HOUSE.....No. 41.

Commonwealth of Massachusetts.

The Joint Special Committee of the Senate and House of Representatives of the State of Massachusetts, to whom was referred the petition of George Latimer and more than sixty-five thousand citizens of Massachusetts, also the Message of his excellency the Governor, communicating a copy of all the correspondence between the governor or authorities of the State of Virginia and the Executive Department of this Commonwealth, touching the case of George Latimer, ask leave to

REPORT.

This large body of petitioners, probably the most numerous that ever made application to the General Court, ask three things, to wit :

1. That a law should be passed, forbidding all persons who hold office under the government of Massachusetts, from aiding in or abetting the arrest or detention of any person who may be claimed as a fugitive from slavery.

2. That a law should be passed forbidding the use of the jails or other public property of the State, for the detention of any such person before described.

3. That such amendments to the Constitution of the United States be proposed by the Legislature of Massachusetts to the

other States of the Union, as may have the effect of forever separating the people of Massachusetts from all connexion with slavery.

These requests deeply affect the relation which Massachusetts bears to many of the States in this Union. They are requests which should not be lightly asked or inconsiderately acted upon. The form of government established by the constitution of the United States has now been in successful operation more than half a century, and no propositions of the kind suggested are believed to have been ever before brought forward by so large a number of persons, for serious consideration, as in the present instance. The first impression upon the mind of every citizen would naturally be that no change of the system, which has thus far worked favorably for the happiness of the greater number of the people who live under it, could be expedient. And at least, it must be admitted, that when any such change is proposed, the reasons which can be brought to bear in its favor should be of the strongest kind, before any one should be induced to recommend it. If this remark be true in all cases, it is most particularly so in those where the change proposed is likely to be regarded with an unfriendly eye by the citizens of some of the states, who may consider their rights partially impaired thereby. Your committee are strongly impressed by the force of these considerations. They would be very slow to yield their assent to any proposal not strongly grounded in reason, or that was urged solely for the purpose of agitating an exciting and dangerous subject. Yet, on the other hand, they are not prepared, in an over-earnest anxiety to avoid or to defer the examination of such a subject, to shut their ears or their eyes to facts which force themselves on their attention, and to the evidence which is continually developing itself with more and more clearness, to prove the necessity of sustaining by decisive action some of the great principles upon which the liberty of the citizen and the value of all government depend.

It cannot and it ought not to be concealed, that the feeling which prompts nearly seventy thousand persons to sign the present petition, is a feeling of uneasiness at the encroachments which the friends and supporters of the institution of domestic

slavery in the United States, are believed by them to be making upon the great doctrines of human freedom. Of all the reasons which they have for so much uneasiness, your committee do not feel called upon to treat at this time; nor will they point out the specific instances in which republican principles have been grossly violated in a manner to justify their fears, excepting in so far as they are directly connected with the points under consideration. For the sake of greater perspicuity, and in order to divide the matter proposed by the three points of the petition, in the way it naturally should take, your committee will first discuss that branch of the subject which relates to the prohibition upon all State officers to aid in the arrest of fugitives from labor; and the refusal of the use of the State jails for the detention of them. After that question shall have been disposed of, the propriety of offering amendments to the constitution of the United States, will remain to be considered by itself.

It is only within a very short space of time that the murmurs of dissatisfaction which have been long heard against the abuse of both the executive and the legislative departments of the general government to further the interests of the slaveholding party in the Union, have reached to the third, the most firmly established in the respect of the American community, the judiciary. So long as the arbitrary doctrines, which have marked the progress of that party, were perceptible only in those branches of our republican system which are liable to constant change, there was ground for hope of a return to a better system, through the purifying process of public opinion. But when the slightest indication of a spread of the same dangerous notions into the tribunals of justice of the Union appeared, there immediately followed a change in the character of the public feeling. The prospect grew more dark, because there was more of permanency in the quality of the coloring. This change is mainly to be attributed to one decision made by the judges of the supreme court of the United States, at the January term of the year 1842. Your committee refer to the case entitled Edward Prigg *versus* the State of Pennsylvania. And inasmuch as upon that case has grown the request of the peti-

tioners, the members of the committee feel it indispensably necessary not only to go into an examination of its principles and effect in this report, but to beg of the members of the General Court to examine it for themselves. For upon the view which each person will take of that decision, must depend the propriety or impropriety, in his mind, of adopting the measures which the committee will ultimately recommend.

Yet before going into the brief notice of that case, which may here be permitted, they desire unequivocally to signify the spirit with which they mean to proceed. They disclaim any disposition to oppose the constitution of the United States, or to resist or deny the binding nature, upon the citizens of all the states, of the provisions which it contains. They do not seek to instigate any discontent with the jurisdiction of the supreme court, organized as that tribunal is, in a perfectly constitutional form; and deciding questions that come up for its consideration, as it does, in a regular and unexceptionable manner. Whatever may have been the emotions with which they read the decision in the case in question, there was not mingled with them a particle of inclination to deny its validity as a decree. However adverse it seemed, in its spirit and tendencies, to all the noblest principles at the foundation of a republican government, such as that of the United States claims to be, it was sufficient that the regularly constituted tribunal had declared such to be the law, to secure for it acquiescence on the part of those states whose rights are most deeply affected, and whose legislation is most extensively annulled by it. It is, however, one thing not to strive to contend with the authority of the court, and another to endeavor to discover justifiable and proper modes of remedying, at least in part, the evils which it has occasioned. Although your committee are in no sense inclined to dispute the power of the highest tribunal of the Union, they see no objection to making a calm examination of the reasoning which it uses, or to recommending such measures as are by itself admitted to be within the ability of the State to adopt, and are calculated to restrain the dangerous authority which it assumes. It is for the sake of defining what the extent of that authority is, as well as of ascertaining whether the time has

come to recommend restraining measures, that your committee propose to refer to the case of Edward Prigg.

And, first of all, it may be as well to give in full the second section of the fourth article of the constitution of the United States, because it was on the construction of a part of it, that the case came up for decision.

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"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."

