugitive

slaves, and incendiaries would be assembled in the work of general abolitionism; and that from such a magazine of evil every conceivable mischief would be spread through the surrounding country, with almost the rapidity of the movements of the atmosphere? Surely no one can doubt the certainty of the consequential evils in the case supposed. How, then, can any doubt or deny the dangers in the case before us? The territory is the same; it is surrounded by the same portions of slaveholding States; and the only difference is that in the case supposed, the abolition would be the work of State authorities, while, in the other, it is sought to accomplish it by the authority of Congress. The condition of things before and after it is done is the same in both cases, and the opportunities for mischief, in case the work be accomplished, are equal in both. Can it be necessary to say more to establish the position, that any interference with slavery in the District of Columbia, on the part of Congress, would be a violation of the puplic faith, the faith reposed in Congress by those States, and without which they never could have been induced to have made that cession.

It only remains under this head to show that Congress could not interfere with slavery in the District of Columbia, without a violation of the public faith, in reference to the slaveholding States generally, as well as to the States of Virginia and Maryland. The provision in the Constitution authorizing Congress to accept the cession of a territory for a seat of the federal government, and to exercise exclusive jurisdiction over it, was as general and universal as any other provision in that instrument. In its national objects all the States were equally interested, and so far as there was any danger that the powers of local legislation conferred on Congress might interfere with or injuriously affect the institutions of the various States, each State possessed an interest proportioned to the probable danger to itself. As far as your committee know or believe, however, no apprehension of an interference on the subject of domestic slavery was entertained in any quarter, or expressed by any statesman of the day. An examination of the commentaries on the Constitution will show that various apprehensions were entertained, as to the powers conferred on Congress by this clause, such as that privileged classes of society might be created within the District; that a standing army, dangerous to the liberties of the country, might be organized and sustained within it, and the like; but not a suggestion can be found, that, under the local powers to be conferred, any attempt would be made to interfere with the private rights of the citizens who might be embraced within the District, or to disturb or change, directly, or by consequence, the municipal institutions of the States, or that the subject of domestic slavery as it existed in the States could be in any way involved in the proposed cession.

At that time all the States held slaves. Many of them have since, by their own independent action, without influence or interference from the federal government, or from their sister States, effected in their own time and way the work of emancipation; others of the original States remain as they were at the time of the adoption of the

Constitution in reference to this description of property, and several new members have been admitted into the Union as slaveholding States. All the States which have held or now hold slave property have invariably considered the institution as one exclusively subject to State authority, and not to be affected, directly or indirectly, by federal interference. The practice of the government, as well as its theory, has established this doctrine, and the action of the States in retaining or abolishing the institution at pleasure has conformed entirely to this principle. Now the subject of federal inteference has become one of some agitation, and Congress is solicited to adopt measures in relation to the District of Columbia which have been shown to be most dangerous and destructive to the security and interests of the two slaveholding States by which it was ceded to the federal government. Your committee will not trouble the House to prove that any measure of the federal legislature which would have this tendency in those two States, would, from the very necessity of the case, and the unity of the interest wherever it exists, have the same tendency, measurably, in all the other slaveholding members of the Union. This position is too plain for argument. If, then, all the States were equally interested in the national objects for which this territory was ceded as the seat of the federal government; if that cession was designed by the framers of the Constitution to inure to the benefit of the whole confederacy, and was made in furtherance of that design; and if Congress, contrary to the obvious intent and spirit of the cession, shall do an act not required by the national objects contemplated by it, but directly repugnant to the interests and wishes of the citizens of the ceded territory, and calculated to disturb the peace and endanger the interests of the slaveholding members of the Union, such an act must be in violation of the public faith—of the faith reposed in Congress by the States that made the cession, and which would be deeply injured by such an exercise of power under it, and also of the faith reposed in that body by all the States, inasmuch as no independent State in the Union can be injured in its peace or its rightful interests by the action of the federal government, without a corresponding injury to every member of the confederated States.

