

**Commonwealth of Massachusetts.**

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Reported by a Special Joint Committee consisting of  
Messrs. FILLEY and PERKINS, of the Senate, and  
Messrs. RISING, of *Worthington*,  
RUSSELL, of *West Cambridge*,  
DAVIS, of *Templeton*,  
of the House.

**Commonwealth of Massachusetts.**

IN SENATE, Feb. 23, 1839.

The Joint Special Committee to whom were referred the petition of Jarius Lincoln and others, of the town of Hingham, and many other petitions of the same tenor, asking the Legislature to declare, that Congress has the constitutional power to abolish slavery and the slave-trade in the District of Columbia, and in the several Territories of the Union, and the slave-trade between the several states of the Union, and that Congress ought immediately to exercise that power; to whom were also committed the petition of Zephaniah Willis and others, of the town of Kingston, and sundry other petitions on the subject of the admission of New States into the Union, and to whom was committed an order of the honorable House of Representatives, of the 12th January last, in relation to Atherton's Resolutions, have considered the several matters so submitted, and ask leave to

**R E P O R T :**

That it is with much gratification they have found among themselves, an unanimity of opinion on a subject which has so long and so deeply excited the community at large, and at times threatened the repose of the several states whose true strength will be found to consist in their unity and harmony.

And they cannot forbear to congratulate themselves and the public, upon the continuance of that sound and patriotic feeling which has so long distinguished this happy Union—amidst all the conflicts which on the one hand may be supposed to trench upon constitutional rights, and on the other, essentially to suppress the impulses of humanity or narrow the sphere of individual and general justice. The Committee cannot for a moment shut their eyes to the direct and universal evils which accompany the institution of slavery, and they will not forbear earnestly to express a conviction which they deeply feel, that any hasty or inadequate remedy will have a tendency to aggravate, rather than assuage the influence of the disease. They would especially commend that cool, dispassionate, and thorough investigation which should always attend the examination of a malady deeply seated, and which must be healed by disclosing to the patient its fatal tendencies, and inducing his voluntary application of the appropriate and efficient remedies. And they would superadd their caution to that of the wise and prudent who have gone before them, lest the rash and precipitate operator should in applying the remedy inflict a wound deeper and more lasting than the disease itself.

That the institution of slavery existed in many of the states of the Union before the yoke of general bondage was broken, none will deny; that it survived that great and glorious struggle for freedom, by which our independence was won, is also true; that it will not now avail us to deplore, that like our own Massachusetts, the other members of the Confederacy did not forever rid themselves from an evil so alarming in its character and ruinous in its effects is clear.

That it was by a prudent and studied silence, impliedly countenanced in that sacred instrument, the Constitution of the United States, we are perhaps compelled to concede. The compromise and mutual concessions made in order to the adoption of that instrument, by the states, will not, in the opinion of your Committee, be disturbed by enforcing the views and objects of the petitioners. The institution of slavery is local, subject to distinction or modification by the local legislatures. For the District of Columbia, Congress is the legislature. It controls and regulates by necessity, the domestic relations of the several territories, over which it has jurisdiction. It cannot interfere, nor do the petitioners desire it to interfere with the local enactments of the several members of the confederacy. Yet it is the duty of Congress, as the general guardian of the Union, to confine the effects of local legislation within the territorial jurisdiction of the enacting power; to see that no laws be enforced by one member, incompatible with the rights of the others.

The freedom of communication established by the Constitution and laws, through the medium of the post office, is an unquestionable right accorded to all the citizens of the Union, over which no local legislature should be permitted to exercise the slightest control. It is a matter within the exclusive jurisdiction of the national legislature. An interference by state authorities with any of the regulations adopted by Congress in regard to it, is unjustifiable; not only so, but a direct violation of laws paramount to those of the states. Your Committee are therefore of opinion, that although Congress has no legislative control directly over the institution of slavery in the several states, it has the power of keeping open the pathway of moral light and knowledge, through which this institution can

be reached by argument and the influences of moral suasion, quite as efficient in the accomplishment of the humane objects of the petitioners, as legislative rules and sanctions can possibly be made.