Your committee have given the whole of the three clauses of the section, although the case of Prigg has reference only to the last of them. The reason is, that they will have occasion, in the course of their report, to allude to each of them in succession, and it may be convenient to look at them in the connexion. It will be perceived that each clause is in its character restrictive of State authority. The first prohibits the creation of distinctions of citizenship in any one State, which would exclude citizens of the rest from a right to enjoy the privileges and immunities that citizenship may confer within its borders. The second restrains the States from harboring and protecting persons charged with crimes, and flying from justice from one State to another. The third secures slave-owners in the States, where the relation of master and slave exists, against the danger of losing ownership, by virtue of any legislation, which those States not recognizing slavery, might adopt. It also directs that fugitive slaves shall be delivered up on "claim" of the owner.

Now it is immediately perceptible, that a difficulty arises in the construction of this last clause in the section, from the use

of the word "claim" there. What does "claim" in this connexion mean? Does it mean simply the assertion of a right to a person by a slave-owner? or does it include the proof necessary to show that that assertion is founded in truth and justice? If only the first, then the liberty of every freeman in the land, of whatever color and complexion, is at the mercy of any person who may be unscrupulous enough to affirm him to be his slave; and none of the provisions of our laws, so carefully made to protect us from arbitrary imprisonment, can avail. If, on the other hand, it means a demand supported by evidence to make it good; then is it or ought it to be within the power of the person demanded to enjoy the same opportunities of rebutting that evidence, which the law gives him in every other case of disputed right? And to that end he should have the privilege of immediate redress, if wronged, through the ordinary process of law, and a trial by twelve of his peers.

This is the first and greatest difficulty; to understand exactly what the word "claim" means; and this difficulty the law of the United States, passed on the 12th of February, 1793, was intended to remove. That law was designed to specify the manner in which persons charged with crimes and fleeing from justice from one state into another, should be demanded. In other words, its first application was to be to the second clause of the section of the constitution already quoted, but it was also made to embrace a provision for the recovery of fugitive slaves on "claim" made by the master. That provision is in the following words:

"When a person held to labor in any of the United States or in either of the territories on the north-west or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit

taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor to the state or territory from which he or she fled."

By this law it will be seen, that the Congress of the United States adopted a middle course in defining the sense of the word "claim" in the constitution. They admitted that it was not enough to make a mere demand, and, upon that demand, to carry away the person demanded into captivity. But, on the other hand, they denied the necessity under it of substantiating the right of property to the same extent that is required in all ordinary cases of dispute at law. They specified the degree of proof which would be sufficient to establish the claim, and, setting aside the right of trial by jury, they reposed in the breast of any federal or state magistrate, even to the justice of the peace, the power of deciding, without appeal, upon the question of freedom or slavery for his fellow-men. Neither were they very severe in regard to the character of the evidence which might be adduced to sustain the claim. It may be oral or written. It may be only the certified oath of the claimant sworn to before a magistrate in the slave territory itself. All that is necessary is, to make what is called in law a *prima facie* case, "such as, upon an ordinary warrant, would justify his commitment for trial." * Whereupon the judge or justice of the peace before whom a man claimed as a slave may happen to come, may, according to his will and pleasure, order his release or consign him irrevocably to bondage.

Such are the passages of the constitution and the laws of the United States upon which the judges of the supreme court were called to express an opinion in the case of Edward Prigg. They were required to say how far these controlled the power of the states to legislate upon the subjects to which they referred. Your committee understand their answer to establish—

* See Story's Commentaries on the Constitution, iii. 677.

1. That the federal government has an exclusive right to regulate the mode in which the "claim" of a master over his fugitive slave shall be made.

2. The Congress of the United States has already exercised that right in a perfectly constitutional manner through the law of 1793, already quoted.

3. All legislation on the part of the several states which directly or indirectly limits or restrains the right of recovery of fugitive slaves on "claim" as thus defined, is utterly null and void.

4. No state can pass a law in any way interfering with the power of summary removal of an individual "claimed" as a fugitive slave from its territory, provided that this power be exercised by the judges of the United States courts, but it is not obligatory upon any state to suffer its own magistrates to exercise the same power.

Your committee regret to perceive, in this construction of the constitution, no safeguard whatever for the liberty of a citizen who, though free, may happen to be seized in a place where he is unknown, on the "claim" of a slave-owner. The writ of personal replevin, that of *habeas corpus*, and the right of trial by jury, all invaluable privileges of the citizen, fall a dead letter before the combined will of a careless or unscrupulous magistrate and a crafty kidnapper. It is to be feared that a decision cannot be well founded, which, in republican America, shall bring us to such results as these. It is, nevertheless, very true that in the opinion given by the judges to justify their decision, a very opposite view is taken of it. "Construe the right of legislation as exclusive in Congress," they say, "and every evil and every danger vanishes." Your committee lament the circumstance that they cannot see the matter in the same light. On the contrary, they would be more apt to affirm, that if you construe the right of legislation in the particular specified, to be so exclusive in Congress as that it may make the general government able, at any moment, to destroy the force of every well-recognized principle of human liberty in the federal and state constitutions, then every evil and every danger, so far from vanishing, must be multiplied a thousand fold. Your committee take the liberty, very respectfully, to dispute the

reasoning which leads to a result so alarming. The judges say, in extenuation, that "in the exposition of the portion of the constitution under examination, the court limits itself to those considerations which appropriately and exclusively belong to it, without laying down any rules of interpretation of a more general nature." And again: "Hence the safest rule of interpretation, after all, will be to look to the nature and object of the particular powers, duties and rights, with all the lights and aids of contemporary history; and to give to the words of each just such operation and force consistent with their legitimate meaning, as may fairly secure and attain the ends proposed." Perhaps this view may be the just one; but it is not the one which is most favorable to the preservation of the spirit of our free institutions. Your committee cannot help thinking that, in the interpretation of any one or of all the separate portions of that instrument, a general idea of the spirit in which it was conceived and the high purposes it was designed to fulfil, should be uniformly observed to predominate. And to this end it is useful to hold in constant remembrance the strong words of the preamble, which furnish a tolerable clue to the intent, if such a clue were not every where to be found in the instrument itself. That preamble declares—

"We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, *and secure the blessings of liberty to ourselves and our posterity*, do ordain and establish this constitution for the United States of America."

It was, then, to secure the blessings of liberty to the generations now in being in America, that the Constitution was adopted. That design should, then, be eternally kept in view, when construing each of its separate provisions. And although it may be admitted that the same rule of construction cannot, in every part, be rigidly adhered to, yet one thing ought to be insisted upon, which is, that whatever may be the form of the rule, it should, in substance, invariably favor the development of those blessings which it was the object to secure. And, moreover, it ought to be insisted on, that wherever a paragraph

occurs in it consonant with the purposes declared in the preamble, it should be interpreted in its most liberal sense; and, on the other hand, wherever a paragraph occurs which is not in unison with the main design, that the meaning of it should be restrained, as far as possible, to the precise purposes it was intended to serve.