Your committee have already shown that an interference with slavery in the District of Columbia would involve a violation of the public faith as regards the rights and interests of the citizens thereof. They recur to this topic, however, on account of its importance, and for the purpose putting it in another light, and, as they consider, upon unanswerable ground. They are aware that under the *Constitution, Congress possesses "exclusive legislation" over the aforesaid District, but the power of legislation was given to be exercised for beneficial purposes only, and cannot, therefore, be exercised consistently with public faith for any object that is at war with the great principles upon which the goverment itself is founded. The Constitution, to be properly understood, must be taken as a whole. Wherever

*Article 1, section 8.

a particular power is granted, the extent to which it may be carried can only be inferred from other provisions by which it may be regulated or restrained. The Constitution, while it confers upon Congress exclusive legislation *within* this District, does not and could not confer unlimited or despotic authority over it. It could confer no power contrary to the fudamental principles of the Constitution itself, and the essential and unalienable rights of American citizens. The right to legislate, therefore, (to make the Constitution consistent with itself,) is evidently qualified by the provision that "no man shall be deprived of life, liberty, or property, without due process of law,"* and various others of a similar character. We lay it down as a rule that no government can do anything directly repugnant to the principles of natural justice and of the social compact. It would be totally subversive of all the purposes for which government is instituted. Vattel says: "The great end of civil society is whatever constitutes happiness with the peaceful possession of property." No republican would tolerate that a man should be punished by a special statute for an act not legally punishable at the time of its commission. No republican could approve any system of legislation by which private contracts, lawfully made, should be declared null and void, or by which the property of an individual, lawfully acquired, should be arbitrarily wrested from him by the high hand of power. But these great principles are not left for their support to the natural feelings of the human heart, or to the mere general spirit of republican government. They are expressly incorporated in the Constitution, and they have also been recognized and insisted on by the Supreme Court of the United States, which lays down the following sound and incontrovertible doctrine: "There are acts which the *federal* or *State legislatures cannot* do without exceeding their authority. There are certain vital principles in our free republican government which will determine and overrule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law, or to take away that security for personal liberty or private property for the protection whereof the government was established. An act of the legislature contrary to the *great first principles of the social compact cannot be considered a rightful exercise of legislative authority.* The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power on which it is founded. A few instances will suffice to explain: A law that punished a citizen for an innocent action, or that was in violation of an existing law; a law that destroys or impairs the obligation of the lawful private contracts of citizens; a law that makes a man a judge in his own case; or a law that takes property from A, and gives it to B. It is against all reason and justice for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. The legislature may enjoin or permit, forbid or punish; they may declare new crimes, and establish rules of conduct

* Amendments to the Constitution, article 5.

for future cases; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the rights of an antecedent lawful private contract, or the right of private property. To maintain that our *federal* or *State legislatures* possess such powers, even if they had not been expressly restrained, *would be a political heresy, altogether inadmissible in our free republican government.*"* Now, every principle here affirmed by the court applies to and protects the people of this District, as well as the people of the States. The inhabitants of this District are a part of the people of the United States. Every right and interest secured by the Constitution to the people of the States is equally secured to the people of the District. Congress can therefore do no act affecting property or person, in relation to this District, which it is prohibited to do in relation to the citizens of the States, without a direct violation of the public faith. For instance, it is a well-settled constitutional principle, that "private property shall not be taken for public use, without just compensation." Now, the true meaning of this provision obviously is, that private property shall be taken only for public use, but shall not be taken, even then, without adequate remuneration. It is evident, however, in reference to slavery, either that the government would use the slaves, or that it would not. If it would use them, then they would not be emancipated; and it would be an idle mockery to talk of the freedom of those who would only cease to be private to become public slaves. If it would not use them, then how could it be said that they were taken for the public use, consistently with the provision just recited? But even if they could be taken without reference to public use, they could not be taken without just compensation. It is exceedingly questionable, however, whether Congress could legally apply the public revenue to such an object, even with the consent of the owners of the slaves. As to emancipation without their consent, and without just compensation, your committee will not stop to consider it. It could not bear examination. Honor, humanity, policy, all forbid it. It is manifest, then, from all the considerations herein stated, (and there are others equally forcible that might be urged,) that Congress could not abolish slavery in the District of Columbia, without a violation of the public faith.