No citizen of Massachusetts, it is apprehended, will maintain the power of his own particular confederacy to interfere with the other states, in a matter which belongs to their municipal or political regulation. The Committee would not be understood to include, in the above general remark, any expression of opinion against the exercise by Congress, of its plenary powers of legislation and jurisdiction over the several portions of our territory, which are now embraced within the District of Columbia and the several territorial governments already created by law. So far as the institution of slavery is confined to the legislation of the several states within whose limits it is tolerated by their Constitution or laws, the Committee do not understand that the wishes of the petitioners go beyond the recognition of the unquestionable and well-settled principles heretofore adverted to in this report. But as the objects of the petitioners are distinctly stated in their petition, it may not be amiss for the Committee to notice them severally in their report, accompanied by the opinions which they have adopted. The petitioners suppose the powers of Congress to be undeniably these:

1st. To abolish slavery and the slave-trade in the District of Columbia. 2d. To abolish slavery and the slave-trade in the several territories of the United States. 3d. To prohibit the slave-trade among the several states of the Union. 4th. To refuse the admission of any new state into the Union whose Constitution tolerates domestic slavery, and the petitioners conclude by expressing their full con-

viction that on these several subjects, Congress ought immediately to exercise its acknowledged power. The Committee have given to these interesting subjects, their anxious and undivided attention, and herewith communicate to the Legislature the conclusions to which they have arrived.

The first question involves the power of Congress over the subject matter of slavery in the District of Columbia, the Committee are of opinion that so far as the constitutional expression or grant to Congress of "full and exclusive power of legislation" over that portion of territory which now comprises the District of Columbia embraces the question of slavery, it has invested Congress with full power on that subject, and they cannot find any reason for the assumption that the subject of slavery, like any other, is not comprehended within the legitimate scope of the term "full and exclusive legislation in all cases whatsoever."

The Committee, therefore, fully concur with the petitioners in the opinion, that the Congress of the United States have the plenary power which they now call upon this Legislature to urge the General Government to exercise, and that immediate measures ought to be adopted by Congress to accomplish that object. By the acts of cession of the ten miles square, now comprising the District of Columbia, and entitled the Seat of Government, the jurisdiction of Virginia and Maryland ceased, and became vested in the Congress of the United States, and the persons and property of individuals residing within its limits became subject to the exclusive legislation of Congress in full and absolute right. As to the second proposition, the Committee cannot hesitate to express their opinion that Congress have the power to abolish slav-

ery and the slave-trade in the territories of the United States. And they are as clearly of opinion that Congress have the power to regulate or abolish the slave-trade between the several states of the Union, which is the third proposition of the petitioners; they also concur with the petitioners in their opinion of the right and duty of Congress to prohibit the admission of any new state into the Union, whose Constitution shall tolerate domestic slavery, and they concur in the general feeling of approbation expressed by the petitioners toward the Massachusetts delegation in Congress, for their sincere and able support of the sacred right of petition, the importance of which the subject of slavery has so fully developed.

The petitioners ask of the Legislature an expression of an opinion affirming that expressed by themselves upon four distinct propositions relative to the subject of slavery, and also for an application by the Legislature to the Congress of the United States to act upon the subjects which these propositions embrace. Were these subjects of fresh impression, recently propounded and undiscussed, their intrinsic importance, the legislative powers, and the important and intricate relations which they involve, would require of your Committee laborious and careful researches and inquiries. Such, however, is not the case; they have been most critically examined, their relations are intimately known, the powers of the National Government over them are unquestioned except by those whose interest has bewildered them in their researches after truth, or whose prejudices have blinded their intellectual vision, to repeat arguments to express conclusions to which the rules of logic strictly applied, have brought all honest, disinterested inquirers, and to enforce the practical adoption of those conclusions by any new efforts of the Legislature, can hardly be expected.

The Committee have also had under consideration, an order of the honorable House of Representatives of the 12th January, 1839, directing them to report upon the expediency of adopting a Resolution of the Legislature, expressing their disapprobation of the Resolutions offered by a member from New Hampshire, in the House of Representatives of the United States, at its present session, and they report that the said Resolutions are, in the opinion of your Committee, an infringement of the sacred right of petition, an infringement which ought not to be tolerated by a free people, and to which, none but willing slaves will submit, an interference with the right of discussion, a right inestimable to freemen, and dreaded only by those whose principles or motives cannot withstand the searching tests of truth.

The Committee, in conclusion, would remind the Legislature that as the several topics submitted to their investigation, have been heretofore repeatedly presented, and fully discussed and acted upon by the Legislature of this Commonwealth, and as our Senators have been instructed, and our present Representatives in the Congress of the United States have been advised in relation to the subjects contained in the several petitions referred to your Committee, they are of the opinion that no further or more specific action is necessary or expedient thereon, and respectfully ask to be discharged from the further consideration thereof. All which is submitted.

For the Committee,

LESTER FILLEY, *Chairman.*