The great objection which your committee have to make to the decision of the court, in this instance, is that the rule of action here pointed out has been overlooked or disregarded. Hence the confined view taken of one particular clause of the Constitution, unfavorable to the principles of liberty, is made not simply to conflict with the construction of all the other clauses in it which secure to the people the blessings it ought to confer, but, in its practical effect, to ride over them all. It overturns, also, the great barriers in the declaration of rights of many of the separate States, which protect the citizen and guarantee his personal safety. And, above all, it proclaims to the world the startling truth, that the continuance of bondage to the slave is of more worth to the mind of Americans than the continuance of liberty to the freeman. For the question which your committee are now to consider, is not simply whether a slave shall be recovered after his escape from his master into territories where slavery is not recognized, but whether a freeman shall be enslaved, beyond the possibility of escape, at the mere volition of a town or county magistrate. It is the danger of the freeman which calls for the most attentive consideration. The execution of the clause of the constitution for the delivery of slaves, would not, perhaps, be a legitimate ground for State interference, or State discussion, if it did not so happen that it was liable to overstep its appropriate sphere, and deprive a class of men of certain rights, in the enjoyment of which it is the bounden duty of the State to protect them.

Supposing, for example, that a colored man, a citizen of Massachusetts, should leave his home where he is known, to go to a distant place in pursuit of work. Supposing that a crafty kidnapper should have traced his progress, and, in an unguarded hour, should seize him and make oath before a justice of the peace that he was a slave. The effect of this movement would

be at once to strike from under him the only support which a freeman has, the common law rights and those secured by the State constitution. He would be at the mercy of the magistrate, who might be prejudiced, and not impossibly might be corrupt. But even the most honest magistrate is only required to see that a *prima facie* case, "such as upon an ordinary warrant would justify a man's commitment for trial," is made before he is authorized to proceed to sentence him to slavery without appeal. The burden of proof is completely transferred from the party claiming the man as property to the party struggling to be free. Thus the most fully established principle in the governments of the United and the several States, that a man is presumed to be free until he is proved to be otherwise, is completely overturned, even in the free States, and the contrary is assumed, to wit, that some men shall be presumed to be slaves unless they shall, at all times, be prepared incontestably to prove their freedom.

Has it indeed come to this, that after centuries of contest between the principles of absolutism and of liberty, no farther progress should have been made in establishing them in republican America, on immutable foundations, than such a doctrine would betoken? The old English common law goes very far beyond this. That law, from which we derive most of our impressions of civil liberty, distinctly condemns every invasion, direct or indirect, upon the freedom of the individual. What says Judge Blackstone on this point?

"Of great importance to the public is the preservation of this personal liberty; for if once it were left in the power of any, the highest magistrate, to imprison arbitrarily whomever he or his officers thought proper, (as in France it is daily practised by the crown,) there would soon be an end of all other rights and immunities. Some have thought that unjust attacks, even upon life or property, at the arbitrary will of the magistrate, are less dangerous to the Commonwealth, than such as are made upon the personal liberty of the subject."

And yet this power not merely of confining but enslaving a man to do the work of another for life, is one which, according to the construction now contended for, is vested not simply in

one high magistrate, but in every magistrate, high or low, whether of city, town or county, in every State of the United States. If this be security against tyranny, your committee are at a loss to know what constitutes the difference between a free and a despotic government.

The complaint made against the decision of the supreme court, should be stated distinctly. It is that, in adjudicating the right of recovery of fugitive slaves, they have endangered the rights of freemen, and diminished their secure enjoyment of the blessings of liberty. If it be impossible to prevent an individual in a State from resorting to the process described, in a wrongful manner, against any person whom he shall think fit to claim as his slave; then it follows, that the barriers which have been considered as obstructing every attack upon personal liberty, are actually thrown down. Was it the intention of the framers of the constitution, that one little clause, admitted by way of compromise with the upholders of slavery, should thus be made omnipotent against freedom? Surely not. Neither would the temper of the people of that day, just emerging from the contest of the revolution, have submitted to the construction a moment. It was not enough for them that the privilege of the *habeas corpus* was expressly secured to them in the body of the instrument; it was not enough for them that the preamble assured them that the object was "to secure to them and their posterity *the blessings of liberty.*" It was not enough that jury trials should be secured to them in cases of crime only,—they incorporated into amendments the great principles which they felt ought to be acknowledged beyond the reach of equivocation. Those amendments, all of them, have more or less reference to the liberty of the individual citizen, and are designed to secure it. Take for example the fourth, the fifth, the sixth, and the seventh.

4. "The right of the people to be secure *in their persons*, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation; and particularly describing the place to be searched, and the persons or things to be seized."

5. "No person shall be held to answer for a capital or otherwise infamous crime, unless, on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, *nor be deprived* of life, *liberty*, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

6. "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence."

7. "*In* suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law."

If a man claimed by another as his slave, escaped from bondage, were to be considered a criminal, he would be entitled by the seventh amendment above quoted, to a public trial, by an impartial jury. If he were regarded as a mere piece of property above the value of twenty dollars, still, by the seventh amendment, the fact of ownership would require the judgment of a jury. In point of fact, however, he is not included in either or any of the above provisions. It is enough that he is "claimed" under the second section of the fourth article, to strip him of almost every privilege secured by our republican forms of government, and to lay him, bound hand and foot, at the mercy of any single magistrate, whom it is the pleasure of the claimant to select and make the instrument of his will. Your committee cannot refrain from expressing their opinion, that any construction of the constitution and laws, which leads to such

practical incongruities in our republican institutions as this, must have its origin either in a very confined or a prejudiced view of the subject, and perhaps in some degree in both.