Your committee will only add one or two reflections upon this interesting point.

What is the meaning of the declaration adopted by the House in relation to the District of Columbia? Is it not that Congress cannot and will not do an act which it has solemnly proclaimed to involve a violation of the public faith? Does it not afford every security to the south which it is in the power of the federal government to afford? Is it not tantamount, in its *binding obligation upon the government*, to a positive declaration, that the abolition of slavery in the District of Columbia would be unconstitutional? Nay, is it not even more *efficacious in point of fact?* Constitutional provisions are matters of construction. The opinion of one house upon an abstract controverted

* Dallas's Report, volume 3, page 388.

point may be overruled and reversed by another. But when Congress has solemnly declared *that a particular act would be a violation of the public faith*, is it to be supposed that it would ever violate a pledge thus given to the country? Can an abolitionist expect it? Need any citizen of a slave State fear it? What is public faith but the honor of the government? Why are treaties regarded as sacred and inviolable? Why but because they involve the pledge, and depend upon the sanctity, of the national faith? Why are all compacts or promises made by government held to be irrevocably binding? Why but because they cannot break them without committing perfidy, and destroying all confidence in their justice and integrity? Surely, then, your committee may say with the utmost confidence, (and the sentiment will be ratified by every American heart,) that the declaration now promulged in relation to this subject, will not be departed from by any succeeding legislature, except under circumstances (should any such ever arise in the progress of our country) in which a departure from it would not be regarded by the slaveholding States themselves, as a wanton or arbitrary infraction of the public faith!

Your committee are further instructed to report that, in the opinion of this House, Congress ought not to interfere in any way with slavery in the District of Columbia—

2dly. Because it would be unwise and impolitic.

It will be palpable to the minds of all that if the committee have succeeded in establishing, as they think they have, that any such interference on the part of Congress would be a violation of the public faith, it would be a work of supererogation to attempt to show that such an act would be unwise and impolitic. As there may be some, however, who may not agree with them in their arguments or conclusions upon that point, they feel bound, under the instruction of the House, to offer a few suggestions under this head.

The federal government was the creation of the States of the confederacy, and the great objects of its creation and organization "were to form a more perfect union, establish justice, insure domestic tranquillity, and provide for the common defence and general welfare."

Apply these principles, then, to an interference by Congress with slavery in the District of Columbia. Such action, to be politic, must be in accordance with some one of those great objects; and it will be the duty of the committee, in as concise a manner as possible, to show that it would not be in accordance with either of them.

First, then, as to the District itself.

It has already been shown that any interference, unsolicited by the inhabitants of the District, cannot "establish justice," or promote the cause of justice within it, but directly the reverse. No greater degree of slavery exists here now than did exist when the Constitution was adopted, and then the inhabitants of the District were citizens of the States of Maryland and Virginia, and had a voice in the adoption of that instrument. Surely their subsequent transfer to the jurisdiction of Congress, made in conformity with that Constitution, could not deprive them of the protection to which they were entitled by these great leading principles of it. On the contrary, they had

every right to expect that Congress would "establish justice," as to them, in strict compliance with the great charter under which it acted, and by which it is forbidden to interfere with their rights of private property without their consent, or in any way to affect injuriously their domestic institutions. Of those institutions slavery was and is the most important, and any attempt on the part of Congress, acting as the local legislature of the District, to abolish it, would not only be impolitic, but an act of gross injustice and oppression.