The great objection to the decision of the supreme court is, then, that by virtue of this confined view of one portion of the constitution, it assumes as a rule of practical value, that slavery must be made the institution to be sustained even at the cost of all the safeguards to liberty. The consequence follows, that slavery and its doctrines furnish the standard of construction, and liberty is made the exception instead of the rule. The result must be, as your committee have already stated, in every case where a man brings before a magistrate an individual whom he avers to belong to him as a slave, that magistrate, in the absence of all other testimony, is bound to believe his statement true. He must give the certificate which consigns him to slavery, unless the unfortunate person seized can distinctly prove his freedom. In what a dreadful position this doctrine places all the individuals who have a shade of color in their skins, throughout the free states, must be instantly perceived. They have no security, when absent from their own homes, for an instant, against the arts of the wily kidnapper. On this point the opinion of the court goes so far as to say, "that the owner of a slave has a right vested in him to seize and re-capture his slave in every state of the Union, whenever he can do it without any breach of the peace or illegal violence," without the intervention of any forms of law whatever. The chief justice, in his separate opinion, confirms this view, and says that the very simple form required by the United States of going before a magistrate, is wholly unnecessary. "No certificate or warrant is needed, if the person seized goes peaceably, and whoever resists or obstructs the claimant is a wrong-doer." In other words, the chief justice construes the word "claim," in the second section, fourth article, to mean the mere assertion of a right; and living, as he does, on the very confines of slavery, he sees no difficulty in the way of a construction which shall cover a quiet seizure of any free colored man who may happen to live on the Pennsylvania border, whenever it shall be in the power of a Maryland kidnapper to catch him absent from home with-

out free papers, and to drag him over the boundary of his freedom.

Let it not for a moment be supposed that this is any imaginary danger. The very case which caused the passage of the law of the United States, of 1793, adopting a different construction of the word "claim" from that of the chief justice, proves it is not. It appears that so long ago as in the year 1788, John, a free negro, residing at Washington, in the County of Washington and Commonwealth of Pennsylvania, was seized and carried away into Virginia by three white men. He was sold, and became the slave for life of Nicholas Casey, residing near Romney, on the south branch of the Potomac, in that state. The abolition society of Pennsylvania, having become aware of the fact, that these three white men, then under indictment as criminals under the laws of Pennsylvania, had taken refuge in Virginia, applied to their Governor Mifflin to demand of the Governor of Virginia those persons as fugitives from justice, under the second clause of the section in the constitution, just at that time going into operation, which we have been considering. Governor Mifflin accordingly made the demand. But he was refused by the Governor of Virginia, on the ground that the constitution had not provided the means by which the provision respecting the surrender of persons flying from justice could be carried into effect. Thus it was that the want of a supplementary law was made the plea under which kidnappers of a free negro were saved from punishment. He and his posterity were condemned to bondage, and the perpetrators of one of the most high-handed crimes that can be committed against a fellow-being were protected because the attorney general of Virginia was not quite convinced that it ought to be called a crime.

And this is but a part of the picture. In consequence of this difficulty in the construction of an important part of the federal constitution which had failed to punish men guilty of enslaving a freeman, Governor Mifflin submitted to President Washington all the facts in the case, and he, in his turn, sent them to Congress. The result was the introduction of a bill which did indeed provide against a recurrence of the difficulty complained of, but it also embraced a new and wholly different

clause directing the manner of recovering a slave. It is an unwelcome idea to receive, but your committee fear that attentive observation of the history of the country will show it to be just, that even the best legislation has not been suffered to go on without some incumbrance or other which the upholders of domestic slavery have striven to impose in order that they might the more certainly fasten it upon the states which do not, within their own limits, sanction that institution. The law of which we are now treating, furnishes a prominent example of the truth of this remark. The original recommendation of President Washington related solely to the subject of recovery of criminals flying from one State into another. It had grown out of an unpunished offence against the liberty of a freeman. The end proposed was to prevent a repetition of a similar accident. But the law did not go from the two houses of Congress without an appendage of a clause of wholly different intent. The friends of slavery could not consent to facilitate the surrender of men guilty of enslaving their fellows without having a *quid pro quo* in a provision for the more effectual recovery, without the intervention of the ordinary forms of law, of their own escaping slaves. The passage of one clause was made to hang upon the success of the other, and thus the fair fruit of our legislation in one case was made to envelop the bitter ashes of the other. It is needless to add, that this compromise, like every other which has been made upon the same subject, has turned exclusively to the benefit of the slaveholders. And even that very part of the law which was gained upon the representation of Governor Mifflin to secure the surrender of fugitive criminals, is now converted, by the ingenuity of slaveholding affidavit-makers, into a new engine for the recovery of their slaves. The application to His Excellency Governor Davis, by the acting Governor of Virginia, backed by the affidavit of James B. Gray, for the surrender of George Latimer, as a fugitive from justice, who is alleged to have been the latter person's slave, is an instance in point to which your committee will presently refer more at large. If such a construction of the constitution could once be established as would justify the surrender of persons alleged to be slaves by the executive of a free state on the oath of the

master, that they had been guilty of crimes, this oath to be forwarded by the governor of the state in which that master resides, as the decisive evidence of their guilt, then it would need little foresight to conjecture the change of operations that would immediately take place in the south. The fugitive slave would be stripped of all the public sympathy with his involuntary condition, and would, in every case where he could be traced, be made, by the invocation of the state power, to fall into the class of malefactors escaping from justice, whilst he could be deprived of the rights of *habeas corpus* and of jury trial with greater certainty and less odium, than if he had been claimed as a fugitive slave by the master alone.

Your committee will now return to the case of Prigg against the State of Pennsylvania, for the purpose of showing how utterly unprotected it has left the citizens of the free States against violations of their personal liberty. The law of Pennsylvania, which was adjudicated upon and declared inconsistent with the United States constitution, and therefore null and void, was a law passed by the Legislature of that State, in the year 1826. It was passed at the instance and solicitation of commissioners, appointed by the constituted authorities of the neighboring State of Maryland, for the purpose of more thoroughly securing the recovery of slaves flying across the border which divides the slave and the free State. Its main design was to furnish an easy and speedy mode of restoration of such slaves, although not a summary one, nor one setting aside every right which would accrue, in all other cases, even to the vilest criminal. The only condition required was the proper one, that the fact of bondage should be distinctly proved before the magistrate, previously to his giving the necessary certificate for the slave's surrender. In other words, the ordinary principle of our law was maintained, that a man should be presumed free, until the facts proved him to be a slave. In addition to these clauses, however, it did so happen that the framers of the law, in the exercise of a wise precaution, inserted two sections to guard against the probable abuse of the facilities conceded to slaveholders, for the purpose of kidnapping colored men actually free. The title of the law was "An Act to give effect to

the provisions of the Constitution of the United States, relative to fugitives from labor, *for the protection of free people of color*, and to *prevent kidnapping*." And so far as your committee can perceive, it did very strictly mark out the precise line contemplated in the constitution of the United States, between the concession made to slavery in one part of the instrument, and the preservation of the great principles which characterize almost every other part. The penalties imposed by it upon such persons as might, under the pretence of recovering fugitive slaves, come into the State and attempt to make use of its provisions to enslave the free, were not too heavy nor injudiciously prescribed. Yet it was this unlucky exception in favor of the freedom of Pennsylvanians, which ultimately turned the boon so ardently sought for by the people of Maryland into a stumbling block of offence. It was this which induced them at last to deny the constitutionality of a statute which they had themselves procured to be passed, and to carry the question up, at the public expense, to be tried in the person of Edward Prigg, a slave-catcher, indicted under the law, by the highest judicial tribunal known to the country. That tribunal has formally decided in favor of Prigg, and has annulled the provision of the law of Pennsylvania which would have punished him. That tribunal has decided that the power to recover slaves on "claim" is universal, and can be restrained or regulated by no free state. It has decided that it is not possible for any state to pass statutes which, although intended to preserve the rights of freemen to a class of persons, by similarity of color perpetually liable to be mistaken for slaves, may yet involve the necessity of sometimes conceding the ordinary advantages of the law to the slave himself. It has decided that it is enough that a colored man be "claimed" as a slave at once to take from him the right which the common law gives him, which almost every form of government in the free states confirms, and which the constitution of the United States solemnly guarantees.

Your committee are deliberately of opinion, that a decision which arrives at a result so shocking to the feelings and the principles of every citizen in a land of freedom, must be in its

principle erroneous. And they hope that a time may yet come when a revision, by persons a majority of whom will not be directly interested in the question at issue, will restore to their vigor the genuine doctrines of liberty. That time cannot, however, be reasonably expected very soon, and in the mean time the question arises, what are the free states to do? Shall the slaveholder or the kidnapper range far and wide over their limits, setting at defiance all the ordinary restraints of our laws, and carrying whom they please before any magistrate they please, even to an ordinary justice of the peace, there to be dealt with summarily, without the chance of appeal? Your committee cannot hesitate upon the answer which shall be given to these questions;—and their only doubt has been upon the measures necessary practically to check this great power. Without, in the remotest degree, intending to recommend any steps of resistance to the execution of the clause of the constitution which has been so liberally construed, so long as it shall remain a clause in that instrument, they do nevertheless feel the necessity of devising some method, strictly justifiable in itself, of restricting the scope of its operation. They consider the clause referred to so often, as an exception to the general character of the instrument that contains it. And further, that as such an exception, all proceedings under it should be made to conflict as little as possible with the liberty of the citizen under state as well as the general government. If the slave must be made subject to recovery, he should not be made so under any reasonable doubt of the fact of his being held to service for life. For your committee must insist that, in spite of all the restraining provisions of the constitution, it would be a far grosser violation of its general character and spirit to permit the enslaving of one freeman through its means than the liberation of a thousand slaves.

It is a growing cause of complaint with the people of the free states, that the great principle which lies at the foundation of their political institutions, and forms the basis of the social theory, is now not simply denied in a large portion of the Union, but contemned. Government is, in its very essence, a surrender by individuals of a portion of the liberty which they possess in a

state of nature, for the sake of more perfect protection against violence, of that which they do not surrender. But the practice has become general with the citizens of the slave states, to consider questions of national importance chiefly according to the bearing they may be expected to have upon the all-important point of maintaining a subjection, by force, of two or three millions of human beings. In order to effect this, the most self-evident truths are denied, and the plainest directions of the constitution of the United States are set at defiance. The first object is to establish, not simply in their own territories, but throughout the Union, the proposition, that men of dark skin shall everywhere be presumed to be slaves, and that they shall nowhere be presumed to be citizens. In evidence of this, it is only necessary to refer to the manner in which the first clause of the section of the constitution, already quoted, that which establishes the rights of citizenship throughout the states, is daily and hourly violated in most, if not all, the ports of the southern states. This violation is deliberate, because it has been persevered in for twenty years, notwithstanding that one of the judges of the supreme court of the United States, himself a citizen of one of the states which set the example of authorizing it by legislative statutes, did long ago, from his judicial seat at home, pronounce such legislation unconstitutional. Neither does the case stop here. South Carolina, which took the lead in this measure of resistance to the constitution, has been followed by most of the slave states of the Union. Year after year the legislation complained of gains ground, by transmission from the elder to the younger states. Remonstrance from the free states is not listened to. But when a powerful foreign nation, which never suffers her citizens to be injured without claiming redress and generally exacting it if not voluntarily offered—when Great Britain interferes and points to commercial engagements infringed, then the laws which are never relaxed in their application to brethren of the same nation, are suspended so far as they relate to the stranger. And, as if to crown all, the very terms of the common bond are now disputed, and the sense of it absolutely denied. Those persons who are known in Massachusetts as citizens, are de-

clared not to be such citizens, and therefore not entitled to the privileges and immunities of citizenship, by the voice not of her own people, but by that of communities living at a distance from her territories. And the resolutions heretofore passed by her representatives and senators legally elected to serve in her General Court, for the purpose of uttering her will, resolutions remonstrating against the tyrannical edicts which oppress some of her citizens, instead of meeting with even respectful attention, are characterized by the authorities of at least one of the states complained of, as the sickly effusions of fanaticism,—as if a mockery of the simple words of the constitution of the United States were not enough without superadding insult to injury and to the downright violation of all right.

Upon this topic, however, your committee do not propose to dilate further in this report. Enough has probably been said to show the effect which the legislation of the slave states has had to destroy the force of the constitution in one particular,—the general rights of citizenship which it was intended to confer. The same result is again observable in the construction attempted to be placed upon the second clause of the section which has been heretofore quoted. And it is still more strikingly visible in the action had under the third and last. Nowhere can this truth be more clearly seen than in the course of proceeding adopted in the case of George Latimer. That is the case which immediately gave rise to the great petition referred to the consideration of your committee, upon which they now report.