Secondly, as to the States of the Union. Here, again, your committee have but to refer to their former remarks to show that the abolition of slavery in the District would not "establish justice," but work great injustice to the surrounding States in particular, and to all the slave States in general, and in a degree proportioned to their proximity to the District and to the influence upon the institution of slavery in the Union, of such action on the part of Congress. They have also shown that the abolition of slavery here, so far from tending to "insure domestic tranquillity," would have a direct tendency to produce domestic discord and violence and servile war in all the slaveholding States. As these consequences, then, would follow such action in reference to the States, your committee need not say, that, instead of providing for "the common defence *by it*," Congress would be called upon "to provide for the common defence" *in consequence of it*, and to an extent which cannot now be foreseen. Seeing, then, that the American confederacy was formed for the great objects of providing for "the common defence and general welfare," it follows, necessarily, that Congress is not only restrained from the commission of any act by which these objects may be frustrated, but that it is bound to sustain and promote them. The same provision of the Constitution which requires it to call out the militia to "suppress insurrections," unquestionably imposes the corresponding obligation upon it to commit no act by which an insurrectionary spirit may be excited. The same provision which enjoins it on the federal government, to "guarantee to each State a republican form of government, and to aid and protect each State against domestic violence," evidently implies the correlative obligation to take no step of which the direct and inevitable tendency would be to overthrow the State governments, and to involve them in wide-spread scenes of misery and desolation. In one word, if it be the duty of Congress, as it most clearly is, to support and preserve the Constitution and the Union, then it is manifest that it is bound to avoid the adoption of any legislation which may lead to their destruction. Your committee consider these positions too obvious to require argument or illustration. They consider it equally manifest, that any attempt to abolish slavery in the District, would necessarily tend to the deplorable consequences to which they have adverted. Congress, therefore, is bound, by every principle of duty which forbids it to interfere with slavery in any of the States, to abstain from any similar interference in the District of Columbia.

We have said that the scheme of general emancipation is imprac-

ticable. The slightest reflection must satisfy every candid mind of the truth of this assertion.

Admitting that the federal government had a right to act upon this matter, which it clearly has not, it certainly never could achieve such an operation without full compensation to the owners. And what would probably be the amount required? The aggregate value of all that species of property is not less, probably, than four hundred millions of dollars! And how could such an amount be raised? Will the people of this country ever consent to the imposition of oppressive taxes, that the proceeds may be applied to the purchase of slaves? The idea is preposterous; and not only that, but it is susceptible of demonstration, that even if an annual appropriation of ten millions were actually applied to the purchase and transportation of slaves, the whole number would not be sensibly diminished at the expiration of half a century, from the natural growth and multiplication of the race. Burden the treasury as we might, it would still be an endless expense and an interminable work. And this view of the subject surely is sufficient of itself to prove that of all the schemes ever projected by fanaticism, the idea of universal emancipation is the most visionary and impracticable.

But even if the scheme were practicable, what would be gained by effecting it? Suppose that Congress could emancipate all the slaves in the Union, is such a result desirable? This question is addressed to the sober sense of the people of America. Would it be politic or advantageous? Would it contribute to the wealth, or grandeur, or happiness of our country? On the contrary, would it not produce consequences directly the reverse? Are not the slaves unfit for freedom; notoriously ignorant, servile, and depraved? and would any rational man have them instantaneously transformed into freemen, with all the rights and privileges of American citizens? Are they capable of understanding correctly the nature of our government, or exercising judiciously a single political right or privilege? Nay! would they even be capable of earning their own livelihood, or rearing their families independently by their own ingenuity and industry? What, then, would follow from their liberation but the most deplorable state of society with which any civilized country was ever cursed? How would vice and immorality and licentiousness overrun the land? How many jails and penitentiaries that now seldom hold a prisoner would be crowded to suffocation? How many fertile fields that now yield regular and abundant harvests would lie unoccupied and desolate? How would the foreign commerce of the south decline and disappear? How many thousands of seamen, of whom southern agriculture is the very life, would be driven for support to foreign countries? And how large a portion of the federal revenue derived from foreign commodities exchanged for southern products would be lost forever to this government? And, in addition to all this, what would be the condition of southern society were all the slaves emancipated? Would the whites consent that the blacks should be placed upon a full footing of equality with them? Unquestionably not. Either the one class or the other would be forced to emigrate, and,