On the nineteenth day of October, 1842, a colored man, represented to be more white than black, was seized in the streets of Boston by an officer of justice, upon a warrant issued from the police court of that city, on a complaint entered against him by E. G. Austin, Esq., for larceny committed at Boston, within the limits of the Commonwealth. Mr. Austin had no personal cause of complaint in the case, but was acting only as the attorney of James B. Gray, a white citizen of Norfolk, in the State of Virginia. Mr. Austin knew that no such larceny as that complained of had ever been committed in Massachusetts, but, according to his own statement, from entire inatten-

tion to the mode in which the complaint was entered, suffered the error to escape his observation. He had intended to have entered it as committed in Norfolk, in Virginia, which is a place wholly without the jurisdiction of Massachusetts. Be this as it may, Latimer was seized and put into jail upon a warrant that could not have stood a moment's legal investigation. But the instant that he was lodged in jail, the same constable who had placed him there, forthwith changed his attitude and assumed to detain him by a different authority. He produced a written power, signed by Mr. James B. Gray, to detain Latimer as a fugitive from labor due to him. Mr. Austin had acted as the attorney of Mr. Gray in the matter of the criminal complaint only that he might the more effectually serve his main purpose of recovering his slave. That slave had been seized, and the fact of his seizure, right or wrong, was enough. The presumption of law, as established in the case of Edward Prigg, went into instantaneous effect, by which a man, seized no matter how, so long as he was seized, had become liable to "claim" under the constitution. In other words, he was stripped of every defence which the law allows to each individual citizen; even of that which he would have had if committed for the very offence with which he had been charged. He was now subject to be immediately hurried into slavery, provided that he could not demonstrate the fact of his right to his freedom. The complaint against him as a criminal had done its work of making him a slave. The warrant which had been first made had served the end proposed, notwithstanding the fact that the complaint on which it rested was so grossly and flagrantly false that the complaining attorney was driven to substitute another even in the short period before he deemed it expedient to discontinue that part of his operation altogether.

Latimer was now in jail. The criminal law had been successfully prostituted to the use of the slave-catcher, and the writ of *habeas corpus*, that of personal replevin, and the right of trial by jury fell a dead letter before the decree of the Supreme court, in the case of Prigg. The very judge who had pronounced that decree, the judge who had probably been selected the spokesman for his brother slave-holding judges, because he

was not himself one, was the person to whose lips was to be commended the first bitter draught prepared from his own chalice. No judge of the State courts would take a part in the matter either for or against the surrender of Latimer. The case of Prigg had struck them all with paralysis. In this connexion, the question whether he was or was not in reality a fugitive slave, is of no consequence. The fact of his freedom would have made no difference in diminishing his wrongs or his sufferings. It was the iron rod of slavery, wielded by the supreme court of the United States, that had broken down all the supports of American liberty. Still, in justice to the distinguished and highly respected judge who presides in the circuit court of the United States for Massachusetts, it ought to be stated, that he had no share in the imprisonment of Latimer in the county jail. That was still continued, although even the shadow of warrant that originally palliated it, had disappeared. According to the 143d chapter, 1st section, of the Revised Statutes, "the common jails in the charge of the respective sheriffs, shall be used as prisons: First, for the detention of persons charged with offences and duly committed for trial. Secondly, for the detention of persons who may be duly committed, to secure their attendance as witnesses on a trial of any criminal causes. Thirdly, for the confinement of persons committed pursuant to a sentence upon conviction of an offence, and of all other persons duly committed for any cause authorized by law." Lastly, it is declared, that the provisions of the section "shall extend to persons detained or committed by authority of the courts of the United States, as well as the courts and magistrates of this Commonwealth." Very clearly does it then appear, that for the space of nearly one month after the complaint made by Mr. Austin against Latimer, had been on his motion dismissed in the police court, he was kept in jail, although neither "charged with an offence, and duly committed for trial," nor yet "detained as a witness on any criminal trial," nor yet "committed pursuant to a sentence upon conviction or for any cause authorized by law." Neither was he "detained by the authority of the United States courts," for the order of Judge Story directs nothing of the kind. It simply places him in the custody of Mr. Gray. From all

which, it does most clearly appear, not only that the criminal process of Massachusetts has been outrageously perverted to the purposes of slave-catchers, but that a jail has been made the storehouse, and the officers of justice have become voluntary instruments to effect the purpose of a man, who branded a human being as a criminal, only for the sake of bringing him near his own person again as a slave.

Neither is the whole of the story yet told. Since the discovery by Mr. Gray of the fact, that his own labors cannot avail, the power of the sovereign State of Virginia has been invoked by him to gain his end. Not content with compounding his claim on Latimer for a sum of money, which, however good the intention may have been, never should have been paid to him within the limits of Massachusetts Mr. Gray, since his return to Norfolk, has made an affidavit in substance that Latimer there stole two pocket-books and a hair-brush from him, though it appears that he admits they were left behind him and exposed to view. Upon so doubtful a pretence as this, the acting governor of Virginia has thought it his duty to demand the surrender of Latimer by the governor of Massachusetts, under the second clause of the portion of the federal constitution, so often quoted. The fugitive slave is instantly converted into "a person charged with treason, felony, or other crime, who has fled from justice." Thus it is that the spirit of slavery, flying from one paragraph of the constitution to another, seeks to wrest out of each in turn the necessary strength to maintain itself. Thus it is that, whilst one provision intended to extend the blessings of freedom and citizenship is at its nod utterly annihilated, two others are converted into instruments for fastening the chain on the neck of the slave more firmly than ever, through the agency of those who boast that they acknowledge no such system within their limits. That very government which has been shown to have hesitated, fifty years ago, about calling the seizure and sale of a free inhabitant of Pennsylvania "a crime," included among those referred to in the constitution, is at this day disposed to attempt the recovery of a slave on the allegation made by his master, the individual most interested in procuring his surrender, of a possible petty larceny never proved against him. The

correspondence which has taken place between the acting governor of Virginia, and the late governor of Massachusetts, Mr. Davis, is among the papers which have been referred to your committee. It is scarcely necessary to add, that, in their opinion, the conduct of governor Davis, in refusing to listen to a demand founded upon authority so trifling, was perfectly correct. Any opposite decision to his could have been attended with no other effect than the demolition of one more bulwark against the complete domination of the slaveholding principle over the land.

In conclusion of this part of the subject, the discussion of which has extended further than was originally intended, the question remains yet to be settled what it is best to do. Your committee all agree in the opinion, that the decision of the supreme court has enlarged instead of restricting the influence of the slaveholders over the country. They agree in the belief, that it has diminished instead of securing the enjoyment of the blessings of liberty, as promised to the present generation by the preamble to the constitution. Yet it is difficult to ascertain precisely what course should be pursued in the present emergency. Your committee will not recommend any measure, however well adapted in appearance to the prevention for the future of such outrages as were executed upon the person of Latimer, which has a tendency to conflict with the authority of the supreme court of the United States, exercised within its legitimate sphere. And yet they are unwilling to suffer an instant to pass without the proposal of some new safeguard for the personal liberty of the citizens of Massachusetts. Luckily, the decision of the judges in the case of Prigg, which has occasioned the dilemma, furnishes in one portion of it a clue to help them out of it. Thus the very weapon that inflicted the wound may be made to furnish some matter with which partially to heal it. For whilst, on the one hand, the majority of the judges rigidly insist upon the right of the general government to execute the provisions of the law of Congress of 1793, for the better recovery of fugitive slaves on "claim" made by their owners, through officers of its own creation, on the other hand, it leaves the States perfectly free to refuse the coöperation of their

magistracy, whenever they shall think it right so to do. The law of Congress confers a power of deciding, without appeal, upon the liberty of human beings and their posterity, upon State judicial officers down to a justice of the peace. The court decides that they may, if they choose, exercise the authority thus conferred, "*unless prohibited by State legislation.*" From such an exception, it necessarily follows, that the States have it perfectly within their power to make such a prohibition, whenever they shall think fit so to do. In view of the case of the negro John, in Pennsylvania, in 1788, of that of Edward Prigg, in 1840, and of that of George Latimer, in 1842, in view of the liability to abuse for the worst of purposes, of the power given to so many magistrates, as well as of the protection which thousands of freemen in Massachusetts have a right to demand of the State, your committee can no longer doubt what should be done. This arbitrary authority to dispense with the ordinary forms of law in cases of the utmost importance to individual liberty, must be as far as practicable withdrawn. Your committee are willing, that the injunction upon the States not to pass laws liberating fugitive slaves, should remain in full force, since "it is so nominated in the bond." They will even submit to the necessity, that they should be delivered up to their masters on "claim" even though the evidence sufficient to support that claim would not be deemed sufficient in the State courts to decide a question of disputed property in value exceeding twenty dollars. "The law allows it and the court awards it." But the force of the award must be strictly confined within its exact limits, because it is unfavorable to the great principles of liberty which the constitution was designed to establish. Your committee recommend that the State surrender no more power than they have literally agreed to do. They cannot consent to let its magistrates, in whose hands no similar jurisdiction can be vested by its own constitution and laws, pass without appeal, without responsibility to the power that created them, and without the interference of a jury, upon the right of living men to their freedom. They cannot permit the prostitution of the criminal process of the State, or of its property set apart for certain specific purposes, to the base uses of

men engaged in the honorable business of enslaving their fellows. To furnish extraordinary facilities for the establishment of a system of oppression within the limits of Massachusetts, they are not bound by any law, human or divine. No political party within her territory would sanction the idea a moment. For the purpose of providing against the danger apprehended, and in order to meet the wishes of the petitioners, as expressed in two parts of the petition, your committee ask leave to report a bill.

There remains yet to be considered the third request, which is, "That the Legislature propose such amendments to the constitution of the United States, as shall forever separate the people of Massachusetts from all connexion with slavery."

This is a wholly independent proposition of the preceding ones, far more extensive in its bearing, and one a great difficulty properly to discuss which your committee feel in the already too great length of the present report. The first question for consideration is, What is that connexion of Massachusetts with slavery, which it is the object of the prayer to have severed? Something of its nature has perhaps been already disclosed in this report, but nothing of its extent. Yet if the doctrine generally assumed to be true in the slaveholding States, and not infrequently repeated even in Massachusetts, that the free States have now no connexion with slavery, and consequently have no business to meddle with the subject at all, were actually sound, then there would be no ground for the prayer of the petitioners. It is because they feel that this doctrine is directly in the face of all the facts, that they ask for action by which it can be made to conform to them. The petitioners ask, that the very state of things which the people of the slave States affirm they most earnestly desire should be established. They deny that it is established now. They insist that the constitution of the United States, in some of its provisions, imposes upon them obligations to sustain the institution of domestic slavery, which they feel to be not merely burdensome, but exceedingly disgusting to them. And they seek a remedy, not by refusing to abide by the contract, or seeking forcibly to get rid of it, but in a perfectly legitimate way; by the proposing of amendments

to the instrument, to which the parties must assent, or they cannot be made.

That there is a growing feeling, throughout the free states, of dissatisfaction with the operation of the slaveholding power upon the system of the general government, can hardly be denied by any person accustomed to observe the tone of public sentiment. It is partly based upon a moral and religious scruple against the lawfulness of slavery in any form, and partly upon less exalted views of the political preponderance acquired through its means. But in either shape which it assumes, it has had and has now very little to do with the movement of the great parties into which the country is divided, or with the leading individuals who represent them. It is the spontaneous burst of the moral feeling of a portion of the people themselves, acting in resistance to the doctrines of political expediency and to the interests of all the active statesmen of the day. As such, it deserves to be treated with respect even by those who see nothing but danger from the movement, and whether it meets with it or not at present, it will scarcelyfail in the end to secure it. When nearly seventy thousand persons, in a population not much more than ten times that number, unite in a single request of the nature now under consideration, there is reason to suppose that a feeling is at work in the community of which they form a part, which will not rest satisfied with inaction or indifference as it regards the questions they choose to agitate. Your committee could not be guilty of either if they would. It is due to them to say, in addition, that they would not if they could.

But so great is the connexion of slavery with the people of Massachusetts, through the obligations imposed upon them by the constitution of the United States, that a great difficulty occurs at the threshold, to know how to propose amendments which shall have the effect desired without completely destroying the instrument itself, and making necessary the framing a new one. Slavery, which crept in at the window of the edifice when it was building, under an implied promise to remain but for a time, has now grown so large that it occupies all the space, and cannot be put out of the door without hazard to the

entire erection. The basis of representation now makes the slaveholding interest all powerful in the legislative department of the government. The same thing dictates to the chief magistrate, whoever he may be, the necessity of submitting to the power that creates him. The same influence insinuates itself, by a more covert and dangerous road, into the bench of the judiciary. The great principles of the constitution are made to bend to it where they cannot be broken. No aspirant for political distinction can hope to gain it a moment longer than he can accommodate his most enlarged notions of popular liberty to the necessity of maintaining slaveholding doctrines and slavery throughout the territory of the Union. Such is a condensed statement of the facts proved by the experience of the past, but it is an easier thing to describe the evil than to define the remedy.