in either case, the whole region of the south would be a scene of poverty and ruin; or, what is still more probable, the blacks would everywhere be driven before the whites, as the Indians have been, until they were exterminated from the earth. And surely it is unnecessary to remark that decay and desolation could not break down the south without producing a corresponding depression upon the wealth and enterprise of the northern States. And here let us ask, too, what would be the condition of the non-slaveholding States themselves, as regards the blacks? Are they prepared to receive myriads of negroes, and place them upon an equality with the free white laborers and mechanics, who constitute their pride and strength? Will the new States consent that their territory shall be occupied by negroes instead of the enterprising, intelligent, and patriotic white population which is daily seeking their borders from other portions of the Union? Shall the yeomanry of those States be surrounded by thousands of such beings, and the white laborer forced into competition and association with them? Are they to enjoy the same civil and political privileges as the free white citizens of the north and west, and to be admitted into the social circle as their friends and companions? Nothing less than all this will constitute perfect freedom, and the principles now maintained by those who advocate emancipation would, if carried out, necessarily produce this state of things! Yet, who believes that it would be tolerated for a moment? Already have laws been passed in several of the non-slaveholding States to exclude free blacks from a settlement within their limits, and a prospect of general and immediate abolition would compel them, in self-defence, to resort to a system of measures much more rigorous and effective than any which have yet been adopted. Driven from the south, then, the blacks would find no place of refuge in the north; and, as before remarked, utter extermination would be the probable, if not the inevitable, fate of the whole race. Where is the citizen, then, that can desire such results? Where the American who can contemplate them without emotion? Where the abolitionist that will not pause, in view of the direful consequences of his scheme, both to the whites and the blacks, to the north and the south, and to the whole Union at large?

Your committee deem it their duty to say that, in their opinion, the people of the south have been very unjustly censured in reference to slavery. It is not their purpose, however, to defend them. Their character, as men and citizens, needs no vindication from us. Wherever it is known it speaks for itself, nor would any wantonly traduce it, but those assassins of reputation, who are also willing to be the destroyers of life. Exaggerated pictures have been drawn of the hardships of the slave, and every effort made to malign the south, and to enlist against it both the religious and political feeling of the north. Your committee cannot too strongly express their unanimous and unqualified disapprobation of all such movements. The Constitution under which we live was framed by our common ancestors to preserve the liberty and independence achieved by their united efforts in the council and the field. In all our contests with foreign

enemies, the south has exhibited an unwavering attachment to the common cause. Where is the spot of which Americans are prouder than the plains of Yorktown? Or, when was Britain more humbled, or America more honored, than by the victory of New Orleans? All our history, from the revolution down, attest the high and uniform and devoted patriotism of the south. Her domestic institutions are her own. They were brought into the Union with her, and secured by the compact which makes us one people; and he who would sow dissensions among members of the same great political family, by assailing the institutions, and impugning the character of the citizens of the south, should be regarded as an enemy to the peace and prosperity of our common country.

If there is a feature by which the present age may be said to be characterized, it is that sickly sentimentality which, disregarding the pressing claims and wants of its own immediate neighborhood, or town, or State, wastes and dissipates itself in visionary, and often very mischievous, enterprises, for the imaginary benefit of remote communities. True philanthropy, rightly understood and properly applied, is one of the purest and most ennobling principles of our nature; but, misdirected or perverted, it degenerates into that fell spirit of fanaticism which disregards all ties, and tramples on all obstacles, however sacred or venerable, in the relentless prosecution of its horrid purposes. Experience proves, however, that, when individuals in one place, mistaking the true character of benevolence, rashly undertake, at the imminent hazard of conflict and convulsion, to remedy what they are pleased to consider evils and distresses in another, it is naturally regarded by those who are thus injured, either as a species of madness which may be repelled or resisted, as any other madness may, or as manifesting a feeling of hostility on the one side, which must necessarily produce corresponding alienation on the other. It is all important, therefore, that the spirit of abolition, or, in other words, of illegal and officious interference with the domestic institutions of the south, should be arrested and put down: and men of intelligence and influence at the north should endeavor to produce that sound and rational state of public opinion which is equally due to the south and to the preservation of the Union.

And this brings your committee to the last position they have been instructed to sustain, and that is, that, in the opinion of this House, Congress ought not to interfere in any way with slavery in the District of Columbia.

3dly. Because it would be dangerous to the Union.

The first great object enumerated in the Constitution, as an inducement to its adoption, was to "form a more perfect union." At that time all the States held slaves to a greater or less extent, and slavery in the States was fully recognized and provided for, in many particulars, in that instrument itself. It was recogzized, however, and all the provisions upon the subject so regarded it, as a State and not a national institution. At that time, too, as has been before remarked, the District of Columbia constituted an integral part of two of the independent States which became parties to the confederacy and to the

Constitution itself. Since that time an entire emancipation of slaves has taken place in several of the old States; but in all cases this has been the work of the States themselves, without any interfence whatever by the federal government. New States have also been admitted into the Union, with an interdiction in their constitutions against involuntary servitude. In this way the slave States have become a minority in representation in the federal legislature. Their interests, however, as States, in the institution of domestic slavery, as it exists within their limits, have not diminished, nor has their right to perfect security under the Constitution, in reference to this description of property, been in any way or to any degree surrendered or impaired since the adoption of that instrument by themselves and their sister States.

The operation of causes, to a great extent natural, and proceeding from climate, soil, and consequent production, has rendered slavery a local and sectional institution, and has thus added another to the most alarming apprehensions of patriots for the perpetuity of this Union—the apprehension of local and geographical interests and distinctions. How immensely important is it, then, that Congress should do no act, and assume no jurisdiction, in reference to this great interest, by which it shall ever appear to place itself in the attitude of a local, instead of a national tribunal—a partial agent, providing for peculiar and sectional objects and feelings, instead of a general and paternal legislature, equally and impartially promoting the general welfare of all the States. No one can fail to see that any other course on the part of Congress must weaken the confidence of the injured States in the federal authority, and, to the same extent, prove "dangerous to the Union."

Since the adoption of the federal Constitution the District of Columbia has been ceded to the United States as a seat of the federal government; but not only many eminent statesmen of the country, but all of the slaveholding States, speaking through their legislative assemblies, firmly believe and insist that the cession so made has conferred upon Congress no constitutional power to abolish slavery within the ceded territory. Your committee have abstained from an examination of this question, because they were not instructed to discuss it. But they have no hesitation to say that, in the view they have taken of the whole question, the obligations of Congress not to act on this subject are as fully binding and insuperable as a positive constitutional interdict, or an open acknowledgment of want of power.

Considering the subject in this light, your committee have already proved that any interference by Congress with the subject of slavery would be evidently calculated to injure the interests and disturb the peace of the slaveholding States; and if they have succeeded in establishing this position, no argument is necessary to show that such consequences, springing from the action of Congress as the local legislature of the District, would eminently endanger the existence of this Union. It has also been shown that Congress, as the legislature of the Union, can have no constitutional power over this subject, and that its powers as a local legislature of the District were granted for

the mere purpose of rendering its general powers perfect and free from conflict and collision with State authorities. It has also been shown that these local powers should be so exercised as to confer the greatest benefits upon the citizens residing within the District, with the least possible injury to the peculiar interests of any State, or the general interests of all the States. Your committee have also shown, as they think successfully, that the abolition of slavery in the District of Columbia would be a deep injury to the citizens of the District, and therefore a violation of the trust reposed in Congress as the local legislature of the District, and also that it would inflict an incurable injury upon all the slaveholding States, and would therefore be an equal violation of the trust reposed in that body as the legislature of the Union. If, then, they have established these positions, as they think they have, can any one doubt that the action contemplated would be "dangerous to the Union," being directly calculated, as it would be, to weaken the confidence of the District in Congress as a safe and faithful local legislature, and the confidence of the slaveholding States as an impartial guardian of their interests?