A keen sense of the unfavorable influence which slavery has exerted upon the character of the Union generally, and the interests of the free states in particular, has led some persons to commit aggressions upon the rights secured to the slaveholders, which cannot altogether be justified. On the other hand, the slaveholders themselves, irritated by these constant attacks upon that which they deem to be their property, and feeling that, on account of them, their right to that property is daily becoming more uncertain, have been instigated to commit acts and adopt principles, which can neither morally nor politically be sanctioned. The process thus described as having taken place, is yet going on, and bids fair to continue, so long as the connexion now existing between the free and the slave states, under the constitution of the United States, is maintained. It would probably be a fortunate event for both parties, and for the duration of the common form of government now well established, if such amendments to the constitution as would remove the causes of complaint on both sides, could be adopted before a degree of irritation shall take place, which may prove beyond the control of reasoning. It is idle to suppose that the organization now formed against the progress of slaveholding doctrines, an organization which has survived every conceivable form of discouragement in its infancy, will ever be surren-

dered so long as slavery retains its power. It is equally idle to expect that the slaveholding doctrines themselves will be abandoned so long as the immense amount of property which they are designed to sustain shall continue to be at stake upon the issue. The only hope for peace under these circumstances is to be derived from the withdrawal of the material to feed the fire of contention. And much of this material is to be found in the articles of the constitution of the United States, construed and acted upon as they have been, for the most part, by persons interested in the maintenance of slavery.

Your committee might, if they thought proper, go into a detailed examination of the history of the general government, in order to show how the slave system has bent the executive department to its will, both in shaping the foreign and the domestic policy of the administration; how it has controlled the Congress of the United States until it has actually substituted for the will of the people in the consideration of such measures as they may desire, the power of a majority of representatives to exclude every thing which they dislike; and how it has prompted the judiciary to extend, over the whole of the free states, the force of those arbitrary doctrines which, if heard in America at all, should have expended themselves within the limits in which arbitrary power is sustained by the local law. But they abstain for many reasons, and principally because they do not desire to say anything unnecessarily to provoke opposition. In the discussion of a topic so full of danger, it is, above all, expedient and proper that nothing be said which may cause needless irritation. The truth must be spoken at all times fearlessly when it is indipensable to the justification of any measures that may be proposed, but it needs not to be attended with words of anger or of provocation.

The time appears to have arrived, when it is proper to look to the cause of the difficulties which have taken place in the progress of the general government, for some years past. Through all the contests of the political parties which have taken place, one fact is visible; and that is the steady ascendency of the slaveholding principles. This fact can be accounted for only in one way. It is the basis of representation

in the popular branch of the Legislature, which establishes that ascendency. Twenty-five representatives, elected by the citizens of the slave-holding States, in addition to the number which they are entitled to by their free population, have, for ten years past, controlled the destinies of the country. Twenty-five electoral votes, gained to the masters from the chains of two millions of human beings, and held forth as the prize to that individual and that party which will consent to make the greatest sacrifices of principle to obtain them, are sufficient to decide the character of the government policy. This has been submitted to without great murmuring up to this time, but there are many indications to prove that it will not be so any longer. The free states have a right to be heard on this point, because the original compromise, which was made upon this subject in the constitution, and which let in this enormous power, has in its practical effect been wholly favorable to the slave States, and without any benefit at all to them. The power which is gained by the white slave-owners, through the representation of their slaves, is a constant, enduring, and increasing power; whilst the slight relief from proportional burdens, experienced by the citizens of the free States, through the taxation of those slaves, has been experienced only during the very brief periods, few and far between, when direct taxes have been levied by the federal government. For the last ten or twenty years that the slave power has pressed the hardest upon the free States; these have derived not a particle of compensation for the burden. It is now the moment to state this frankly and fearlessly, and to ask for a revision of the contract.

Your committee have then come to the conclusion to recommend that an amendment of the constitution be proposed in the third clause of the second section of the first article. They believe that the root of the evil which threatens the peace and happiness of the Union lies there. They would eradicate it if they could. But at any rate they deem it not unwise that Massachusetts should act under a provident eye to the future, and by a calm and frank exposition of her doctrines, endeavor to guard against dangers to come. The representation of a free country ought to be the representation only of the free.

Let this principle be once carried out, and the government of the United States will assume a moral power on the face of the earth which it has never yet enjoyed. Let this principle be carried out, and the geographical distinctions which threaten the integrity of the Union, and against forming which Washington's last words so earnestly forewarned us all, will lose the greatest source of their support. Neither will the slaveholding States lose so much by assenting to the change, as they may at first imagine. Let them once remove the necessity of acknowledging the influence of the slave in the national councils, and they will remove the strongest incitement to agitating the question of his freedom. Let them cease to extend their local law over States which cannot assent to its propriety, and they will be more likely to maintain it undisturbed at home. The great object with Massachusetts is to free itself from all responsibility, direct or indirect, for the continuance and spread of slavery in the United States. If it must exist, let it exist without sanction from the free States. Let those only sustain it, who think they derive pleasure or profit from the relation. It is non-interference, based upon a total separation of interests in the subject, which is the point aimed at by the present proposal.

But it may be objected to the committee's amendment, that it will not of itself, even if adopted by the requisite number of States, effect the purpose intended by the petitioners. The remark is true. There are several passages of the constitution, besides that fixing the basis of representation, which connect the free States with slavery. They are all, however, of secondary consequence, when compared with that, and as they probably draw their vitality from, so they would die with it. Your committee are, for this reason, unwilling to weaken the force of the position taken by them on the main question, by at the same instant, opening a variety of smaller ones. It is the slave representation, which in their belief is effecting, by slow but sure degrees, the overthrow of all the noble principles that were embodied in the federal constitution. To that let the public attention be exclusively directed. If in the process necessary to the procuring a removal of it from the instrument of government, it should become advisable to consider the points of

mino consequence, this may be done then as easily as now, and with more effect. The withdrawal from the constitution of the slave representation, would alone, in the opinion of your committee, be of force enough to carry with it the remaining obstacles to that complete and effective separation from all connexion with slavery, which the petitioners desire.

With these views, your committee close by submitting to the consideration of the Legislature, a Resolve.

By order of the committee,

CHARLES FRANCIS ADAMS.