Important as the Union is to each State, and to the whole American people, every one will admit that, as far as possible, strict impartiality and kind feelings to all the interests and all the sections of the country should characterize the action of the federal government. The Union was formed for the common and equal benefit of all the States, and for the perfect and equal protection of the rights and interests of all the citizens of all the States. Its only strength is in the confidence of the States, and of the people, that these great benefits will continue to be secured to them, and that these great purposes will be accomplished by its preservation. Any action, therefore, on the part of Congress which shall weaken or destroy that confidence in any portion of our citizens, or in any State of the Union, must inevitably, to that extent, endanger the Union itself! Who can doubt this reasoning? Who does not know that the agitation of any question connected with domestic slavery, as it exists in this country, among any portion of our citizens, creates apprehension and excitement in the slaveholding States? Who does not know that the agitation of any such question in either branch of Congress shakes their confidence in the security of their most important interests, and, consequently, in the continuance to them of those great benefits, to secure which they became parties to the Union? Who, then, does not believe that any action by Congress, having for its object the abolition of slavery in any portion of the Union, however narrow or limited it may be, would necessarily impair the confidence of the slaveholding States in their security in relation to this description of property, put an end to all their hope of benefits to be derived to them from the further continuance of the Union, and alienate their affections from it? Were Congress, in a single instance, to suffer itself to be impelled by mere feeling in one portion of the Union, to attempt a gratification of that feeling at the sacrifice of the dearest interest and most sacred rights of another portion, who can doubt that the Union would be seriously endangered, if not dstroyed? But this conclusion does not depend upon reasoning alone.

The evidences of public sentiment on this point are equally abundant and decisive. Your committee having already extended their report beyond the limits to which they could have wished to confine it, will enter into no details upon this portion of their duty. Suffice it to say that the legislatures of several, if not of all, the slaveholding States, have solemnly resolved that "Congress has no constitutional authority to abolish slavery in the District of Columbia." It would be utterly impossible, therefore, that any such attempt should be made by Congress without producing an excitement and involving consequences which no patriot can contemplate without the most painful emotions. It would be regarded by the slaveholding States as an entering wedge to a scheme of general emancipation, and, therefore, tend to produce the same results, in relation to the federal government and the Union, that would be produced by the adoption of any measure directly affecting the domestic institutions of the States themselves. Your committee will not dwell upon the picture that is thus presented to their minds. The reflection it excites is one of unmingled bitterness and horror. It is one, they trust, which is never to be realized. Looking upon their beloved country, as it now stands, the envy and admiration of the world; contemplating, as they do, that unrivalled Constitution, by which a beauteous family of confederated States, each independent in its own separate sphere, revolve around a federal head with all the harmony and regularity of the planetary system; and knowing, as they do, that under the beneficent influence of our free institutions, the people of this country enjoy a degree of liberty, prosperity, and happiness, not only unpossessed, but scarcely imagined, by any other upon earth; they cannot and will not advert to the horrors, or depict the consequences of that most awful day, when the sun of American freedom shall go down in blood, and nothing remain of this glorious republic but the bleeding, scattered, and dishonored fragments. It would indeed be the extinction of the world's last hope, and the jubilee of tyranny over all the earth!

But your committee feel that, with these painful impressions on their minds, they would but imperfectly discharge their duty if they did not make an earnest appeal to the patriotism of the American people to sustain the resolution adopted by the House. And they would also appeal to the good sense and good feelings of that portion of the abolitionists who, acting under a mistaken sense of moral and religious duty, have embarked in this crusade against the south, solemnly invoking them, in the name of our common country, to abstain from a system of agitation which has not only failed, and will always fail, to attain its objects, but has even brought the Union itself into a state of imminent and fearful peril. It is confidently believed that this appeal will not be made in vain, and that hereafter all who truly love their country will manifest their patriotism by avoiding this unhappy cause of discord and disunion, and that they will make no further exertions upon a subject from the continued agitation of which nothing but augmented evils can result.

In conclusion, the undersigned recommend the adoption of the following resolutions as a substitute for the bill reported by the majority of the Committee for the District of Columbia:

Resolved, That the Constitution confers no power on Congress to establish or abolish slavery in the States, Territories, or the District of Columbia.

Resolved, That the deeds of cession of Virginia and Maryland neither contemplated nor intended to confer such a power on Congress.

Resolved, That to alter, change, or abolish the rights of property in the District of Columbia, without the consent of the owners, would be unjust, and in violation of the spirit if not the letter of the Constitution.

Resolved, That, even with such consent, to interfere with the subject of slavery, not only without but against the consent of the people of Maryland, would be in flagrant violation of the public faith, an abuse of the trust conferred on Congress by the cession, and hazardous to the peace and security of that State, and particularly unfortunate at this time, as calculated to discourage many loyal citizens and strengthen the power of the rebellion.

CHAS. B. CALVERT.
JOHN B. STEELE.